Illinois' Billion-Dollar Blind Spot:

How Flawed Laws And Data Gaps Leave Residents Bearing The Environmental, Health And Financial Costs Of Inactive Oil Wells

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Executive Summary

Illinois is facing a potential billion-dollar environmental and fiscal crisis.

Illinois regulations are operating with dangerously incomplete information about the state's oil well cleanup crisis. While official records collected in 2025 identified over 6,000 wells as requiring immediate closure because their owners have either already abandoned them or the well has been cited as inactive, this report reveals that the majority of Illinois's 30,000+ currently tracked wells are likely at high risk of abandonment, potentially exposing the state to over $1 billion in cleanup costs.

State regulations know that most existing Illinois wells are not economically viable, but they cannot tell how much oil a well is producing, when a well stops producing, where wells that need to be plugged are located or how many wells are even covered by "blanket" cleanup bonds, among other troubling blind spots.

Critical flaws in Illinois' regulatory framework have created information gaps so severe that officials are unable to reliably and holistically understand—let alone address—the fiscal and environmental crisis posed by unproductive oil wells. Without basic oil and gas production data, the state cannot distinguish between genuinely productive wells and those that have effectively ceased profitable operations, allowing operators to postpone cleanup indefinitely while wells leak pollutants into surrounding communities. Worse still, well owners may simply never clean up their wells: individual owners pass away, and corporate owners either disappear or delay cleanups endlessly.

When oil companies evade their cleanup responsibilities, the costs fall to the public. Taxpayers will eventually foot the bill for plugging, even if some state resources from permit fees are available, while nearby communities suffer the health and environmental consequences of wells that continue to spew greenhouse gases and leak chemicals into groundwater. This regulatory blindness means that existing Illinois laws that state that companies are responsible for closing their wells are paper tigers—the state has enabled a system that socializes cleanup costs while privatizing profits. Statutory requirements that agencies bring enforcement actions to force cleanups or inactive wells are meaningless when the agencies cannot even identify when a well is inactive or simply fail to fully prosecute the citations they do issue.

This legal landscape allows for similar conditions to those seen in other states where operators commonly transfer aging wells to smaller, underfunded companies designed to go bankrupt and shed the liability. When these shell companies fold—leaving worthless assets and unfunded cleanup obligations—the state inherits orphaned wells and state funds are the only way to pay cleanup bills that can exceed $100,000 per well.

Based on extensive public records analysis and Freedom of Information Act responses, this report presents the most comprehensive assessment yet of Illinois's unplugged well crisis, revealing how statutory shortcomings, regulatory flaws, and basic data gaps have set a billion-dollar environmental and fiscal time bomb without adequate oversight or accountability.

Key findings:

- The majority of Illinois's 30,000+ wells are likely producing little to no oil, yet are still not properly plugged, emitting toxic and climate pollutants and threatening air and drinking water relied on by nearby communities.
- These wells are at very high risk of becoming 'orphaned', creating **more than $1 billion in potential liability** for the state.
- Illinois regulators pay an average cost to plug a well of **about $40,000** (which does not cover all associated costs to clean up and restore the land), and total clean-up costs can **exceed $100,000**, yet the state allows operators to cover their cleanup obligations by posting a bond of **at most $10,000 per well**, and allowing larger operators to use "blanket" bonds to cover obligations for **as little as $1,000 per well**. And the state does not even require all operators to post a bond at all.

- Despite being required by law to order oil companies to close wells that the agency has found to be inactive, the Illinois Department of Natural Resources has **not issued a single closure order in two years under that statutory provision**, instead issuing operators of visibly inactive wells a generalized administrative citation that generally fails to result in well closures.

- State law **allows operators to leave wells unclosed and inactive forever**, so long as they file paperwork to classify them as "temporarily abandoned" once every five years.

- The state **collects no production data**, making it functionally impossible for the agency to tell when a well stops being profitable, or even when it ceases to operate.

- The state also has **over 100,000 old wells that it does not track or monitor** systematically, despite knowing that plugs regularly fail over time and that such wells have needed to be re-plugged using state funds.

If nothing changes, Illinois faces a perfect storm: aging wells leaking pollutants, rural communities left with contaminated land and groundwater and derelict well equipment that makes farmland unusable, and a state budget that cannot absorb the cleanup costs. But this is a solvable problem.

Recommendations

Steps Illinois can take now (without passing any new laws or regulations):

1. **Collect production data.** Require operators to report well-by-well output so the state and public can identify idle wells and hold owners accountable.

2. **Enforce the laws already on the books.** Use existing authorities to order companies to plug inactive wells and penalize polluters.

3. **Publish ownership histories.** Make transfer records public so companies can't offload liabilities onto shell operators and reckless drillers who later go bankrupt or dissolve.

Legislative reforms for lasting accountability:

4. **Redefine "active" wells based on real output.** A well that doesn't cover its costs is idle, and must be closed.

5. **Raise bond amounts.** Set bonds to reflect actual cleanup costs, not the facially inadequate amounts currently mandated by statute, and ensure every well in the state is covered by the bond requirement.

6. **Close the transfer loophole.** Prohibit well transfers, including through mergers, unless the new owner posts bonds that cover full cleanup costs.

7. **End indefinite "temporary abandonment" status.** Set strict limits and escalating fees to stop operators from indefinitely delaying cleanup.

8. **Adopt an oil and gas excise tax.** Illinois is a stark outlier: red and blue states alike tax oil and gas production at the state level. Funds raised by such a tax could be used both to fund plugging or other programs and as means to collect the production data Illinois currently lacks.

9. **Hold past owners accountable.** Codify predecessor liability so prior owners can't walk away from cleanup by dumping wells on underfunded successors which go bankrupt or dissolve.

Illinois's unplugged well crisis is not inevitable. It's the product of weak laws and rules that reward operators' delay and neglect, and of inadequate data collection that means regulators cannot even identify when those laws are falling short. With better data, stronger enforcement, and fair financial safeguards, the state can protect communities, create jobs in the well site remediation industry, and ensure that those who profit from Illinois's oil pay to clean up its aftermath.

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I. Introduction

Thousands of oil and gas wells sit idle or abandoned across Illinois, polluting our air and groundwater, and threatening human health while companies that drilled and profited from them refuse to properly plug them. Unplugged wells release a host of toxic chemicals known to cause cancer, including benzene, arsenic, hydrogen sulfide, and hydrocarbons, and often leak large quantities of methane, a potent greenhouse gas that can also be harmful to health.[1] These wells constitute a hidden fiscal, environmental, and potential public health crisis that—if left unaddressed—could cost taxpayers billions of dollars to clean up, in addition to causing health and environmental damages that defy easy quantification. To minimize the consequences of this crisis, Illinois must act quickly to reform its legal and regulatory approaches to oil and gas well clean-up.

Illinois is not alone in having to confront the massive environmental, public health, and economic consequences of the irresponsible conduct of the oil and gas industry. There are an estimated 3.2 million orphaned and abandoned wells in the United States, which collectively emit hundreds of thousands of tons of methane and other dangerous pollutants.[2] Non-producing oil and gas wells can contain hydrogen sulfide, benzene, and arsenic that can seep out and contaminate the air, soil, or groundwater.[3] Exposure to these chemicals can result in cardiovascular system damage, decreases in red blood cells, cancer, and harm cognitive development of children and young adults.[4] This can pose serious threats to those who reside near these orphaned and abandoned wells. Abandoned drilling rigs can make farmland unusable, groundwater and soil contamination from oil wells can foul nearby productive agricultural land,[5] and unplugged wells have been shown to depress investment activity in nearby properties.[6] And unplugged wells contribute to climate change. "Orphaned and abandoned wells in the United States were collectively responsible for emitting 281,000 tons of methane into the atmosphere in 2018."[7] This is equivalent to approximately 7,868,000 to 10,116,000 tons of CO_2.[8] A reduction in this amount of CO_2 would be an impact equivalent to removing around 2 million passenger vehicles off the road.[9] As referenced throughout this report, other states are starting to tackle this problem through litigation and legislative and regulatory reform, and private litigants are beginning to bring tort cases related to liability avoidance and oil and gas well clean-up, providing several roadmaps for Illinois to follow.

