

## Remote Legislative Hearing Titled “Building Back Better: Creating Jobs and Reducing Pollution by Plugging and Reclaiming Orphaned Wells”

Subcommittee on Energy and Mineral Resources, House Committee on Natural Resources

April 15, 2021

Testimony of Lori Wrotenbery, Executive Director of the Interstate Oil and Gas Compact Commission

Chair Lowenthal, thank you for inviting me to testify at this hearing today. And Rep. Leger Fernández, thank you for introducing legislation on this important issue.

My name is Lori Wrotenbery. I am Executive Director of the Interstate Oil and Gas Compact Commission.

The Interstate Oil and Gas Compact Commission, commonly known as IOGCC, is a multi-state government entity through which the states work together to resolve common issues in the regulation of oil and gas drilling and production. We use our collective knowledge to champion the conservation and efficient recovery of domestic oil and natural gas resources while protecting health, safety, and the environment. Thirty-one states are full members of the commission with another seven as associate members. In addition to our state members, we work with numerous federal agencies and international affiliates.

### *Need for Orphan Well Stimulus Funding*

In 2019 IOGCC published an updated report on state regulatory strategies for idle and orphan wells. We collected information from the states on the universe of idle and orphan wells in each state and the regulatory programs states have developed to manage these wells. For purposes of the IOGCC report, idle wells are those that are not currently in operation and have not yet been plugged. Orphan wells are idle wells for which the operator is either unknown or insolvent. While designated operators are responsible for maintaining and ultimately plugging most idle wells, the responsibility for monitoring and plugging orphan wells generally falls on the states.

In 2020, based on the findings of the 2019 report and considering the impacts of the pandemic and other global developments affecting the natural gas and oil markets, IOGCC passed Resolution 20.071 entitled “Urging the United States Congress to Adopt Legislation to Stimulate the National Economy and Promote Energy Independence by Plugging Orphan Wells.” This resolution, a copy of which is attached, was sponsored by the State of California, and approved unanimously at IOGCC’s 2020 Annual Business Meeting. The resolution recognizes that stimulus funding for orphan well plugging can provide jobs to sustain the oil and gas workforce and address potential environmental harms. It urges Congress to provide stimulus funding to the states to plug orphan wells and restore orphan well sites in accordance with state laws. Additionally, it calls for funding for research to assist states in identifying and assessing currently undocumented orphan wells.

This year we will update our 2019 report with data through 2020. Preliminary survey data shows that, as of December 31, 2020, the states have plugged over 70,000 orphan wells and documented over 69,000

more across the country. In addition, some states estimate that they have large numbers of undocumented orphan wells dating from the early years of their long histories of oil and gas production. These estimates indicate there may be hundreds of thousands of undocumented orphan wells in historic producing areas. IOGCC expects our 2021 report to go further in depth into policies surrounding these undocumented orphan wells. Other new material in the updated report may include a census of orphaned wells on federal and tribal lands in the member states.

States use various financial assurance methods and other mechanisms like plugging funds supported by industry assessments to fund well plugging activities. With these sources of funding, states have made great strides in plugging their inventories of orphan wells. The available resources, however, do not allow for the plugging of the nationwide inventory of orphan wells in the short term.

Speeding up the plugging of orphan wells is important because they pose a threat to the environment, public health, and safety. If not maintained, they may lose structural integrity, which can lead to environmental contamination and ultimately increase the cost of plugging and remediation. Supplementing the states existing efforts will mitigate those risks and produce a rapid environmental dividend.

On top of the environmental benefits, accelerating the plugging of orphan wells benefits oilfield workers, and state economies as well. A combination of the COVID-19 pandemic and a price war between Russia and Saudi Arabia in 2020 decimated demand for natural gas and oil, which led to a rapid drop-off in domestic production. That drop off had a two-fold effect on producing states: crippling job losses and declining state revenue derived from taxes, fees, and royalties from natural gas and oil production. Orphan well inventories tend to grow during times of economic stress while the revenues that support orphan well plugging decline.

