

**Statement of
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House Committee on Natural Resources
Subcommittee on Energy and Mineral Resources**

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

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Thank you for the opportunity to provide testimony on the Department of the Interior’s (DOI) implementation of the pollution clean-up programs in Public Law 117-58, the Infrastructure Investment and Jobs Act, also referred to as the Bipartisan Infrastructure Law (BIL).

Infrastructure Investment & Jobs Act Overview

President Biden signed the BIL on November 15, 2021, making a once-in-a-generation investment in the Nation’s infrastructure and economic competitiveness. This landmark investment will help rebuild America’s critical infrastructure, tackle the climate crisis, advance environmental justice, and drive the creation of good-paying jobs. By addressing long overdue improvements and strengthening our resilience to the changing climate, this investment in our communities across the country will grow the economy sustainably and equitably so everyone gets ahead for decades to come.

The Department of the Interior has received \$16 billion to address legacy pollution through the BIL, including nearly \$4.7 billion to create an Orphaned Well Site Plugging, Remediation, and Restoration program to support Federal, State, and Tribal efforts to address cleanup needs from orphaned oil and gas wells across the country, and \$11.3 billion to provide additional grants to States and Tribes to address abandoned coal mines, a historic investment in our coalfield communities.

Orphaned Wells on Public Lands

Orphaned wells occur when an operator fails to plug and remediate an oil and gas well and no responsible or capable party can be identified for cleanup activities. Orphaned oil and gas wells can jeopardize public health and safety by contaminating groundwater, emitting methane (a potent greenhouse gas) and other noxious gases, littering the landscape with rusted and dangerous equipment, and harming wildlife, among other risks. Millions of Americans live within a mile of hundreds of thousands of abandoned mines and oil and gas wells.

The majority of orphaned wells on Federal lands are in the eastern United States, many of which are on U.S. Forest Service (USFS) lands, but the Bureau of Land Management (BLM), U.S. Fish and Wildlife Service (FWS), and the National Park Service (NPS) all manage lands that contain orphaned wells. Many of these are historic wells that were developed prior to current regulations and reclamation standards, and many are located on split-estate lands where the surface owner is different from the mineral owner. The DOI’s most recent inventory of orphaned wells has

identified nearly 16,000 wells on Federal lands. A recent Government Accountability Office report (GAO-19-615) estimated the average cleanup costs for orphaned wells to be on average between \$20,000 and \$145,000 per well.

Orphaned Well Site Plugging, Remediation, & Restoration (BIL Section 40601)

The BIL provided \$4.7 billion over nine years to plug, remediate, and reclaim orphaned wells and associated facilities on Federal, Tribal, state, and private lands, including nearly \$4.3 billion in grants to States and Tribes. An additional \$30.0 million was authorized to the Department of Energy (DOE) to conduct research and development activities to identify, characterize and mitigate the environmental risks of undocumented orphaned wells, and \$2.0 million for the Interstate Oil and Gas Compact Commission (IOGCC) to provide consultation related to the Orphaned Well Program.

Federal Orphaned Well Program

The Federal Orphaned Well Program directs the DOI to work with other Federal partners to inventory orphaned wells and associated infrastructure across Federal lands, establish a process for ranking the identified inventory, and distribute funds to remediate the wells and infrastructure. The BIL provided \$250 million in funding to carry out the Federal Orphaned Well Program. The Federal Program will include wells in Federal minerals and wells with Federal surface and non-Federal minerals.

As the lead of the Federal program, the BLM hosted a public webinar on January 6, 2022, that was attended by over 1,000 participants, to provide an overview of the federal orphaned well program and discuss the bureau's implementation plan. The BLM also setup an email address (OrphanedWells@blm.gov) to enable the public to provide continued feedback into the Federal Orphaned Well Program.

In mid-January, the DOI, the U.S. Department of Agriculture (USDA), the DOE, the Environmental Protection Agency, and the IOGCC signed a Memorandum of Understanding (MOU), establishing a framework to work together to implement the requirements of the Federal Program. The MOU formed a multi-agency Technical Working Group to, among other things, review well inventories and make funding recommendations regarding which wells and well sites on Federal lands would be plugged and reclaimed.

On April 5th, the DOE office of Fossil Energy Carbon Management will be co-hosting an Undocumented Orphaned Well Workshop with the Interstate Oil and Gas Compact Commission and the DOI designed to convene expert researchers from the National Laboratories and key stakeholders from States and Federal agencies to discuss the opportunities and challenges associated with finding and characterizing an estimated more than 300,000 undocumented orphaned wells located throughout the U.S.