Orphaned wells—a subset of unplugged, inactive wells—pose a particularly pernicious problem: they lack viable operators, leaving no clear entity to hold accountable for the cost of clean-up and any negative impacts they may cause. As Governor Pritzker has recognized, "[o]rphaned oil and gas wells are environmental and safety hazards that threaten the wellbeing of our rural communities."[10] In fact, State inspectors have filed dozens of complaints in recent years concerning leaking and abandoned oil wells, with reports of issues such as contaminated soil, non-productive wells and damaged flowlines.[11] As of mid-2025, the Sate had identified at least a total of 6,686 wells that need to be plugged, including 4,413 of which mentioned by Governor Pritzker that are considered formally "orphaned."[12]

Illinois regulators have estimated the cost to address just those formally orphaned wells at over $163 million.[13] This is bad enough, but it is likely a substantial undercount. The State reports that the majority of wells in Illinois produce, on average, less than 1.5 barrels of oil per day.[14] At that level, it is extremely difficult to break even, let alone generate sufficient capital to cover clean-up obligations. Such low productivity suggests that many wells are likely being misclassified as active or operated sporadically and uneconomically simply to avoid the costs of clean-up. Moreover, there have been roughly 155,000 wells drilled in Illinois since the middle of the 19th century,[15] and State regulators have no way to monitor the majority of these wells. Especially for older wells, the State does not track where all of the wells are, let alone assure that all such wells were ever properly closed or that they do not require additional remediation or re-plugging.

Current Illinois law requires the proper closure and remediation of oil and gas wells that have ceased production to avoid dangerous environmental and public health consequences. While the intent of Illinois' laws and regulations is to ensure accountability of oil and gas companies, fundamental shortcomings in those laws and their enforcement mean that Illinois residents are bearing both the financial burdens and ongoing environmental harms created by oil and gas drilling companies. The combination of limited regulatory data, underdeveloped regulations, and insufficient enforcement

of existing laws has created conditions for widespread abandonment of inactive and low-producing wells. If left unaddressed, well abandonments will continue to endanger the health, welfare and environment of communities throughout Illinois and drain the State of potentially billions of dollars in remediation costs.[16] Furthermore, shifting clean-up costs off the books of oil and gas drillers and onto the public ledger is, functionally, a massive theft of public subsidy. This stolen subsidy diverts money from public purposes and puts clean energy companies—and more responsible oil and gas companies—at an unfair competitive disadvantage, which in turn further drives both local and climate pollution.

This paper first reviews Illinois' regulatory treatment of oil and gas wells, data collection, and Illinois Department of Natural Resources ('IDNR') enforcement programs to plug and remediate wells. Next, based on a series of public records requests and other research, this paper identifies serious shortcomings in the substantive rules around financial assurances, well status determination, data collection, transparency, and enforcement. This report closes with a range of potential reforms the State should consider, from very basic modernization efforts under current agency authority to transformative policies requiring legislative reforms that could move Illinois from laggard to leader.

How to Use This Report

The goal of this report was to perform a holistic review of the state's laws, regulations, and policies related to ensuring that oil well sites are properly closed and remediated and that the entities that own and operate those wells bear all related costs. Accordingly, this report includes significant background information, surveys laws that are implemented through both regulation and litigation, explains data collection methods, and concludes with a menu of potential policy and legislative reforms.

Not every section of this report will be useful for every reader. The authors recommend reference to the table of contents as a starting point. For example, those familiar with the oil industry in Illinois may find the background section unnecessary. Landowners affected by oil drilling and interested in their own rights may find the Private Law section of most utility. Policymakers might focus on the recommendations and refer back to background or data collection sections for additional detail or context.

II. Background on Oil and Gas Wells in Illinois

A. Oil and Gas Drilling in Illinois

Illinois is primarily a crude oil-producing state, though it also produces a small amount of natural gas.[17] Out of 31 oil producing states, Illinois ranks 16th in the nation for annual oil production.[18] There are approximately 23,402 total oil and gas extraction wells in the State.[19] According to IDNR's website, the overwhelming majority of wells are marginal producers, or "stripper" wells, with an average daily production of 1.5 barrels per day.[20]

Oil and gas production takes place throughout the southern half of Illinois but is concentrated in the southeast part of the State.[21] While 45 counties in Illinois produce crude oil, over 90 percent of production comes from just 15 rural counties, which tend to have small populations and an average poverty rate higher than the overall State rate and national average.[22] Moreover, rural Illinois tends to suffer higher rates of a whole host of health and economic challenges, such as higher rates of smoking, child poverty, teen pregnancies, lack of health insurance, poor housing quality, and deficiencies in access to health care.[23] Rural Illinois populations, in other words, demonstrate significant vulnerabilities that can amplify the health effects of environmental pollution.

Illinois oil production has declined significantly over the past two decades, with an average production rate of approximately 9 million barrels per year. According to the following oil industry table,[24] production declined by about one-quarter between 2006 and 2021:

Millions of Barrels 2006–2021

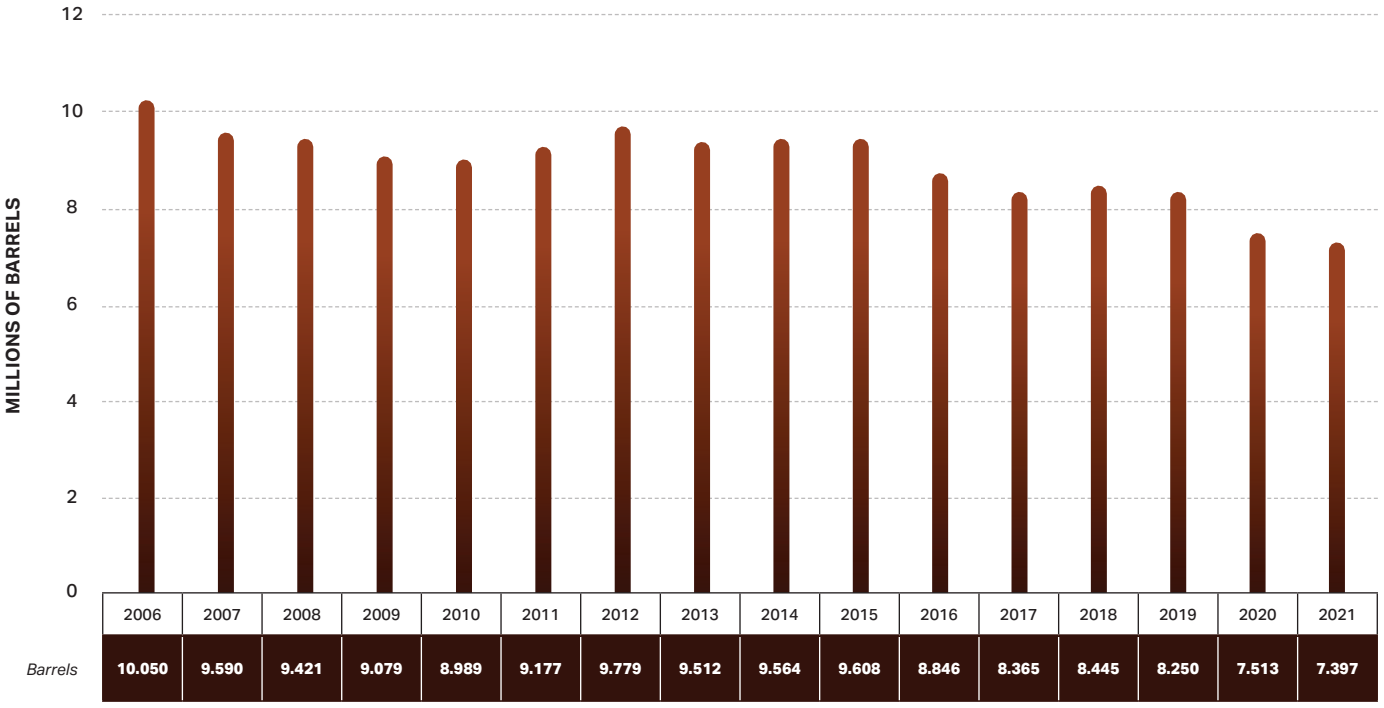

Figure 1: *Millions of Barrels 2006 - 2021 (Illinois Petroleum Resources Board)*

The highest-producing counties are White, Marion, and Crawford Counties, which together account for roughly 45 percent of the oil produced in the State.[25] As reflected in data reviewed for this report and described below, Illinois well operators range from subsidiaries of major multinational oil companies, to apparently small entities operated by individuals, to entities that may exist only on paper.

