ClientEarth

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I. Introduction

The proposed rule is bad policy, built on flawed assumptions and ignoring critical information. If adopted, it would saddle American taxpayers with billions of dollars of excess risks, spoil public lands, and pose numerous public health and environmental dangers. And for all of that, it would not even meaningfully increase domestic energy production. Indeed, it is a subsidy that is likely to decrease economic activity. Orphan and long-term idle wells are already a serious problem across the country, harming communities and draining public budgets. The proposed rule would only exacerbate that harm. As described in detail below, the rule is being promulgated on a deeply unsound factual and analytical record, and even by the terms of the agency's stated goals it would do significantly more harm than good. It should be rescinded in its entirety.

As of the end of fiscal year 2025, nearly 92,000 wells sit on federal public land.[1] By BLM's own estimates, the average taxpayer cost to plug a well and reclaim the surface is $71,000.[2] In the aggregate, that means the cleanup costs for already-existing wells on federal

[1] U.S. Dep't of the Interior, Bureau of Land Mgmt., *National Totals by State, Fiscal Year 2001 – 2025*, https://www.blm.gov/sites/default/files/docs/2026-04/All%20Fed%20O_G%20Statistics%20by%20Year%20by%20State_Web%20Stats_Tabs%20w%20Table%20Numbers_FY25.xlsx.
[2] U.S. Dep't of the Interior, Bureau of Land Mgmt., *Oil and Gas Bonding*, https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/leasing/bonding.

land amounts to over $6.5 billion. Under the proposed rule, if every one of those wells was covered by an individual bond, those bonds would only amount to $920 million—meaning that the public would be at risk of over $5.6 billion in cleanup costs. This is a low-end estimate of public exposure—it neither accounts for lower per-well costs associated with blanket bonds, nor does it account for new wells.[3] The insufficiency of the proposed bond levels is well known—a 2019 Government Accountability Office (GAO) report found that bonds previously set at these regulatory minimum values were insufficient to cover the cleanup costs of 99.5% of wells on federal land.[4]

Furthermore, the risks posed to the public go beyond the financial. Orphaned wells can leak hazardous substances such as methane, volatile organic compounds (VOCs), arsenic, lead, and hydrogen sulfide, which pose well-documented threats to both public health and the environment. Reducing bond amounts incentivizes companies to leave wells unplugged and to eventually orphan them when the cost of cleanup exceeds the cost of maintaining or forfeiting bonds.

These concerns are not speculative. Orphaned wells already create both environmental and fiscal problems across the country, including billions of dollars of drain on state budgets in orphaned well programs. The proposed rule ignores the risks to the public and unreasonably prioritizes well operators at the cost of everyone else. It transfers massive amounts of risk from those who create it to taxpayers, communities, and millions of Americans who enjoy and rely on federal public lands.

Because the proposed rule would require the public to subsidize billions of dollars of risk that belong to industry, it is reasonable to ask what that subsidy buys the public in return. Nothing in the rule or the reasoning supporting it suggests that it will lead to substantial additional energy development. Indeed, bonding requirements for productive wells are no barrier to oil and gas development, so proposed rule is a giveaway to industry that will not meaningfully increase domestic energy supply. And insofar as delayed cleanup of sites may delay build-out of more productive renewable resources, it is likely to actually decrease total domestic energy production.

In short, as explained further below, the proposed rule should be rescinded in its entirety.

II. Minimum Bond Amounts Should Not Be Reduced

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[3] Bond minimums do not adjust with the number of wells they cover, which can vary greatly. In 2018, BLM's data indicated that the number of wells covered by a single bond ranged from one well to 6,654 wells, covering about 68 wells on average. U.S. Gov't Accountability Off., GAO-19-615, *Oil and Gas: Bureau of Land Management Should Address Risks from Insufficient Bonds to Reclaim Wells* 16–17 (2019), https://www.gao.gov/assets/gao-19-615.pdf.
[4] *Id*. at 15.

BLM proposes to reduce minimum bonds from the 2024 levels of $150,000 for individual lease bonds and $500,000 for statewide bonds back to $10,000 and $25,000, respectively. The proposed bond amounts are facially inadequate to cover plugging and reclamation of oil and gas wells.