Additionally, the Technical Working Group has been tasked with developing criteria for prioritizing wells that take into consideration factors such as remediating and reducing air and water pollution, reducing greenhouse gas emissions, eliminating physical safety hazards, and addressing the disproportionate burden of adverse human health or environmental effects of orphaned wells on communities of color, low-income communities, and Tribal and indigenous

communities. Additionally, contracting readiness, compliance needs, state assistance agreements, cost-effectiveness, and the ease of access to the well site are also being considered. In particular, coordination between States and Federal agencies is paramount and being prioritized. Identifying non-Federal wells in proximity to Federal wells provides opportunities for States, Tribes, and Federal agencies to work together, reduce mobilization and demobilization costs and maximize efficient use of orphaned well cleanup dollars.

State Grants

The Department of the Interior will provide up to nearly \$4.3 billion in grants to States to plug, remediate, and reclaim orphaned wells located on State and privately-owned land. States may use funds to, among other things, identify and characterize undocumented wells; remediate soil and restore habitat that has been degraded due to the presence of the orphaned wells and associated pipelines, facilities, and infrastructure; remediate land adjacent to orphaned wells; and decommission or remove associated pipelines, facilities, and infrastructure. For States, there will be opportunities to apply for Initial grants, Formula grants, and Performance grants in multiple phases stretching over several years.

Under the BIL, a State may request an initial grant of up to \$25 million if they apply by May 14, 2022. They may also request a smaller initial grant of up to \$5 million, with the only deadline being that funds must be expended by the end of Fiscal Year 2030. On March 17, 2022, after extensive outreach with the IOGCC and State oil and gas regulators, the Department released draft guidance to States on how to apply for either small or large Initial grants, and accepted additional comments from the States and the public through March 30. The Department is reviewing the comments and intends to issue final guidance in the near future.

In addition, twenty-six States have submitted a notice to the Department indicating they intend to apply for Formula grants later this year. Using the data provided by the States in those notices, the Department published the initial amount of Formula grant money that each State will be eligible to apply for on January 31, 2022. As more accurate data becomes available, the total allotments of Formula grants will be adjusted.

The Department has also developed Standard Operating Procedures to ensure that all grants are managed consistently, and that internal controls have been developed in advance of any grant awards. A mailbox address has been established to facilitate public comment and stakeholder communication at Orphanedwells@ios.doi.gov.

Tribal Grants

An additional \$150 million is available to plug and reclaim orphaned wells and well sites on Tribal land, either through a direct grant to the Tribe, or through work performed by the Department in lieu of a grant on behalf of a requesting Tribe. The Department has been working closely with the Bureau of Indian Affairs to develop an inventory of orphaned wells on Tribal land. In February, the Department held three listening sessions with Tribes that have had historic oil and gas development. This was following a broader series of formal consultation meetings open to all Tribes in January 2022.

Abandoned Mine Lands (AMLs)

Coal AML & OSMRE's Abandoned Mine Land Reclamation Program

Under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), the Department's Office of Surface Mining Reclamation and Enforcement (OSMRE) collects fees paid by coal mine operators on a per-ton basis, which are deposited into the Abandoned Mine Reclamation Fund (AML Fund). The AML Fund is used primarily to provide annual grants to States and Tribes to reclaim lands mined for coal and left abandoned before the enactment of SMCRA.

Before the enactment of SMCRA, coal operators largely mined coal with little to no regulatory oversight and mined lands were often left unreclaimed. Such AML sites can consist of open portals and pits, refuse piles, dangerous highwalls, and other features, and often cause water pollution, particularly through acid mine drainage (AMD). These sites degrade our natural resources, create public health and safety risks, emit greenhouse gases including methane and often block other potential productive uses of the land. Remediating these sites enhances land and water resources that lead to further investments and uses, such as agriculture, wildlife habitat, and economic development. Achieving AML reclamation creates jobs, improves our environment, safeguards people and property, and revitalizes communities.

OSMRE's AML Program partners with 25 State and three Tribal AML programs. These collaborations ensure abatement of coal mining-related hazards through reclamation work that addresses environmental issues, including AMD and other water pollution problems. The distributions to states and tribes over the last 45 years from the AML Fund directly resulted in the closure of more than 45,000 abandoned underground mine shafts and openings, the elimination of more than 1,040 miles of dangerous highwalls, the reclamation of more than 130,000 acres of spoil and dangerous piles and embankments, and the restoration of more than 52,000 acres of clogged streams and land. While more than \$8 billion has already gone towards reclamation work by states and tribes, there are more than \$10 billion in unfunded coal reclamation construction costs across the Nation.