1. Taxing Oil & Gas Extraction in Illinois

There is an obvious first question when trying to understand oil and gas drilling in Illinois: How much oil or gas is actually being produced? Unfortunately, IDNR—the State regulator responsible for overseeing oil and gas drilling—cannot answer that basic question. According to IDNR, the agency does not collect production data from oil well operators because Illinois does not have an excise tax on oil extraction from conventionally-drilled wells (i.e. a set percentage of the value of the oil or gas that is levied at the time of sale).[26] The State does impose a graduated severance tax on hydraulic fracking wells drilled since 2013 under the Hydraulic Fracturing Regulatory Act ('HFRA').[27] The IDNR website dedicated to permits under that act indicates that only a single permit has been issued under that statute, which was subsequently withdrawn.[28] In other words, at the State level, Illinois collects neither data nor tax revenue from traditional oil drilling itself. In this, Illinois is a troubling outlier: Thirty-four states impose excise taxes on oil and gas production,[29] including most of the top oil-producing states, such as Oklahoma,[30] South Dakota,[31] Texas,[32] New Mexico,[33] North Dakota,[34] Colorado,[35] and Alaska.[36]

The petroleum industry no doubt generates significant economic activity in Illinois and industry sources present an economic story that mixes various different aspects of the oil industry—like generally-applicable payroll or property taxes or corporate revenues of massive oil refineries.[37]

However, even in counties where oil and gas production is most active, oil extraction contributes on the order of a few hundred thousand dollars per year for local government budgets. The Illinois Property Tax Code empowers counties to assess and tax active oil and natural gas production as real estate.[38] Some individual counties accordingly impose "*ad valorem*" taxes on oil and gas production leases. *(See "Ad Valorem Taxes" Breakout Box.)* These *ad valorem* taxes are county-level taxes based on estimates of reserves remaining in the ground rather than on the amount of oil and gas extracted. Industry itself presents the statewide total of all local *ad valorem* tax revenue from all oil drilling in the State as less than $7.5 million dollars per year.[39]

Without a statewide excise tax, Illinois is foregoing a critical source of both revenue and information that is used as a basic tool in states across the country. This leaves Illinois regulators without statewide information, but also without well-specific production data. Production data is the most direct means to answer the critical threshold question when it comes to the focus of this report: When is a given well no longer producing oil such that it should be closed?

2. Well Closure in Illinois

In Illinois, just like in other states, it is the obligation of the owners and operators of wells to ensure wells are properly plugged once they are inactive and no longer productive. In some instances, responsible well operators do plug wells independently or IDNR specifically requires them to do so as a condition of issuing new drilling permits for other wells.[40]

IDNR has provided data indicating that the average cost to plug a well in Illinois is approximately $40,000,[41] but this figure seems to omit at least some of the costs of full site remediation and cleaning up the drilling equipment, pipelines, and storage tanks that are often sited with a well.[42] Independent analyses of well closure costs nationwide have found that the median cost for plugging and appropriate site restoration is $76,000 and that costs can exceed $1 million at some sites.[43] Older wells, which are common in Illinois, are generally more expensive to properly close.[44] There have been documented instances of larger companies selling wells to smaller companies as the wells are producing less and less oil, followed by such small entities delaying necessary clean-up work and pocketing dwindling revenues for several years, then declaring bankruptcy and leaving costs to be borne by state-run orphan well programs.[45] Additionally, owners or operators of any size may continue to operate wells that are low producing and no longer profitable as a means to maintain the "active" classification of the wells and avoid closure and plugging costs. Delaying and avoiding clean up exposes the public to years of additional environmental and health harms on top of financial clean-up costs.

Ad valorem taxes

Ad valorem taxes, assessed at the county level, are an inefficient, convoluted, and easily manipulated method for taxing oil and gas production—especially when compared to statewide excise taxes.

Excise taxes are based on the taxable value of oil and gas at the time of sale, reflecting actual production and market value.

Ad valorem taxes, by contrast, are based on estimated reserves rather than real-time production. These estimates rely on a complex formula involving factors like the age of production, the market price for oil, the daily average production of the well, and whether the production is primary or secondary.

These factors introduce wide variation: even counties with similar production levels may generate vastly different revenues.[46]

The system is easily gamed—companies may overreport liabilities to offset taxes on remaining reserves.

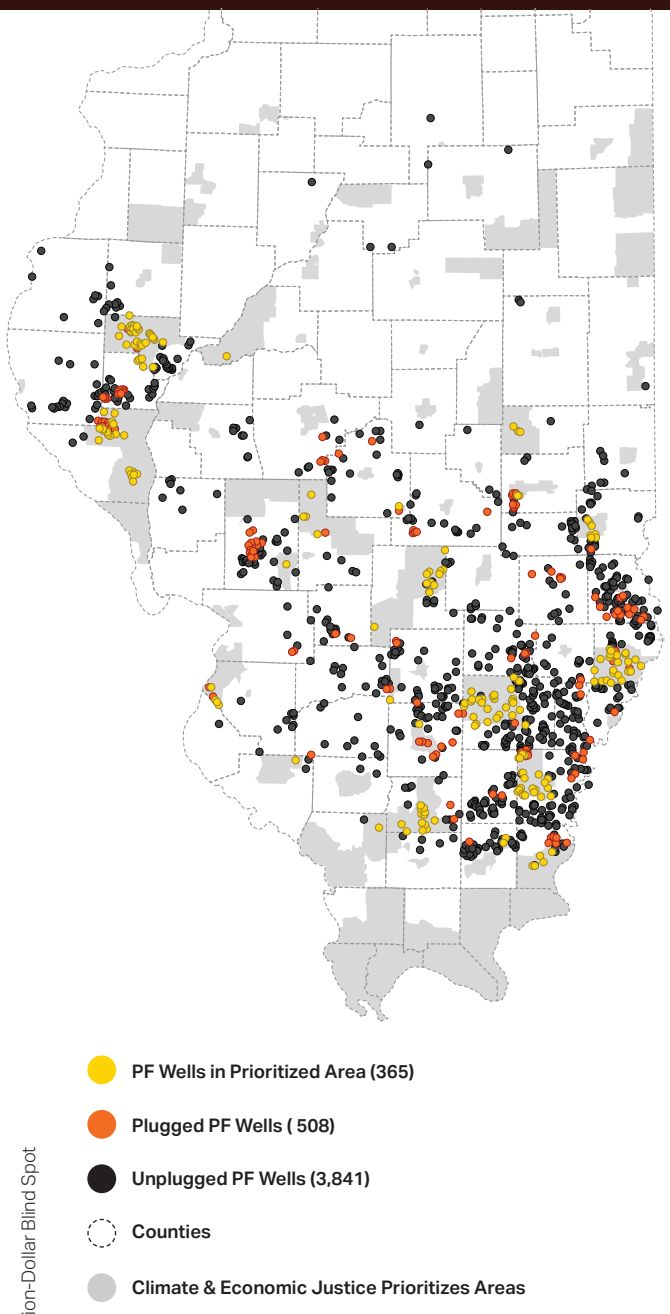

Figure 2: *Plugging and Restoration Fund (PRF) Program in Illinois (Illinois Department of Natural Resources)*

Ultimately, there are over 30,000 wells that INDR tracks in some way currently that will eventually need to be plugged in Illinois, which is, of course, a subset of the 155,000 wells IDNR indicates have been drilled in the State's history. Illinois contains over 23,000 "active" oil and gas production wells, over 6,500 Class II injection wells, and over 1,000 gas storage wells. Furthermore, there are about 4,000 production and injection wells in the Plugging and Restoration Fund ('PRF').[47] Using Illinois regulators' estimate to federal grantmakers that plugging the roughly 4,500 orphaned wells it initially identified would cost over $163 million,[48] a very rough estimate of total closure costs—simply multiplying the number of tracked wells by IDNR's projected cleanup costs for that first set—would eclipse $1 billion.

And this billion-dollar figure is necessarily an undercount of the State's true exposure because it does not account for historic wells that may never have been plugged or might require re-plugging. As discussed, the State has over 100,000 old, inactive wells that it does not monitor, and plug failure for old wells is common. Indeed, IDNR confirmed that old wells whose plugs failed have, at times, been discovered by happenstance and those wells have been added to the PRF.[49] This means that the universe of potential costs (both fiscal and environmental) is not limited to the 30,000 wells the State currently tracks, but is in fact several times larger.[50]

Out of all the oil and gas production wells in Illinois, roughly 14,000 of them are considered active or producing.[51] However, even though these wells are "active," they still pose environmental and health risks, and operators may be keeping some technically "active" to avoid closure costs, resulting in little economic benefit while exposing those in the vicinity of the wells to continuing risk. Indeed, most of these active wells are, at best, marginally productive, with the majority of these wells being stripper wells (so called because they are low-producing wells in the process of being stripped of their remaining oil), defined as wells whose

maximum daily average oil production does not exceed 15 barrels of oil.[52] On average, stripper wells in Illinois seem to be actually producing only about 1.5 barrels of oil per day.[53]

Out of the active wells in Illinois, with the price per barrel of crude oil falling below $70, a "producing" well in Illinois may only be making $100 a day,[54] which in many cases may not even be enough to cover necessary maintenance, surfacing, and operation costs. The marginal cost to produce a barrel of oil is typically "anywhere from $10 to $50 per barrel to operate."[55] Marginal costs of operation do not include the royalties that drillers must pay or various fixed costs associated with operations, such as the necessity of performing certain monitoring and maintenance activities for wells at any level of production. Because of this, production at extremely low volumes may actually lose money, but some operators may continue to produce under such conditions in order to avoid the costs associated with clean-up. Further, where wells produce extremely small amounts of oil, any minimal profit does not outweigh the environmental and health harms such wells impose on local communities. Accordingly, it is vital to identify wells that are improperly listed as "active" that are avoiding closure costs and responsibilities. It is also vital to ensure these wells are properly bonded for, because well production naturally declines over time, and these marginal wells are heading towards becoming idle and not generating enough profit to cover plugging costs.