These bonds serve as an important protection for public lands and taxpayer dollars. BLM describes the bond as the mechanism that ensures "complete and timely plugging" of wells, reclamation of lease areas, and restoration of lands and surface waters affected by oil and gas operations after abandonment or cessation of operations.[5] But the proposed rule is completely incompatible with this purpose and would exacerbate an ongoing nationwide crisis of abandoned and orphaned oil and gas wells harming local communities, the environment, and public budgets.

a. The proposed bond amounts are insufficient, as confirmed by BLM's prior, uncontroverted findings

The proposed rollback is especially unjustified because BLM adopted the 2024 bond increases only after finding that the prior bond levels were obsolete, insufficient, and inconsistent with the agency's duty to protect public lands and taxpayers. In the 2024 Leasing Rule, BLM explained that the rule updated bonding requirements "to address shortcomings identified" by GAO and Department of Interior's Office of Inspector General (OIG) and "to ensure that reclamation costs are not borne by the American public."[6] BLM also explained that the pre-2024 bond minimums had not been increased since 1951 for statewide and nationwide bonds and 1960 for lease bonds, and had been "repeatedly found inadequate" by GAO and OIG to fund reclamation when a lessee defaults.[7] Those findings have not disappeared. The proposed rule does not identify any new reclamation cost data, new GAO or OIG findings, or new technical analysis showing that the old bond amounts have somehow become adequate.

The record before BLM points the other way. BLM's own public bonding materials state that the average taxpayer cost to plug a well and reclaim the surface is $71,000.[8] The same materials explain that the 2024 Leasing Rule increased the minimum statewide bond to $500,000 and the minimum individual lease bond to $150,000, and that BLM determined those amounts based on inflation and the cost to plug a well and reclaim the surface for the median number of wells tied to bonds.[9]

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[5] *Oil and Gas Leasing*, RIN 1004-AF05, 91 Fed. Reg. 38084, 38099 (proposed June 24, 2026) (to be codified at 43 C.F.R. pts. 3000, 3100, 3110, 3120, 3130, 3140, 3150, 3160, 3180).
[6] *Fluid Mineral Leases and Leasing Process*, 89 Fed. Reg. 30916 (Apr. 23, 2024) (to be codified at 43 C.F.R. pts. 3000, 3100, 3110, 3120, 3130, 3140, 3150, 3160, 3170, 3180).
[7] *Id.* at 30934–35.
[8] Bureau of Land Mgmt., *Oil and Gas Bonding*, https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/leasing/bonding.
[9] *Id.*

In other words, a $10,000 lease bond is about 14% of BLM's own average taxpayer cost for cleaning up one well. The situation for blanket bonds is even worse. A $25,000 bond for an operator with 10 wells equates to just $2,500 per well and a nearly $700,000 shortfall. For an operator with 100 wells, that is $250 per well and a shortfall of over $7 million. Extremely low blanket bonds open the door to a disastrous possibility of a single operator owning hundreds of wells and leaving BLM (and the public) with the full cleanup costs after going bankrupt.

The BLM's recent rulemaking on this very issue surfaced substantial evidence about the need for adequate bonding to protect the public. The ultimate rule finalized in 2024 reflected a compromise that, if anything, is under-protective of the public because it allows statewide blanket bonds that permit operators to be under-bonded on a per-well basis. Still, as opposed to the woefully inadequate prior bonding limits, the rule was at least a step in the right direction. The facts underpinning that 2024 rulemaking have not changed, nor has any new analysis justified taking the proposed step backward.

b. The Proposed Rule Fails to Reasonably Consider Numerous Costs and Harms

The problem of abandoned or 'orphan' wells is already substantial. DOI reports that the Interstate Oil and Gas Compact Commission (IOGCC) has identified more than 141,000 documented orphaned wells on state and private land and estimates an additional 250,000 to 740,000 undocumented orphaned wells nationwide,[10] which is conservative compared to other estimates. BLM estimates that more than 15,000 orphaned wells currently burden federal lands, with the potential for more to be discovered.[11] DOI further estimates that the universe of documented and undocumented orphaned wells may emit nearly 63 million grams of methane per hour, equivalent to emissions from more than 3.6 million gasoline-powered passenger cars driven for a year.[12] Additional pollutants include hydrogen sulfide, arsenic, lead, and VOCs such as benzene. Exposure to methane and other pollutants can greatly disturb nearby communities and fluids can migrate into nearby aquifers and groundwater.[13] Escaping gases can also create

