

Statement for U.S. House Subcommittee on Energy and Minerals

John R. Baza, Director, Utah Division of Oil, Gas and Mining

“Benefits of Legacy Pollution Clean-Up Programs in the Bipartisan Infrastructure Law”

March 31, 2022

Mr. Chairman, Ranking Member, and members of the subcommittee,

My name is John Baza, Director of the Utah Division of Oil, Gas and Mining within the Utah Department of Natural Resources. I am the chief administrator for the Oil and Gas Regulatory Program and the Abandoned Mine Reclamation (AMR) Program within the Division of Oil, Gas and Mining. These are two of the Division’s four programs related to oil and gas, coal, and non-coal minerals development and reclamation within Utah. The Oil and Gas and AMR programs have established processes dating back 30 to 40 years to address both orphaned oil and gas well plugging and the securing of legacy abandoned mine hazards. The programs operate separately over various land types in Utah. Still, both programs aim to mitigate or eliminate the impacts of both orphaned wells and abandoned mines left behind from historical development activity.

With the Bipartisan Infrastructure Law (BIL) passage, the State of Utah will benefit from federal funding to address existing liabilities in orphaned well plugging and abandoned coal mine reclamation. However, Utah is not the best example of significant liabilities in either category. Our low orphaned well counts and remaining abandoned coal mine liabilities are small compared to other states and not by accident. In addition, our Oil and Gas and Coal Regulatory programs have successfully addressed regulatory compliance and minimized unfunded operator liabilities. Nevertheless, Utah appreciates the funding assistance from the BIL, and we will put that funding to good use.

I’d like to take my time today to give you some perspective on Utah’s management of both orphaned well and abandoned coal mine liabilities. First, speaking of orphaned wells, as of last week, the total number of orphaned wells on state or private land in Utah was 29. This number pales compared to other states whose orphaned wells number in the thousands.

As I previously stated, this low count in Utah was purposeful. The Division of Oil, Gas and Mining has worked diligently to address the long-term liabilities of orphaned wells. In the early 1990s, Utah established a fund using a portion of collections from the state’s oil and gas tax to plug orphaned wells and reclaim the well sites.

The state also instituted an idle well management rule allowing some wells to remain in shut-in or idle status for specific lengths of time. At the end of the permitted period, wells must either begin production again or be plugged. As a result, Utah has kept the total number of orphaned wells low by plugging existing liabilities and minimizing the number of wells that may default.

Because of Utah's low orphan well count, the BIL's benefit will be limited compared to other states. In March, the U.S. Dept. of Interior issued a news release indicating Utah was eligible for approximately \$30 million of federal grant funding for orphaned well plugging. Utah can likely eliminate its current inventory of orphaned wells within a few years of receiving grant funding.

Although the availability of federal funding is favorable, there is some concern about the administration of the fund through the Department of Interior. It has taken considerable time for DOI to identify and communicate the grant application processes to the states. For example, in Utah, we could not include the details of the funding amounts and timing in our annual legislative appropriations process soon enough to have those dollars approved for our fiscal year commencing in July. As a result, it would be almost another year before we could obtain legislative approval to accept the federal grant funding and obligate those funds.

Additionally, specific initiatives are being suggested for inclusion in grant guidance beyond what we have typically implemented in achieving our orphaned well-plugging objectives, including addressing climate change, environmental justice, and creating union jobs.

There is also the suggestion that states need to modify their established plugging programs to include DOI "best practices." I question whether including such best practices are authorized by BIL or even necessary to improve the performance of states having had effective plugging programs for multiple decades.

Suppose the intent of the BIL is to support the states' efforts to reduce the number of orphaned wells. There should not be conditions attached to the funding limiting the number of wells states can address using their existing protocols. The federal government should not dictate how those actions should occur.

Abandoned Mine Land Program

The BIL also extends the existing Abandoned Mine Reclamation (AMR) fee collection, expands AMR provisions, and provides additional funding for eligible AMR Programs. The BIL AMR funds will provide approximately \$5.8 million for Utah, and the AMR fee-based funds will be distributed annually if Utah can show an inventory of historic coal problems.

Utah currently has a relatively low inventory compared to many other states with coal AMR programs due to efficient prioritization and completion of AMR reclamation projects over many years and the geography and nature of coal mining in Utah. However, the BIL allows AMR funding for some coal problems that are not eligible under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The Utah AMR Program will update its inventory to include new problem types suitable for the funds. Even with the updated list, it is doubtful that Utah will need more than five years of funding at this rate. Utah finds itself in the same situation as other coal AMR programs – the additional funding creates the need to update inventory which requires a ramping-up of staff and an expedited direction from the Office of Surface Mining Reclamation and Enforcement on the details of implementation.

There are provisions in the BIL in which implementation has not been finalized by OSMRE that may affect Utah's AMR Program to use the funds effectively. Therefore, some flexibility as to how these provisions are met is encouraged. For example:

- The BIL requires compliance with Justice 40 requirements. As defined in a recently provided geospatial tool and guidance, disadvantaged communities do not align with Utah's communities impacted by the decline in coal production where the effects of AMR work are felt.
- The BIL requires that preference be given to unemployed miners when contracting work. Although this provision has good intentions, it conflicts with Utah State Purchasing laws regarding providing preferential treatment to a particular class of people.

The Utah AMR Program looks forward to the efficient use of these AMR funds to help eliminate dangerous environmental coal problems in Utah's communities while supporting infrastructure jobs that include disadvantaged communities.

The BIL provides funding beneficial to Utah; however, more discussion and direction is necessary moving forward. Thank you for the time and attention you have allowed me today. I will answer any questions at the appropriate time.