To address the human health and environmental harms that unplugged wells pose, Illinois has a regulatory program that oversees permitting and closure of wells. This program includes the Plugging and Restoration Fund Program, which attempts to plug and remediate abandoned wells.

As discussed further below, Illinois should adopt proactive policies accounting for the need to replug wells to ensure that this burden does not fall on taxpayers or remain unaddressed. Many of these reforms should be pursued through the current IDNR regulatory system or via statutory improvements thereto. Additionally, there are private law approaches that landowners, neighbors, and government officials can engage in to attempt to plug and remediate wells. To understand the backdrop against which reforms could be pursued each of the current regulatory system and private law remedies will next be discussed in turn.

Zombie Wells

Even after wells are plugged, they do not remain secure indefinitely. Over time, the cement and steel used to seal them can degrade, allowing oil, gas, or brine to migrate through underground pathways—often undetected for years.[56] The 'Antina Ranch' case illustrates the threat. There, a Texas rancher excavated and tested soil and groundwater near old, purportedly closed wells on her property and apparently found that many of the wells were, in fact, leaking. She also apparently discovered that the wells caused contaminated water and serious threats. This excavation was undertaken only after one well on the property started "spewing toxic water."[57] The true extent and frequency of well plug failure is poorly studied, but if the Antina Ranch case is any indication, plugged well failure may be a more pervasive and dangerous issue than has been previously realized. In any event, plug failure presents a serious environmental and public health risk, particularly in regions with aging oil and gas infrastructure. Even wells that appear safely closed can begin leaking long after abandonment.[58]

IDNR's website indicates that roughly 155,000 oil and gas wells have been drilled in Illinois since at least 1882 and only began to formally regulate wells in 1939.[59] In other words, there was roughly half a century of drilling activity before meaningful State regulation, and recordkeeping for those early wells is predictably incomplete or nonexistent. Anecdotally, IDNR has come across some of those older wells through ad hoc in person inspections or citizen complaints. And IDNR does have regulations that allow it to order both past and present well permittees to re-close wells, though that process can only be initiated if the Department identifies active pollution through a "geological and field investigation."[60] Some have even been entered into the Plugging and Restoration Fund, which shows that the potential needs of the fund exceed even the amount of money to plug all of the existing active and idle wells in the State. But IDNR does not have a systemic approach to track older wells and identify which require replugging or further remediation, let alone a strategy to ensure responsible owners and operators of such wells pay for their pollution.[61]

B. Regulatory Treatment of Oil & Gas Wells in Illinois

Illinois' current regulatory structure for oil and gas wells includes requirements that apply to wells throughout the stages of well development: permits to drill new wells, aspirational financial assurance requirements, and a generalized obligation to close wells when they are no longer producing. However, the byzantine system also includes significant gaps that frustrate the goals of the statutes and allow operators to delay or evade their responsibility to plug inactive wells. For example, recent legislation made certain improvements to bonding requirements, but such "financial assurance" requirements do not come close to assuring sufficient financial resources to plug all wells—indeed, the amended statute purports to require bonds that cover the costs of plugging, but then caps bonds at a fraction of the plugging costs IDNR regularly pays out for wells in the Plugging and Restoration Fund. The State is in dire need of stronger enforcement mechanisms, better data collection, and more robust financial safeguards. Before turning to options for reform, this report provides an overview of current regulatory structures directly related to well closure obligations.

1. Permitting Fees and Initial Reporting

Before drilling in Illinois, a prospective permittee must first secure a permit under 225 ILCS 725/8b. Under 225 ILCS 725/14, "[e]ach application for a permit to drill, deepen, convert, or amend shall be accompanied by the required fee of $400."[62] Permitees must notify IDNR within 30 days when they transfer permitted wells[63] and pay "[a] fee of $75 for the first 100 wells and $50 for each well in excess of 100 shall be paid by the new owner for each transfer of well ownership."[64] There are reporting requirements for well site construction, geophysical logs, newly drilled wells and "initial production rates."[65] Reporting requirements do not carry over to when a well begins production and is classified as a "producing well."[66]

2. Well Status and Temporary Abandonment

In Illinois, a "[producing" well has a "lease or waterflood/enhanced oil recovery unit that has produced and sold oil within the preceding 12-month period."[67] However, the State does not collect production data. Thus, there is no basic data collected that would enable the State to readily identify when a well is no longer productive.

When a well is no longer producing it is an "inactive well." Inactive wells are those that have had periods of non-production and either need to be plugged or resume production.[68] In Illinois, inactive wells are those that have not operated within the last 24 months.[69] Once a well meets that definition of "inactive," it is required by law to be plugged and remediated, unless it is granted "temporarily abandoned" status.[70] Illinois rules allow for wells to be classified as "temporarily abandoned" for a five-year period if they are not in the Plugging and Restoration Fund, a proper bond is in effect, the well is "equipped with an intact leak-free wellhead or capped with a valve, the wellhead is above ground-level, and the well is configured to include a one-quarter inch female fitting with a shut off valve to allow monitoring."[71] An operator may seek Temporary Abandonment status to delay plugging and remediation if their well may become active again. IDNR collects annual fees of $100 per well in Temporary Abandonment status.[72] Wells enter temporarily abandoned status for a period of five years.[73] However, temporary abandonment status can be renewed after the 5-year period.[74] As long as a well stays in compliance with the minimal initial regulatory requirements, there is no limitation on the number of renewals for a well's temporary abandonment status after each 5-year period.[75]

Permanently "abandoned" wells are wells that have not had commercial production in the last 24 months and have not been plugged or remediated.[76] Orphaned wells are wells that have been "abandoned" and no owner can be found or identified.[77] As described in detail below, orphaned wells can be entered into a State-run plugging and restoration program.

3. Plugging Obligations and Bonding Requirements as Updated in 2025 Legislation

When a responsible well permittee is done with extracting oil or gas from a well, they must plug the well in compliance with the Illinois Oil and Gas Act according to Illinois Administrative Code Section 245.1000.[78] If the permittee fails to plug the well, the owner of the well is responsible for plugging. Section 1-95(a) of the Oil and Gas Act lays out procedures for plugging and restoration, as well as

requires that all costs related to plugging and restoration shall fall on the permittee.[79] Within 6 months of plugging, well sites must be restored and "all drilling, completion and workover pits shall be filled and leveled in a manner that allows the site to be returned to original use with no subsidence or leakage of fluids."[80] Waste must be removed from the site including "the free liquid fraction of the plugging fluid waste, consisting of produced water and crude oil, shall be removed from the pit and disposed of in a Class II Injection well (or in above ground tanks or containers pending disposal) prior to restoration."[81]

New permittees or permittees that have violated requirements in the past are required to provide IDNR with financial assurance, which can be in the form of surety bonds, at the beginning of the production process, which is intended to avoid abandonment and ensure there are funds to cover closing costs.[82] The Illinois legislature recently updated these bonding requirements. Senate Bill 2463, which passed in the Illinois General Assembly in May 2025, amended the Illinois Oil and Gas Act with the goal of strengthening the bonding system in four ways: expanding the set of permittees who must execute surety bonds, eliminating cash financial assurance in lieu of bonding, doubling the required bond amount, and fixing certain issues with a permittee covering multiple wells with a single bond.[83]

The Senate Bill 2463 amendments represent modest tightening of regulatory authority that still requires fundamental, structural reform to achieve its purposes. The previous Oil and Gas Act required execution of surety bonds only by permittees who failed to pay annual well fees under § 19.7 of the Act for at least two consecutive years.[84] S.B. 2463 has now broadened the scope of the requirement, mandating such bond execution from any new permittees, plus any permittees who have failed to make payments at any time in the preceding five years.[85] This amendment expands the number of wells covered by bonds, reducing the risk that their plugging and remediation costs will become a burden on taxpayers.