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[10] U.S. Dep't of the Interior, *Orphaned Wells Program Annual Report to Congress* 12 (Nov. 2025), https://www.doi.gov/sites/default/files/documents/2025-11/fy-2025-orphaned-wells-congressional-report.pdf.
[11] Tyler Croft, *Tackling the Legacy of Orphaned Wells: The Federal Orphaned Well Program in Action*, Bureau of Land Mgmt. (Dec. 6, 2024), https://www.blm.gov/blog/2024-12-06/tackling-legacy-orphaned-wells-federal-orphaned-well-program-action.
[12] U.S. Dep't of the Interior, *Orphaned Wells Program Annual Report to Congress* 12 (Nov. 2025), https://www.doi.gov/sites/default/files/documents/2025-11/fy-2025-orphaned-wells-congressional-report.pdf.
[13] U.S. Env't Prot. Agency, *Well Plugging*, https://www.epa.gov/natural-gas-star-program/well-plugging (last updated June 3, 2026).

fire and explosion hazards.[14] According to DOI's 2025 report to Congress, "[o]rphaned wells can reduce land value, limit land use, disrupt ecosystems and often litter properties with rusted infrastructure, threatening wildlife, particularly in wetlands and other sensitive areas."[15] In addition to these severe local pollution concerns, methane is a potent greenhouse gas, and leaks[16] from orphan and idle wells contribute to climate change.

Furthermore, unplugged wells and the surrounding environmental degradation may greatly interfere with public land access. Indeed, BLM's own Regulatory Impact Analysis (RIA) prepared for this proposed rule concedes that lowering bond requirements is expected to produce 1,440 to 2,400 additional days of environmental impacts from unplugged wells, with an annual cost to BLM and the public of 1,920 days of delayed reclamation.[17] This occurs as a result of BLM having to spend additional time on enforcement and cost recovery rather than immediately using adequate bond proceeds.

This analysis does not even consider the fact that unreasonably low bonds incentivize cleanup delay where, for example, the cost of paying the premium on a bond is less than the interest earned annually on the amount of money required for cleanup. Without studying the implications of reduced bonds on operator behavior, the agency is flying blindly into bad policy and almost certainly significantly understating the amount of delay its policies will cause.

The delays that the agency admits the proposed rule will cause, and the delays it failed to consider, show that the proposed rule would result in public health and environmental harms that were not considered in the promulgation of the proposed rule.

Furthermore, BLM has blatantly neglected the opportunity costs when damaged public lands remain burdened by oil and gas infrastructure. BLM lands are not an industrial reserve dedicated solely to oil and gas extraction. FLPMA requires BLM to manage them for multiple use and sustained yield, expressly encompassing recreation, hunting, grazing, and renewable energy development.[18] Congress further directed BLM to manage those uses in a "harmonious and coordinated" manner rather than simply maximizing the economic return from any one use.[19] These other uses have substantial economic value. BLM administers nearly 18,000 grazing permits and leases and collects roughly $13 million annually in grazing fees and related

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[14] *Id*.
[15] U.S. Dep't of the Interior, *Orphaned Wells Program Annual Report to Congress* 6 (Nov. 2025), https://www.doi.gov/sites/default/files/documents/2025-11/fy-2025-orphaned-wells-congressional-report.pdf
[16] In proposing this rule, the agency also failed to consider the cost of lost methane in terms of royalties. Methane lost through leaks could otherwise have been captured and sold by other operators, and the government would have been paid a royalty on that lost methane. So the leaks represent not just environmental hazards, but also lost domestic energy and lost government revenue. A rule, like the proposed one, that is likely to lead to more leaks and more lost methane should consider the cost of that loss.
[17] Bureau of Land Mgmt., *Oil and Gas Leasing Rule: Economic Analysis* 14 (June 2026).
[18] Bureau of Land Mgmt., *What We Manage Nationally*, https://www.blm.gov/about/what-we-manage/national.
[19] 43 U.S.C. § 1702 (2024).

receipts.[20] BLM also received nearly 81 million recreation visits in 2024, and recreation visitors spent approximately $4.7 billion in communities within 50 miles of BLM lands in 2023, supporting roughly $11.7 billion in total U.S. economic output.[21] An orphaned well does not necessarily close an entire area but can constrain or deter these uses. BLM should analyze lost use rather than assume that delayed reclamation has no economic value.