The labor pools for natural gas and oil production and well plugging and remediation are virtually the same. A healthy influx of funding for well plugging will provide job opportunities for tens of thousands of these workers in addition to fast-tracking environmental restoration across the country.

#### *Orphaned Well Cleanup and Jobs Act of 2021*

Haven spoken about the need for orphan well stimulus funding generally, I will now address the specifics of the legislation at hand. The *Orphaned Well Cleanup and Jobs Act of 2021* was written to address the very issues I discussed above. IOGCC sincerely appreciates the opportunity we have been afforded to contribute to the drafting of this legislation. We are pleased that many of our comments and suggestions have been thoughtfully addressed in the bill.

This bill would provide funding to plug the existing inventory of orphan wells, which represents the shovel-ready portion of the orphan well universe. In the process, it would support high-paying jobs in the natural gas and oil service sector.

IOGCC supports the basic structure of the bill's provisions for state grants, which do not create a new federal program for state-led efforts. States already have their own programs for identifying, assessing, ranking, entering, and plugging orphan wells, including supporting statutes, regulations, definitions, and

procurement procedures. Providing grants to states to work under their existing programs is the best and certainly the most expedient way to achieve the goals of this legislation.

Also of critical importance to the states are the provisions that would fund the Department of Energy (DOE) to conduct research to assist the states in identifying and assessing undocumented orphan wells. We urge you to consult with DOE concerning the level of funding sufficient to accomplish this objective.

There are some provisions of the bill that establish new fees and bonding requirements for wells on federal lands. These provisions move beyond the basic stimulus objectives of this legislation into questions of federal lands regulatory policy. Although individual IOGCC member states may have positions on these provisions, IOGCC as an organization currently does not.

To improve the legislation, IOGCC offers the following suggestions on revisions to specific provisions. These revisions ensure states will be able to access and use the authorized funding as intended:

- IOGCC is concerned with using 2019 production as a factor in the formula for allocating grant funds among the states. The key factors for formula grants should be the number of orphaned wells to be plugged, the estimated cost of plugging the wells and remediating the well sites, and the number of jobs that will be supported through this work. Because so many orphaned wells date from the early days of the production history of the states, current production does not always correlate with these key factors. IOGCC therefore recommends deleting lines 15-18 on page 11.
- IOGCC also has concerns with the criteria for regulatory improvement grants. Of the three criteria for eligibility for regulatory improvement grants, only one has a look-back period of ten years. All three criteria should contain this look-back period. The legislation should not penalize states that have been proactive in making improvements in their state programs.
- Concerning the methane emissions criterion of the regulatory improvement grants, the language does not reflect the most recent regulatory developments and needs to be updated. It should also be expanded to allow states that have strengthened their waste prevention regulations on flaring to qualify for a regulatory improvement grant.
- We also have concerns with the plugging standards criterion for regulatory improvement grants. The bill appears to prescribe language that must be adopted by a state to qualify for a grant under this criterion. The language tracks almost verbatim the language of a California statute dating to 1988. The prescriptive nature of this language will effectively bar many states from seeking funding under this criterion.

Case in point, although this language appears in a California statute, California would probably not qualify for a grant under this criterion because this language is not a recent regulatory improvement. Similarly, other states already have general plugging statutes or regulations that contain equivalent language. They have no reason to replace their current, general plugging standards with the California language.

To recognize the variety of ways an individual state may strengthen plugging standards and procedures, IOGCC recommends striking lines 3-16 on page 17 and substituting the following language:

“(bb) The State has strengthened plugging standards and procedures designed to ensure that wells located in the State are plugged in an effective manner that protects groundwater and other natural resources, public health and safety, and the environment.”

- And finally, a small correction is needed to clarify that a state would not be required to reform each of the listed program elements to qualify for a grant under the orphan well prevention criterion for regulatory improvement grants. IOGCC recommends striking the word “including” on page 17, line 20, and replacing it with “such as”.

IOGCC remains available and ready as a partner to ensure technical and other aspects of the grants established by this legislation are workable. We are thankful that this committee has welcomed our counsel on state orphan well plugging programs and look forward to continuing to work with you on this important issue.