However, expanding the universe of permits for which bonds are required does not cure a deep flaw in the old bonding approach. While new wells are subject to financial assurance requirements (albeit with the weaknesses discussed below), the bonding rules for the vast number of aging, existing wells remain largely reactive—imposing penalties only after operators have already proven financially unreliable. An effective bonding system should ensure that sufficient funds are always available to properly close every well, so that the costs of environmental cleanup fall on those who profit from production, not on the public. Waiting until an operator defaults on fees before requiring a bond for existing wells is a flawed policy that all but guarantees more orphaned wells.

The previous Oil and Gas Act allowed an applicant to demonstrate they had cash on hand in lieu of posting a surety bond as security for plugging obligations. S.B. 2463 removes the cash option,[86] ensuring that even large companies with significant financial resources must execute a surety bond to obtain a permit. However, S.B. 2463 still authorizes IDNR to allow for "certificates of deposit or irrevocable letters of credit" in lieu of surety bonds.[87] Bonds are the most secure way to guarantee that funds from the responsible entity will be available when it comes time for the well to close--regardless of what transfers in ownership or corporate transformations occur between permitting and closure—and so should be the exclusive required form of financial assurance.

Perhaps the most fundamental shortcoming of S.B. 2463 is the simplest: it sets bond values at levels that are far less than the full cost of well plugging and site restoration. The bill increases the bond rate for a single well from $5,000 to $10,000.[88] While raising the bond rate is a step in the right direction, it is a very small step. $10,000 is still not nearly enough to cover plugging and remediation for a single well, as the average cost in Illinois for plugging alone—excluding remediation costs—appears to be at least $40,000.[89] Even if a well is fully bonded under the new legislation, if the permittee or owner cannot pay the costs of plugging and remediation beyond what the bond covers, a significant portion of the cost will still fall to the State.

The former Oil and Gas Act explicitly prohibited IDNR from setting higher bond requirements, and S.B. 2463 removed the phrase "but not to exceed" preceding the rate provision. However, the new statutory language does not appear to give IDNR the authority to set higher bond amounts because it now dictates specific rates that IDNR "shall set" for various amounts of wells.[90] In other words, the removal of the "but not to exceed" language would likely be interpreted as not altering or expanding IDNR's authority to set bonding rates. The new statutory language puts IDNR in a box: the bonding rates are set at levels dramatically lower than what the actual plugging and restoration costs are, even though the statute states that bonds should be "an amount estimated to cover the cost of plugging the well and restoring the well site."[91]

The problem that statutory bond values cannot possibly cover closure costs is magnified for "blanket bonds" which allow a permittee to cover many wells under a single financial instrument. The previous Oil and Gas Act set a rate cap of $100,000 for blanket bonds, even for those covering over 100 wells. S.B. 2463 eliminates that troubling limitlessness in bond number, providing that a bond covering over 100 wells must be increased to cover the total number of wells more than 100.[92] This measure ensures that wells covered by these large blanket bonds have some resources set aside for individual plugging costs, but still falls woefully short of assuring there will be sufficient resources to close every well: S.B. 2463 allows blanket bonds that amount to as little as $1,000 per well.

In short, the 2025 amendments to the Oil and Gas Act demonstrate an awareness that the bonding system in Illinois is not working. Those revisions do not, however, come close to fixing the fundamental problems with bonding in Illinois, and, ultimately, should be seen as small steps that do not displace the need for larger reforms.

4. Enforcement Gaps and the Orphan Well Problem

While companies that profit from oil and gas production should bear the cost of plugging and remediating their wells, the State must take over remediation if truly necessary to protect the public. Minimizing the likelihood that such State action becomes necessary helps mitigate the environmental impacts of unproductive wells and lessens the financial burden on taxpayers.

For wells that have solvent owners, said owners should bear responsibility and pay for plugging and remediation for wells they have operated, but IDNR's regulations are structured in ways that undermine that principle. Without collecting production data, for example, there is no way for IDNR to know when a well meets the definition of "inactive." Unless owners come forward to volunteer themselves, IDNR will not know when it should order wells to be plugged. Moreover, because owners can renew temporary abandonment status indefinitely, there is no reporting that could systematically trigger the requirement to plug, perpetuating the orphan well problem.

Even without collecting production data, IDNR does use its enforcement authorities to cite well owners and operators for the failure to properly close inactive oil wells. According to IDNR enforcement staff, IDNR currently identifies apparently inactive wells through periodic, in-person visual inspections, which are resource-intensive and can be ineffective, precisely because they do not provide IDNR with a direct answer to the relevant question of whether the well is producing oil for sale. Sometimes, field inspectors simply come across a well that has rusted equipment and is overgrown with vegetation.[93] Other times, IDNR will notice a suspicious number of violations for the same well, only to find out that the owner has deceased.[94]

Section 8a of the Oil and Gas Act authorizes IDNR to administratively enforce violations of any provision in the Act or IDNR's implementing regulations, including provisions requiring proper closure of inactive wells.[95] Section 19.1 of the same statute states that if IDNR finds "a well drilled for the exploration, development, storage, or production of oil or gas . . . has been abandoned . . . the Department ***shall*** issue an order that the well be properly plugged, replugged, or repaired to remedy such situation."[96] Despite the plain statutory language of Section 19.1, IDNR has not applied Section 19.1 to order that wells be plugged—it has issued no citations or orders to well owners or operators under that provision.[97] Rather IDNR has applied this section as only establishing a process for well owners to request hearings over the compliance status of wells.[98]

Given this interpretation, IDNR conducts all enforcement actions under Section 8a.[99] Information gathered for this report through Freedom of Information Act requests, described below, shows that IDNR does issue a fair amount of Section 8a enforcement actions every year. IDNR officials who oversee enforcement, however, indicate that these actions do not typically result in plugging or repairing any wells.[100] Typically, an 8a notice of violation is issued and then the recipient has 30 days to request a hearing. IDNR staff explained that a majority of 8a violation recipients do not willingly comply, that no further steps are taken in most cases, and that few wells are plugged due to notices of violation or follow-on enforcement actions.[101] IDNR noted that a pending enforcement action under Section 8a can be resolved when operators interact with the agency in other ways; for example IDNR may require an operator to resolve an outstanding enforcement action before an operator can receive a new permit for another well, but for operators with declining wells in depleted fields, tying clean-up to new drilling permits is not a recipe for widespread compliance.

Where well owners shirk their obligation to properly close their wells, the mess is left to their neighbors and the general public. Limited public resources are available to plug wells that IDNR formally declares to be abandoned. In other words, a subsidy is extracted from taxpayers every time a well is orphaned, and dead, unplugged wells pose outsized health and environmental risks because clean-up funds are relatively scarce and landowners/the State are poorly positioned to know when wells are either abandoned or leaking.

Public funds flow directly[102] into well clean-up in one of two ways: either by reimbursing an impacted landowner or spent by IDNR itself on clean-up operations.

A well may be plugged by a landowner where one has been abandoned by a permittee on their property.[103] IDNR administers the Landowner Grant Program,[104] which is "dedicated to plugging abandoned wells on private property in Illinois."[105] If a landowner has a well on their property that was owned and operated by someone else and that needs plugging and remediation, they can complete necessary plugging and then receive reimbursement.[106] However, "only those wells declared abandoned by an administrative order issued by the Department are eligible for the landowner grant program."[107]

The Landowner Grant Program appears to be both ineffective and unfair. IDNR's website highlights that "[t]his cooperative effort between the Department and private property owners increases the number of abandoned wells plugged each year and helps individuals return their property to its original use."[108] However, IDNR officials who oversee the PRF, among other programs, have confirmed that the Landowner Grant Program has not been used for at least two years, though IDNR aims to relaunch it for the year 2027.[109] Even if it were being used, this program unfairly shifts burdens onto the State and the public. It requires IDNR or the landowner to identify an abandoned well, IDNR to formally recognize the well as abandoned, and the landowner to pay out of pocket for plugging and remediation before the landowner can apply for the grant.[110] But without reliable and accessible records of productivity, it is very difficult for landowners to even know when an eligible well is on their land.[111] And even if IDNR and an impacted landowner could run this obstacle course, the landowner would be reimbursed from the PRF, meaning all of this effort and landowner burden—including fronting all costs—would result only in re-ordering the plugging of wells at the public expense and at the prompting of landowners with significant financial resources. In other words, even if the Landowner Grant Program were operating as intended, it would function primarily to allow motivated landowners with sufficient financial means to cut in line, and would, therefore, effectively delay clean-up on properties whose landowners lack such financial resources.