The RIA's treatment of time makes this omission even more consequential. BLM selected a 20-year analysis period ending in 2045 and expressly excludes ongoing impacts occurring after that window even when those impacts arise from leases issued during the period.[22] That time cutoff is poorly matched to the liability. Plugging and reclamation obligations naturally arise at the end of a well's useful life, which can undoubtedly last beyond 20 years. The proposal therefore counts immediate bonding savings to operators while placing many of the corresponding cleanup consequences outside the analytical window. That is not neutral accounting; it systematically favors a rule whose economic effect is to reduce financial assurance today for liabilities that can mature decades later.

Finally, the proposed rule fails to consider the benefits of increased plugging activity and timely well clean up. These benefits are significant. For example, through June 2025, state and federal agencies had plugged more than 10,000 orphaned wells using Infrastructure Investment and Jobs Act (IIJA) funds, preventing an estimated 5.9 billion grams of methane emissions per year, or approximately 167,000 metric tons of carbon dioxide equivalent annually.[23] Cleanup funds also support a substantial number of jobs, particularly in areas where mature oil and gas fields mean that local employment in the industry is in decline. Accordingly, ensuring that adequate funds are available for timely cleanup in the event of operator failure, and setting up financial assurance regimes that do not incentivize cleanup delays, yield a range of benefits beyond simply holding industry, rather than taxpayers, responsible for cleanup costs.

c. Small operators have sufficient options and should not be subsidized by the public

The proposed rule's central rationale is that the 2024 Leasing Rule bond amounts are "too high" because they may inhibit development and impose burdens on small operators. There is no sound basis for this statement. BLM states that commenters in the 2024 rulemaking argued that

[20] Bureau of Land Mgmt., *Livestock Grazing on Public Lands*, https://www.blm.gov/programs/natural-resources/rangelands-and-grazing/livestock-grazing.

[21] Bureau of Land Mgmt., *Celebrating the Power of Public Lands Through Tourism and Community Impact* (May 5, 2025), https://www.blm.gov/blog/2025-05-05/celebrating-power-public-lands-through-tourism-and-community-impact.

[22] Bureau of Land Mgmt., *Oil and Gas Leasing Rule: Economic Analysis* 18 (June 2026).

[23] U.S. Dep't of the Interior, *Orphaned Wells Program Annual Report to Congress* 13 (Nov. 2025), https://www.doi.gov/sites/default/files/documents/2025-11/fy-2025-orphaned-wells-congressional-report.pd

the higher amounts were "excessive and potentially unobtainable" for some small operators due to collateral requirements, premiums, and creditworthiness concerns.[24] BLM then proposes to restore the old amounts because they are "currently attainable for small operators" and would lower financial barriers to federal oil and gas activity.[25] But that is not a sufficient reasoned basis for weakening financial assurance. The relevant question is not whether a bond amount is easy for every operator to obtain; rather, it is whether the bond amount is adequate to protect the public when the operator fails to plug and reclaim.

Indeed, BLM already addressed the small operator argument in the final 2024 Leasing Rule and rejected it based on record evidence. In response to comments that higher bonds would significantly burden small operators, BLM noted that Small Business Administration (SBA) surety-bond resources are available and stated that, if small entities paid sureties 3% of the additional bonding cost annually, their cost-to-revenue ratios would increase by less than one-tenth of one percent.[26] As a further illustration, a 3% premium on a $150,000 bond is $4,500. This amounts to approximately $12.50 per day--less than the revenue generated by 1/5 of a barrel of oil. That is simply not a material amount of money for operators of productive wells. On a per-well basis, coverage is even lower for operators who use blanket bonds.

BLM further stated that, even if companies funded the full bonding amount from revenues, their cost-to-revenue ratio would increase by at most 1.4 percent for one year, and BLM certified that the rule would not have a significant economic impact on small entities.[27] The proposed rule does not grapple with that prior analysis in any meaningful way. It cites the same general concerns about small operators but does not explain why BLM's 2024 economic conclusion was wrong, what new evidence undermines it, or why protecting operators with insufficient creditworthiness should take priority over protecting taxpayers and public lands.