Interest earned on the AML Fund also helps ensure we uphold the promises made to our Nation's coal miners, as roughly \$1.5 billion in interest has been transferred to the United Mine Workers of America Health and Retirement Funds to support miners whose former companies have gone bankrupt and were unable or unwilling to meet their obligations.

Abandoned Coal Mine Land Reclamation (BIL Section 40701)

Section 40701 of the BIL authorized the deposit of \$11.3 billion into the AML Fund. OSMRE will distribute approximately \$725 million each year for the next 15 years – a total of more than \$10.8 billion—in grants to eligible States and Tribes with AML programs. On February 7, the Department announced the State and Tribal allocation of the first \$725 million. This money will go directly to reclaim coal AML sites, improve water quality, and spur economic growth in the hardest hit communities that are recovering from the vestiges of past coal mining. The total amount of grant funding provided to an eligible state or tribe with an AML program over the 15-year life of the program will be at least \$20 million unless the amount needed to address its inventory of coal AML sites is less than \$20 million. As State and Tribal AML inventories are updated, future distributions may change.

The additional AML funding from the BIL allows States and Tribes to address more sites and complete more extensive projects, and it provides a greater level of certainty in future funding as compared to the traditional fee-based grants, which fluctuate based on the amount of coal mined in a given year. The BIL funding also provides greater flexibility than the traditional fee-based grants, because it allows States and Tribes to construct, operate, maintain, and rehabilitate AMD treatment systems. The BIL also stipulates that priority may be given to projects that provide employment opportunities to current and former coal industry employees – a provision that will provide significant economic and environmental benefits to coalfield communities and strengthen their opportunities for ongoing revitalization.

AML Fee Reauthorization and Extension of AML Fee-based Grant Distributions (BIL Sections 40702 & 40703)

In addition to the significant \$11.3 billion investments in communities for AML reclamation, the BIL extended OSMRE's AML fee collection authority through September 30, 2034, ensuring a funding source for the traditional fee-based AML grants to states and tribes through Fiscal Year 2035. The BIL also reduced the per ton AML fees by 20 percent, so the new per ton collection rates are now 22.4 cents per ton of surface mined coal, 9.6 cents per ton of underground mined coal, and 6.4 cents per ton of lignite. Earlier this month, the Department announced the fee-based AML grants for FY 2022, providing an additional \$144 million to eligible States and Tribes to remediate AML sites.

The reauthorization of OSMRE's fee collection, which support the traditional fee-based AML grant distributions, allows OSMRE to continue its collaboration with States and Tribes to complete reclamation projects that address dangerous environmental conditions and pollution from legacy coal operations and continue to support community efforts to revitalize local economies.

Hardrock AML Sites on Public Lands

Like abandoned coal mines, abandoned hardrock mines pose serious safety hazards while causing ongoing water pollution and other environmental damage. Many of these old mines are in rural communities that have suffered from years of disinvestment. Federal land managers, including the BLM, NPS, FWS, and USFS have bureau/agency-specific programs to address the physical safety and contamination issues associated with non-coal AMLs on their lands. These programs mitigate abandoned mine sites' physical safety risks, such as open shafts and portals, as well as environmental impacts to other resources, such as water, soil, and wildlife.

As an example, in FY 2021, the BLM completed the closure of 742 non-coal AML features on public lands. The BLM, working with the state of New Mexico and Bat Conservation International, recently completed the New Placers Mine Safeguard Project in the San Pedro Mountains of New Mexico, closing 173 highly hazardous features. In Colorado, the BLM has been working with the Bonita Peak Historic Mining District to construct two iron terraces for the purpose of removing heavy metals from acid mine drainage at two mine sites (Elk Mine and the Forest Queen Mine). The terraces have been operating for two years and are removing between 50-80 percent of the heavy metals present in the acid mine drainage.

Conclusion

In many places, the people and the lands impacted by oil and gas, coal, and other mineral development have been neglected for far too long, while the potential benefits of remediation to communities, water, wildlife, the climate, and local economies have been overlooked. The legacy pollution cleanup programs in the BIL will create jobs, improve the environment, and revitalize communities across the Nation. The DOI appreciates Congress' mandate and support on these issues, and we look forward to continuing to work with Congress and our partner Federal agencies on these important issues.