Another way that public funds go to well clean-up is when the State takes direct responsibility for plugging orphan wells. IDNR "authorizes the Office of Oil and Gas Resource Management to plug abandoned and leaking wells" using the Plugging and Restoration Fund.[112]

The PRF Program was created in 1991 and has historically been funded through industry permit fees and forfeited bonds.[113] Recently, Illinois received a large federal grant to fund the PRF at unprecedented levels (*see "Federal Funding" Breakout Box*). New well permit applicants must pay a $400 fee and there is a $75-per-100 well fee for ownership transfers; as of 2022, these fees are deposited entirely into the PRF.[114] The Department of Oil and Gas also collects annual fees from each individual permittee annually, $100 per well for the first 100 wells and a $75 fee for each additional well, and deposits 50% of this funding into the Plugging and Restoration Fund.[115] In other words, current law allows oil companies to pay an annual permit fee of $1 per well. IDNR confirms that the vast majority of accessible funding in the PRF comes from that one-time federal grant and INDR estimates that permit fee funds available under State law could support plugging perhaps 20 wells per year, but that only four or five wells have been plugged annually using PRF funds from State permit fees in recent years.[116]

A well can only be plugged using funds from the Plugging and Restoration Fund if the permitted owner or operator fails to properly plug all non-plugged wells within 30 days of IDNR issuance of a determination of non-development or non-production for a consecutive period of 24 months.[117] The Department prioritizes those wells that pose the greatest environmental risk in order to mitigate potential environmental harm as soon as possible.[118]

Federal funding to support IDNR closure of orphan wells

Under the 2021 Bipartisan Infrastructure Law (BIL), (H.R. 3684), the U.S. Department of the Interior provided IDNR with funds to clean up orphan wells under existing State authority. The Department of the Interior awarded Illinois $25 million.[119] Well sites were to be prioritized for that funding based on "(I) public health and safety (II) potential environmental harm and (III) other subsurface impacts or land use priorities."[120]

Under the BIL initial grant guidance to states, the Department of the Interior determined that one of the "important components of successful orphaned well program" is "[t]he State's process for what "efforts will be made to redeem financial assurances or otherwise recoup remediation costs from any parties responsible under State law."[121]

Federal grant documents suggest the federal Department of Interior understands that IDNR uses "safety equipment, computers, vehicles, gas detectors, and a Forward Looking InfraRed camera, among other items, " to identify wells that require plugging and remediation.[122] However, it is not clear how much effort or how many resources are utilized by IDNR or how efficient such strategies are in comparison to simply requiring the submission of production data.

IDNR officials have indicated they are currently in the process of seeking an additional round of federal funding.[123]

Section 19 of the Illinois Oil and Gas Act governs the expenditure of PRF funds for the plugging and remediation of wells.[124] The fund shall be used only after the Department has given a permittee notice and opportunity for hearing, outlined in 225 ILCS 725 Section 19.1.[125] If the Department finds that:

1. a "well drilled for exploration, development, storage or production of oil or gas . . . has been abandoned or is leaking salt water, oil, gas, or other deleterious substances into any fresh water formation or onto the surface of the land in the vicinity of the well, the Department shall issue an order that the well be properly plugged[126], replugged, or repaired to remedy such situation,[127]

2. the permittee fails to properly plug, replug, or repair a well that has been identified as abandoned or leaking within 30 days from "the date of the order" then a representative from the Department "may enter upon the land on which the well is located and plug, replug, or repair the well as may be reasonably required to remedy the condition,[128] and

3. the permittee fails to comply with such order, it is a violation of the Illinois Oil and Gas Law,"[129]

Finally, "[i]f the current permittee fails to properly plug all non-plugged and non-transferred wells within 30 days after the issuance of the determination [of non-production], the wells shall be deemed abandoned and included in the Department's Oil and Gas Well Site Plugging and Restoration Program."[130] The distinction under Section 19.1 that the permittee does not need to plug transferred wells could enable the scheme previously discussed, where a larger company can transfer wells to avoid closure costs and delay entrance into the PRF.

Once a well has been entered into the PRF, public funds can be used to plug the well and restore the property: if the permittee fails to perform the "required plugging, replugging, repair, or restoration work with the time prescribed . . . [t]he Department may elect to plug, replug, or repair the well or wells and to restore the well site in accordance of the Department's rules."[131] If the well is bonded, that will be the first resource IDNR uses before resorting to the general PRF funds.

In cases where there is no bond recorded for the well (or a bond does not cover all actual costs), "expenditures shall be limited to amounts attributable to earnings on monies in the Fund or from amounts in the Fund other than permittee contributions," such as federal grants.[132] In practice, this seems to indicate that when an orphan well needs plugging, the State cannot spend the principal amount of permittee fee contributions paid into the fund; it can only spend the interest that those contributions earn, or money in the fund from sources other than the $100 annual permit fees. This limits IDNR's

ability to use the fund, because it can only spend the *earnings* and not the actual contributions. Whether or not IDNR is able to spend funds from industry contributions to the fund via permitting fees or just earnings on those contributions, the fundamental problem would remain as to the *amount* of those industry contributions and insufficiency of the fund to cover all anticipated closure costs. Again, annual permit fees amount to $1 per well.

IDNR has the power to "recover well site plugging, repair, and restoration costs from permittees who fail to reimburse the Plugging and Restoration Fund for expenses attributable to those permittees and to deposit any amounts reimbursed or collected into the Plugging and Restoration Fund."[133] However, IDNR has not sought to recover such costs from any permittee for at least the last two years.[134]

This process is how IDNR regulates wells from drilling to closure. Below this paper will discuss how IDNR collects and presents oil and gas well data, but first will outline additional federal resources that contribute to IDNR enforcement of well plugging (See "Federal Funding to Support IDNR Closure of Orphan Wells" Breakout Box) and the potential for private landowners, neighbors, and public officials to force wells to be plugged in the current legal landscape in Illinois.

C. Private Law Approaches to Oil & Gas Well Issues in Illinois

While the IDNR program is intended to monitor and ensure the proper closure of wells to address related environmental impacts, another way to force a responsible party to plug and remediate wells is through private law causes of action brought by individuals affected by unplugged wells. Some of the claims surveyed below may also be available to the State itself or to political subdivisions of the State (like municipalities), either as a landowner when wells are on or impact public land or via claims related to fraud and consumer protection that are enforceable by the Attorney General's office. If a landowner is concerned about a well near or on their property, because it appears inactive or unplugged and could result in environmental or health concerns, they could consider suing the responsible party. It is important to note that in Illinois there is no statutory requirement that a plaintiff seek relief through an administrative scheme like the IDNR programs discussed above prior to bringing claims in State court related to abandoned or non-active wells.[135]

Litigating to accomplish well closure is in no way a substitute for effective regulation. First and foremost, litigation puts the burden on the very people harmed by unplugged wells to hire lawyers and experts and embark upon the stressful, costly and uncertain litigation process. Many people harmed by unplugged wells may not have such significant resources. Second, people may not even be aware of the harms unplugged wells are causing and may not be able to access the basic information needed to develop such claims—indeed, regulatory shortcomings related to fundamental data collection and transparency impede the use of litigation strategies in Illinois that have proven effective in other jurisdictions. That said, the following (non-exhaustive) survey of different potential claims an impacted landowner might bring is offered as legal context and a resource.

1. Breach of Contract

A landowner that leases their land to an oil drilling operation and wants them to close the well per the terms of their lease can file a breach of contract action. The specifics of a breach of contract claim would depend on the terms of the lease contract, of course. Sometimes, specific terms in a lease allow for predecessor liability actions, which seek to hold previous well owners or operators responsible for plugging and remediation costs if the current operator cannot fulfill these responsibilities.[136]

The best example in Illinois case law of this kind of contract claim is *Meade v. Kubinski*, in which plaintiffs, owners of a farm in Will County, sued their lessees, who ran a gravel processing operation on a leased parcel of the farm.[137] Plaintiffs claimed defendants' operation had diminished the value of the land by stripping fertile topsoil and depositing harmful by-products.[138] Plaintiffs asserted that the terms of the lease required defendants to return the land in as good a condition as at the start of the lease term.[139] The Illinois Court of Appeals found that in order to return the land in the same condition as prior to the injury, defendants would have to return the land to its former fertility, which was impracticable.[140] The Court therefore held that the proper measure of damages was the lesser of either the cost of restoring the land to its previous level of fertility, or the diminution in market value at the land's best use.[141]

Relief under such a contract claim in a case relating to well closure could therefore include reimbursement for the plugging or compensation for the loss of property value.[142] Additionally, punitive damages may be available under Illinois law when "the breach constitutes an independent tort, such as conversion."[143] However, Illinois case law does present a significant limitation on the potential to fully address well closure costs through breach of contract actions. Illinois courts have found that, "[w]here the expense of restoration exceeds the diminution in the market value of the property caused by the lessee's nonperformance, the diminution in fair market value is the proper measure of damages."[144] While the purpose of this rule is "to prevent windfall recoveries,"[145] the effect of this doctrine could disincentivize cleanup.