The bonding requirements are only a problem for operators who seek to indefinitely idle dead wells instead of cleaning them up or operators who are so dangerously undercapitalized and/or have such a terrible track record that no surety company will agree to work with them. In other words, the proposed rule facilitates federal leasing for irresponsible and dangerous operators, and provides a totally unnecessary gift for other operators. It also asks the public to shoulder risk that the industry is entirely capable of bearing, and in no event will the proposed rule substantially increase domestic oil and gas production or domestic energy independence.

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[24] *Oil and Gas Leasing*, RIN 1004-AF05, 91 Fed. Reg. 38084, 38099 (proposed June 24, 2026) (to be codified at 43 C.F.R. pts. 3000, 3100, 3110, 3120, 3130, 3140, 3150, 3160, 3180).
[25] *Id.*
[26] *Fluid Mineral Leases and Leasing Process*, 89 Fed. Reg. 30916, 30935 (Apr. 23, 2024).
[27] *Id*.

The proposed rule will also incentivize irresponsible management of oil and gas resources. To see how, one need only look at the way incentives shift under the proposed rules. For example, under the proposed rule, an operator with one well and a $10,000 bond will pay an annual premium of $300. Imagine the well can no longer operate profitably. To reduce the chance of leaks and to open public lands to multiple uses, one would want the operator to plug and remediate that well. However, assuming the cost to plug that well is $71,000 (BLM's average), the operator is incentivized to delay plugging as long as possible. The operator would financially benefit from paying the $300 premium and putting $71,000 in an interest-bearing Treasury Bond. At 4% interest, the operator would get $2,800 and would net $2,500 after paying the premium on the well bond. In other words, the proposed rule creates a structure under which it becomes harmful for operators to ever clean up after themselves.

However, under the current rules the math flips[28] and, operators are incentivized to plug unproductive wells in order to avoid paying premiums on bonds covering assets that cease to profitably produce. BLM should not create an incentive structure that directly undermines the purpose of the bonding system, endangers public health, and promotes uneconomic burdening of public land. Relatedly, by incentivizing cleanup delay, the proposed rule makes it more difficult for federal land to be turned to more productive use, like leasing for renewable energy. Thus, it is likely that – directly undermining its stated intent - the proposed rule will reduce domestic energy production.

Independent of the incentive problems and the fact that the lower bonds are unlikely to facilitate energy development goals, BLM should also reject federal leasing policy that affirmatively solicits operators that lack the finances to perform their legal obligations safely. Financial capacity is not separate from environmental protection. It is one of the main indicators of whether an operator will be able to plug wells and respond to contamination or other problems when production becomes uneconomic. If an operator cannot obtain a bond sized to even approximate foreseeable plugging and reclamation costs, that is a warning that the operator may be poorly positioned to assume long-term obligations. In other words, if financial institutions uniformly find an operator to be too risky to work with, that should be a warning to the federal government. It is highly irresponsible for the federal government to force taxpayers to subsidize the risk for such operators.

d. Periodic bond adequacy review is not sufficient

BLM's reliance on periodic bond adequacy review does not solve the problem. The proposed rule states that BLM can mitigate the risk of lower minimum bonds through existing

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[28] This assumes individual per-well bonds. The incentives for some operators with blanket bonds may still be perverse, but even in those instances the proposed rule makes the incentives substantially worse.

bond adequacy review policy, under which State Offices review all bonds at least every five years, or more frequently when warranted, focusing on higher risk operators. That approach is far too slow and too discretionary to justify lowering the default bond floor. Bond adequacy review relies on an expensive and fragile regulatory apparatus, and it requires the backstop of either an across-the-board full cost bonding requirement or a sufficiently high default/minimum bonding requirement if it is to be properly protective of the public. The reasons for bond adequacy review's inadequacy are numerous and obvious: agencies make mistakes. Operators submit inaccurate or incomplete financial information. Risk assessments quickly become outdated as prices fluctuate, corporate structures change, and financial conditions deteriorate. History shows that bond adequacy review, in practice, is underprotective: GAO also found that many offices did not routinely request bond reviews when approving lease assignments, even though assignments are a key moment to reassess whether the new operator can satisfy plugging and reclamation obligations.[29]

Maintaining an effective bond review system requires constant monitoring and significant agency staffing. That level of oversight is costly, labor-intensive, and politically vulnerable. When agency priorities shift, budgets are reduced, or Congress embraces austerity, bond review is likely to be one of the first functions to suffer. The result is a system that depends on perfect execution and continuous public investment simply to prevent private companies from externalizing the costs of their own operations. In effect, taxpayers subsidize the industry first by financing the machinery needed to police bond adequacy, and again when inevitable failures leave the public responsible for reclamation costs. Nothing in the rule guarantees adequacy of the review process, nor is there any analysis of the likelihood of failures or the amount of additional cleanup costs likely to fall to the public because of shortcomings. Without rigorous analytical support and strong, formalized guarantee mechanisms, the emphasis on adequacy review amounts to little more than smoke and mirrors. But the public deserves more than rhetorical sleight of hand; we deserve real stewardship of our public lands and the public fisc.

Because a more durable mechanism already exists to ensure adequate financial assurance without requiring perpetual government intervention, there is little justification for relying on an elaborate regulatory regime that is both more expensive and less reliable. Higher minimum bonds are needed as a backstop against government underenforcement, data gaps, and administrative mismanagement.

All of this is not to say that bonding adequacy review should be eliminated. With a proper bonding backstop, such review may be important for high-risk operators and for wells that are likely to cost more than the average to clean up (for example, wells with a history of spills or

[29] U.S. Gov't Accountability Off., GAO-25-106307, *Oil and Gas: Bureau of Indian Affairs Could Improve Lease Management of Trust and Restricted Land* (2024), https://www.gao.gov/products/gao-25-106307.

those whose depth and geography make them trickier to plug and remediate). A rule providing clear, consistent guidance for such adequacy review, stacked on top of strong bonding minimums, could prove quite useful.

III. BLM Should Not Reinstate Nationwide or Unit Operator Bonds

BLM acknowledges that the 2024 Leasing Rule eliminated nationwide and unit operator bonds and asks whether the agency should now (1) allow nationwide bonds, (2) allow nationwide and unit operator bonds, or (3) continue the 2024 elimination of both. BLM should neither reinstate nationwide bonds nor unit operator bonds, and the final rule should retain the 2024 Leasing Rule's elimination of them both.

a. Nationwide bonds are inefficient and un-tailored

A nationwide bond is structurally inconsistent with the goal of oil and gas financial assurance to ensure that each well is plugged and restored without shifting costs to taxpayers, communities, and other public land users. A single nationwide bond cannot be meaningfully tailored to the individualized needs of oil and gas wells. The current proposed rule itself concedes that allowing nationwide and unit operator bonds "may increase administrative complexity and oversight costs for BLM." Most importantly, BLM acknowledges that removing nationwide bonds created efficiencies by allowing the agency to "better tailor bond amounts to local conditions and State-specific requirements" when reviewing bonds for adequacy.[30] Those concessions point to the fact that BLM should not revive a bond type that it admits is harder to administer and less tailored to actual reclamation risk.

The 2024 rule already considered this issue and gave a reasoned explanation for eliminating nationwide bonds. In 2024, BLM explained that it proposed to remove nationwide bonding because of the administrative burden it imposed on the agency.[31] BLM also responded to comments defending nationwide bonds, explaining that, during bond adequacy reviews, BLM state office managing the nationwide bond had to coordinate with every field and state office with wells covered by that bond.[32] BLM estimated that the 243 existing nationwide bonds would become only about 143 additional statewide bonds, and that replacing nationwide bonds with statewide bonds would reduce annual administrative costs.[33] BLM further explained that eliminating nationwide bonds would allow the agency to focus on specific areas and fields to

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[30] Oil and Gas Leasing, RIN 1004-AF05, 91 Fed. Reg. 38084, 38098-99 (proposed June 24, 2026) (to be codified at 43 C.F.R. pts. 3000, 3100, 3110, 3120, 3130, 3140, 3150, 3160, 3180).
[31] *Fluid Mineral Leases and Leasing Process*, 89 Fed. Reg. 30916, 30938 (Apr. 23, 2024).
[32] *Id*.
[33] *Id*.