2. Nuisance and Trespass

If a landowner feels that an oil drilling operation is harming their ability to use their land, they may be able to bring a nuisance or trespass claim.[146] Each tort requires a plaintiff to establish different elements, though these claims are often brought simultaneously as alternate claims to address the same basic harms. In the case of nuisance claims, a neighbor, a state, or a municipality may also be able to bring claims even if the wells at issue are not directly on their own land, as illustrated by a lawsuit brought by Los Angeles County recently in December 2025.[147]

Under Illinois Law, "[a] private nuisance is a substantial invasion of another's interest in the use and enjoyment of his or her land."[148] If a landowner feels that an unplugged well is interfering with the use of their land, they can bring a private nuisance claim. "Public nuisances" are similarly rights-impairing conduct that harms an individual as well as the broader public.[149] Statutes can provide the standard to evaluate whether particular conduct amounts to a public nuisance.[150] 720 ILCS 5/47-5 defines the failure to plug wells as a public nuisance: "[t]o permit a well drilled for oil, gas, salt water disposal, or any other purpose in connection with the production of oil and gas to remain unplugged after the well is no longer used for the purpose for which it was drilled."[151] Therefore, explicitly, an unplugged well that remains unplugged without necessary remediation can be addressed under a public nuisance claim.

The continued physical presence of an unplugged, non-producing well may constitute a trespass.[152] The right of an operator to occupy the surface of another's land typically arises from an easement—either express or implied—which is tied to the productive use of the well. Once production ceases and the well becomes idle or abandoned, the operator's easement lapses.[153] At that point, the remaining structures on the surface of the land (wellheads, drills, and other equipment) have no legal right to be there. In this way, an unplugged well that has stopped producing becomes trespassory. This claim can be brought whether or not there is active leaking or contamination on the site.

Additionally, if a landowner has reason to believe there is active contamination from an unplugged well that is harming their land by causing pollution to move onto their property, they may also bring a trespass claim.[154] In Illinois, "a trespass is an invasion in the exclusive possession and physical condition of land."[155] In *City of Evanston v. Texaco*, a trespass claim alleging a former gas station "negligently leaked contaminants [that] entered Evanston's property, interfering with its otherwise exclusive possession thereof," survived a dismissal.[156] Such cases can be complex, often requiring environmental sampling and expert testimony.

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In Illinois, remedies for trespass include both injunctive relief and monetary damages.[157] A landowner may seek an injunction compelling the operator to remove or plug the offending well and to restore the property to its prior condition.[158] Alternatively, courts may award damages reflecting the diminution in property value, loss of use, or cost of restoration associated with continuing trespass.[159] Where the intrusion is ongoing or poses continuing risk, Illinois courts have shown a willingness to grant equitable relief rather than limit the plaintiff to money damages, particularly where the trespass involves interference with land integrity or environmental safety.[160]

Even in the absence of demonstrated contamination, then, a trespass claim may be available to achieve well closure and thereby reduce the potential for toxic and harmful well leaking on their property. Trespass claims can serve as important legal avenues for landowners to seek redress when companies shirk their responsibility to plug inactive wells. Idle or orphaned wells are not just environmental liabilities; they may be unlawful occupiers of private land.

3. Fraudulent Transfer & False Claims Act Claims

There is a long history of oil and gas operators selling off declining wells to smaller and smaller operators as those wells approach the ends of their useful lives. Quite often, this happens because the cost of clean-up approaches or exceeds the value of the oil and gas remaining in a given set of wells, and the larger company wants to dump its liabilities rather than incur clean-up costs as they come due. The small companies that acquire these dying and economically negative-value assets are able to squeeze out a tidy profit as long as they can delay clean-up costs and then enter bankruptcy prior to paying for those costs.

Whether one views the situation through contract, tort or regulatory law, surface landowners are owed a duty of eventual clean-up from the moment a well is drilled—indeed, courts have characterized this obligation in just that way where this issue has been litigated in other states.[161] According to a federal court in Colorado: "Surface land owners can be creditors based on the operators' obligations to plug the well at some point in the future; drilling the well necessarily gives rise to an obligation on the part of the operator or its successor to plug the well, and until the operator or its successor actually plugs the well, the landowner has a contingent and unmatured claim for plugging that qualifies as a 'claim.'"[162] That means surface owners are creditors of the operators that access their land. Where individuals or companies transfer assets in order to duck obligations owed to creditors, such transfers are fraudulent and may be unwound. Accordingly, attempts to dump liabilities to destined-for-bankruptcy entities may be attacked via claims of fraudulent transfer, brought by either people harmed by the fraud, like landowners,[163] or by attorneys general.[164]

Other claims may be coupled with fraudulent transfer claims, depending on the circumstances. Because multiple companies and their officers collaborate and coordinate their conduct to facilitate liability dumping, claims related to conspiracy and aiding and abetting may also be brought. Further, where a company dumps its liabilities onto an entity that lacks the financial or operational wherewithal to properly handle clean-up obligations, one may be able to bring negligence or nuisance actions for endangering surface owners and nearby communities.[165]

Finally, because the state often is the entity left holding the bag when companies dodge liabilities, the state itself is often the ultimate financial victim of liability-avoidance schemes. State level false claims acts are designed to target a broad range of conduct that defrauds the state, including avoidance of obligations owed to the state. Furthermore, these schemes often involve misrepresentations to the state about the status of wells (i.e. claiming wells are active when they are not actually producing in paying quantities or that wells are 'temporarily' abandoned when there is no prospect of their being returned to use) so that the operators can siphon off revenues, delay clean-up, and muddy the link between the solvent transferor-company and the end-operator that ultimately goes bankrupt.

The Illinois false claims act allows plaintiffs to collect treble damages, making it a powerful tool to go after fraudulent conduct.[166] Especially where operators file inaccurate and misleading reports in furtherance of fraudulent conduct to dump liabilities onto the State, the false claims act may be a very attractive tool. Finally, false claims act claims can be brought either by the State directly or by a whistleblower (aka a 'relator'). This means that, where individuals uncover evidence of fraud, they may bring a false claims act

case on behalf of the State (a 'qui tam' suit) and collect a percentage of the State's ultimate recovery.[167] Better data collection in Illinois, and more clear reporting requirements for operators, could make it easier to uncover fraudulent misconduct and facilitate false claims act cases, the recoveries from which could help the State cover the financial burden of orphan wells.

While these private law claims could assist in ensuring necessary plugging and remediation, Illinois' current regulations and lack of accessible data make it difficult for private parties to identify wells and bring claims. Data limitations are addressed in the next section, with important implications for both the public and private law systems described above and with proposed reforms to follow.

III. Current Data Available to Regulators and the Public

To assess the extent of the oil well closure problem in Illinois, and the capacity of State laws and institutions to address it, the authors sought information available to the public through published reports and Freedom of Information Act requests. In doing so, the authors of this report uncovered that the State does not collect or publish data that is commonly collected and published by other states. Asking substantive questions about oil well closure issues in Illinois often led to a deeply troubling finding that such questions were impossible to answer accurately or completely in light of the State's insufficient data collection and publication. Because this lack of relevant accessible data not only impedes effective policy analysis, but is, itself, indicative of the need for legal and policy reforms, this section describes research steps taken and data limitations encountered in producing this report.

A. Published Datasets

Publicly available data on oil and gas wells in Illinois is woefully inadequate. There are gaps in publicly available data to identify wells, view information on orphaned wells, and find operator information. Other oil and gas producing states typically have substantially more and better organized data available. For example, other states have comprehensive interactive maps that include operator information, well location, production data, and transfer data.[168] Illinois does not. This paucity of data makes it very difficult for researchers, members of the public, and even the State itself to have a complete and clear picture of the threats posed by both individual wells and the thousands of dead and marginal wells across the State.

Currently, the University of Illinois's Illinois State Geological Survey (ISGS) produces an interactive map in their Prairie Research Database, however this database has limitations.[169] This database is not managed by IDNR, but does rely on the IDNR Office of Oil and Gas as a data source. ISGS has published annual Oil & Gas reports only through 2009, after which ISGS stopped producing the report because of staffing issues. ISGS still collects oil production data from Standard & Poor's Global and well records from IDNR's Office of Oil & Gas, but the State no longer compiles and publishes this data for free, meaning that publicly available data is currently over fifteen years old. The database does not contain information that would allow determination of whether a well is truly abandoned or idle, with little information on the accuracy of data, and no information on when data was last updated.[170] The database does not provide current information about owners or operators of the listed wells; it lists only the entity that received an initial State permit for the well.[171] It is similarly difficult to search the data for categories like spills, violations, and failures to pay required fees.[172] This database is connected to some historical transfer data of individual wells, but tracking transfers is only possible by viewing individual scans of transfer documents for each individual well, without information to confirm if there have been additional transfers throughout the well's history.[173] Additionally, some wells are listed as "producers," but with no collection of production data by IDNR, these classifications seem unreliable, and there is no way to tell whether a given well's production is declining or marginal, which information may be critical to establishing the kinds of tort claims and regulatory enforcement actions outlined above.[174]

IDNR has recently published a chart that includes information on the relatively small subset of wells that are formally enrolled in the Plugging and Restoration Fund, as well as a periodically-updated static map.[175] This chart is coded and includes reference numbers rather than actual information for the few important data categories it includes, such as the operator's identity.