ensure bonds are adequate to cover reclamation costs if an operator fails to properly plug and abandon wells.[34]

BLM's 2024 commentary is particularly important because it directly addressed the same argument that nationwide bonds provide flexibility and reduce operator costs. In 2024, BLM rejected that argument because commenters provided no data or support beyond the general assertion that nationwide bonds mitigate costs by spreading those costs across a larger number of leases.[35] The current proposed rule does not identify any new record evidence showing that BLM's 2024 conclusion was wrong. It does not provide new data showing that nationwide bonds can be administered without increased oversight burdens, that they can be tailored to local conditions, or that they are sufficient to cover plugging and reclamation liabilities across multi-state portfolios. Instead, BLM again points to operator flexibility and cost reduction. That is not a reasoned basis for reinstating a bond mechanism that BLM recently found inefficient and poorly tailored to reclamation risk.

The specific amount proposed for nationwide bonds is also problematic. Blanket bonding is generally a poor policy choice because it allows per-well bond amounts to be extremely low, which allows operators with large numbers of wells to shift significant risk to the public. This also gives large operators undue bargaining power with government agencies, as they can threaten bankruptcy and mass-orphaning of wells to reduce fines and strong-arm officials about permits. Here, the proposed nationwide bond amount is so low that these problems are present even for operators with just a handful of wells. Given the average cleanup cost of $71,000 per well, a $150,000 bond would be essentially exhausted by only two wells, and large operators can amass thousands of wells. This means that the failure of a single large operator with a nationwide bond could easily lead to millions of dollars of cleanup costs at sites across the country. Such eventuality also means that different regional agencies would need to decide how to split any bond money, causing additional administrative burdens on top of the physical and fiscal ones.

This risk-shifting problem is not just hypothetical. BLM's 2023 proposed rule reported that nationwide bonds covering existing wells averaged $198,000 per bond and covered an average of 295 wells, meaning a nationwide bond averaged only $671 per well in coverage.[36] In one case, a $150,000 nationwide bond was associated with a company owing more than $300,000 in royalties and interest and more than $20 million in estimated environmental obligations.[37] The lessee filed for bankruptcy and the wells became orphaned.[38] Had that

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[34] *Id*.
[35] *Id*.
[36] *Fluid Mineral Leases and Leasing Process*, 88 Fed. Reg. 47562, 47581-82 (proposed July 24, 2023).
[37] U.S. Gov't Accountability Off., GAO-25-106307, *Oil and Gas: Bureau of Indian Affairs Could Improve Lease Management of Trust and Restricted Land* 21 (2024), https://www.gao.gov/products/gao-25-106307.
[38] *Id*.

operator been required to individually bond for wells at current levels, the taxpayer would have been spared much if not all of that cost.

BLM should also reject any argument that nationwide bonds are necessary to attract small or independent operators. Operators that cannot obtain adequate per-well financial assurance should not be entrusted with public resources and long-term reclamation obligations. The purpose of bonding is not to lower entry barriers for operators that lack the financial capacity to plug and reclaim their wells. Rather, it is to ensure that the operator, not the public, internalizes the full cost of development. If a company's business model depends on spreading a single inadequate bond across a large multi-state portfolio, that business model depends on public assumption of private risk.

b. **Unit operator bonds are outdated and obscure financial obligations**

BLM should retain the 2024 Leasing Rule's elimination of unit operator bonds. Unit operator bonds are an outdated and rarely used form of blanket financial assurance that can obscure who is responsible for plugging, reclamation, and restoration. They can cover multiple leases and wells within a unit without being tied to actual site-specific costs and can weaken the connection between the operator and the leaseholders who ultimately benefit from production.

BLM's own explanation in the current proposed rule supports that result. BLM acknowledges that the 2024 Leasing Rule eliminated unit operator bonds and now, as previously noted, concedes that these bonds may may increase BLM's administrative complexity and oversight costs. Most importantly for unit operator bonds, BLM admits that the original reason for creating them no longer exists. They were created because pre-1987 bond forms did not clearly cover a principal acting as a unit operator when the operator did not have an interest in the lease, but BLM's current bond forms now address that issue, "negating the need for unit operator bonds." BLM also states that unit operator bonds "have never been widely used by industry."

That should end the matter. If the current bond forms already solve the historical coverage problem, and if unit operator bonds have never been widely used, BLM has no reasoned basis to reinstate them. The current rule proposal does not identify new data, new operational problems, or new agency experience showing that the 2024 rule was wrong to eliminate unit operator bonds. It offers only the distant possibility of "operational flexibility" and lower compliance costs for some operators at the expense of public and fiscal assurance.

c. **Bond adequacy review is not a sufficient backstop for these blanket bonds**

As discussed above, bond adequacy review is not a panacea for the problem of too-low bonding levels. This is particularly true with respect to nationwide and unit operator bonds. Such bonds would make adequacy reviews even more complicated and prone to insufficiency. Units and nationwide leases can span multiple leases and/or states, and state specific conditions matter when assessing bond adequacy. BLM's 2024 bond adequacy memorandum instructs State Offices to (1) coordinate reviews to determine whether bond amounts appropriately reflect the potential risk posed by operators and (2) emphasize securing appropriate bond amounts.[39] That process is inherently state and field office dependent. Nationwide and unit operator bonds cut against that structure by placing potentially geographically dispersed wells under a single instrument, requiring coordination across offices and states. BLM has offered no new analysis showing that it can now conduct those reviews effectively.

IV. Reduced leasing fees and increased protests fees act as an additional, unreasonable subsidy for operators

Proposed fee changes (in § 3000.120 and § 3120.43) should not be implemented. Like the proposed changes to bonding rules, these fee changes imprudently shift risks and costs onto the public that ought to be borne by industry.

BLM proposes to reduce the oil and gas lease application fee from $3,100 to $155 (a 95% reduction) and the lease consolidation fee from $575 to $320, while simultaneously imposing a new $1 per page charge for every protest page exceeding 50 pages. According to BLM's RIA, the lease application reduction alone saves industry approximately $2.15 million every year, based on an average of 731 leases issued annually, and causes a corresponding reduction in funds available to BLM.[40] In other words, without justification, the agency proposes that the public shoulder over $2 million per year in oil and gas development costs, even though there is no analytical or factual basis to believe that such subsidy will meaningfully increase domestic energy production or otherwise provide any benefit to the public.

The agency also proposes a fee on protests that would not raise substantial funds for the government[41] but would act as a tax on any group or individual attempting to present an adequate record for their protest to be properly considered. By definition, protestors are people who are attempting to defend rights that they believe are being trampled. The government should not add to their injury by requesting payment for public participation. The 50-page limit on free protest is arbitrary and does not consider that, when there is a genuine problem with a lease,

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[39] Bureau of Land Mgmt., Instruction Memorandum No. 2024-014, *Oil and Gas Bonds Adequacy Reviews* (Feb. 7, 2024), https://www.blm.gov/policy/im-2024-014.
[40] Bureau of Land Mgmt., *Oil and Gas Leasing Rule: Economic Analysis* 17 (June 2026).
[41] BLM estimates that only 14 protests in 2024 exceeded 50 pages, and that the proposed change would generate only about $2,604 annually in additional funds. *Id.* at 16.

protestors may need to submit a lengthy record for the agency to properly understand the problem. Accordingly, this policy not only penalizes people who are harmed by improper development, it also is likely to reduce the agency's access to information and lead to worse decision-making.

There is no rational basis for either reducing fees for industry and imposing those costs on taxpayers or for penalizing injured parties and reducing the flow of information to the agency. These rule changes should be rejected.

V. Conclusion

Federal public lands must be managed carefully and safely for the long-term good of the American people. Congress required adequate bonding precisely so that the operator, not taxpayers, would ensure complete and timely reclamation. BLM is required to manage these lands for multiple use rather than treat nonmineral uses as externalities to oil and gas development. BLM should therefore retain protective bond minimums, reject nationwide and unit operator bonds, require industry to bear the reasonable costs of processing its own leasing requests, and reject fees that burden meaningful public participation. The agency should not call it "efficiency" when the principal accomplishment is to move costs off an operator's balance sheet onto that of the public.

Sincerely,
/s/ Benjamin Segal
Benjamin Segal
ClientEarth USA, Inc.