B. Data Maintained by IDNR and Available Upon Formal Request

Given the difficulty in finding accessible data on oil and gas wells in Illinois, the Environmental Advocacy Center submitted a first Freedom of Information Act ('FOIA') request to IDNR on February 28, 2025. That FOIA request sought information regarding the Plugging and Restoration Fund Program, enforcement under the Illinois Oil and Gas Act (225 ILCS 725/1), well production data, historical well transfer data, and inactive well violations. The IDNR response to that FOIA request and all subsequent correspondence with the Environmental Advocacy Center at Northwestern Pritzker School of Law ('EAC'), both over email and under separate FOIA submittals, is available at the online repository referenced in the endnotes to this report.

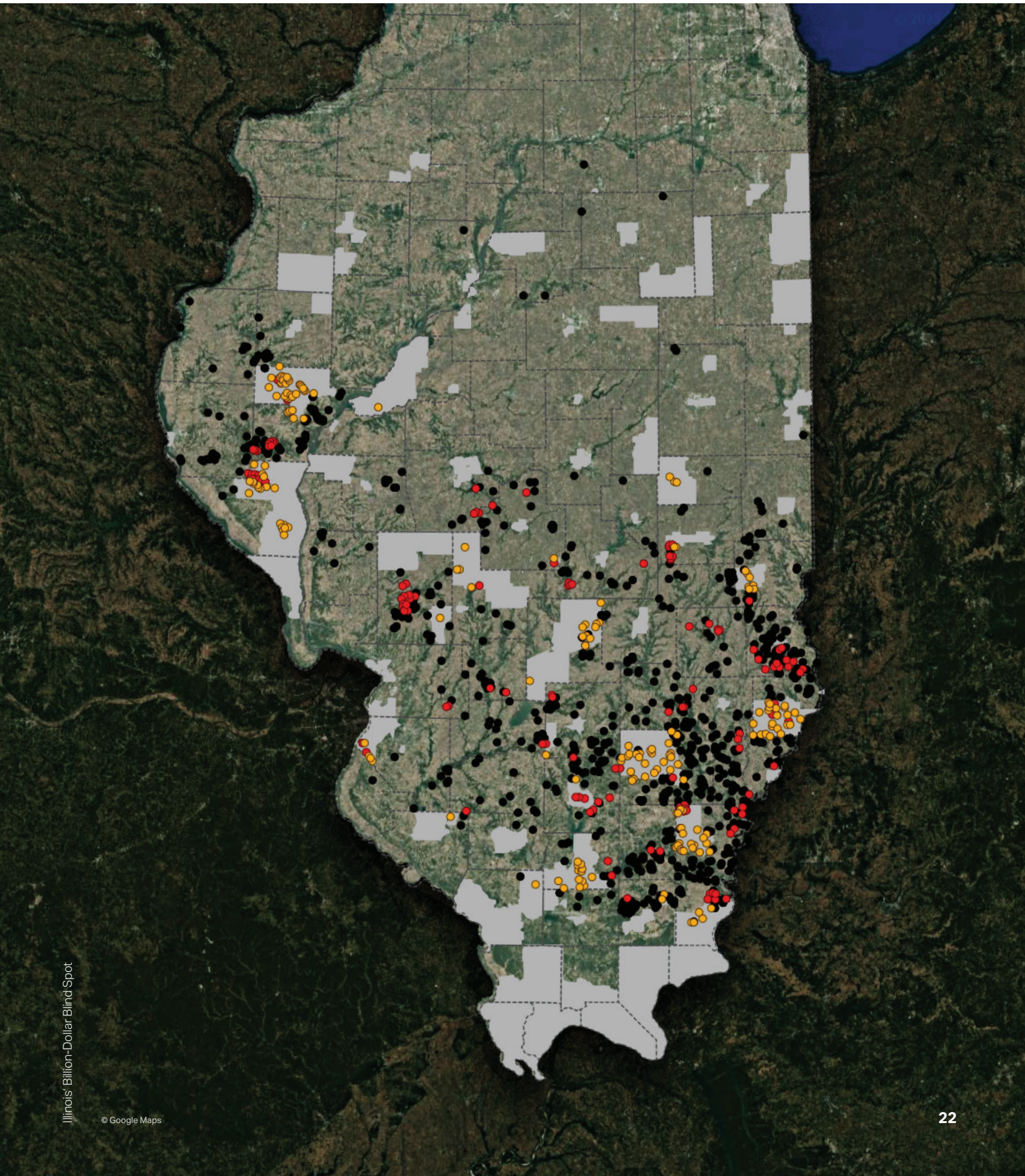
IDNR's formal responses reveal a need for data modernization and empowerment of current IDNR enforcement mechanisms. The response highlights that IDNR does not collect any production data and indicates that IDNR does not have information on well violations on a publicly accessible website.[176] Specifically, IDNR responded to EAC's February 28 request with an Excel sheet that included information on abandoned or temporarily abandoned wells that are not in the PRF program.[177] This Excel sheet includes operator name, well location, and a designation of the well's abandoned or temporarily abandoned status. However, this data set does not include information about the date of abandonment or how long a well has been temporarily abandoned.[178]

As to enforcement actions related to inactive wells, the FOIA response also included an excel sheet with "SPMS23 INACTIVE WELL VIOLATIONS" that gives information about a well's operator and location.[179] This dataset does not explain what an SPMS23 violation is or whether this is the only violation IDNR enforces as it tracks inactive wells.[180] In subsequent correspondence and during an interview, IDNR officials explained that "SPMS23" is a data code that indicates a well has been cited as "inactive" to initiate an administrative enforcement action under Section 8a. IDNR issues approximately 3,000 such enforcement actions each year.[181] Additionally, IDNR indicated that they have not initiated any Section 19.1 enforcement actions in the past two years.[182]

The response also included information related to the Federal Bipartisan Infrastructure Law Award and Illinois' application to receive funding under this initiative to plug orphaned wells.[183] This FOIA response included the grant application, which asked for $25 million in funding.[184] The response included the grant award requirements, which included reporting requirements, restrictions on lobbying, and use of fund obligation requirements.[185] A budget was included that outlined IDNR's use of funds, which included that funds would be used to identify orphaned wells and to make information on the use of federal funds available on a public website.[186] Follow up FOIA correspondence related to IDNR's solicitation of well-plugging services, issuance of master contracts to cover tranches of well closures in specific counties, and payment of costs for plugging led to the production of an internal IDNR spreadsheet in which the agencies tracks payments made to plug specific wells.

To better understand how the IDNR well bonding system works, the Environmental Advocacy Center submitted another Freedom of Information Act request to IDNR on June 11, 2025. That FOIA request sought information regarding the surety bonds for four specific wells in three different counties—two in White County, one in Kankakee County, and one in Fayette County. IDNR responded with information on these four wells that is published online in IDNR's Oil & Gas Weekly Permit Logs database. IDNR also included in their response the bond information for three wells, including the bond amount, and formatted in the same way as the information included in the Permit Logs.[187] IDNR provided no bond information for the fourth well, suggesting that either that well was not bonded or was covered by a blanket bond, but no such indication was made in the information provided. This gap in information illustrates a disconnect between the data IDNR collects on individual wells and its regulation of their blanket bonds.

With information gathered through researching public datasets and the agencies multiple responses and communications related to FOIA requests, and in light of the legal overview above, the next section provides suggestions for data, policy, and legal reforms that could prevent environmental harm, protect the health and safety of Illinoisians, find responsible parties to pay for plugging and restoration of wells, and to modernize Illinois' current data and enforcement strategies to match other leading states.



IV. Suggestions for Reform

Given the shortcomings identified above in Illinois' approach to regulating oil and gas wells, policymakers should consider the following reforms—some achievable under IDNR's existing authority pursuant to the Oil and Gas Act, and others requiring new legislative amendments. To the extent that IDNR lacks sufficient resources to robustly exercise its authority as suggested below, the State should ensure such resources are available, which could be accomplished through new appropriations or allowing IDNR to access permit fee revenues for enforcement and other operations. Such investment will likely pay off many times over.

A. Suggestions for Actions Under Current IDNR Statutory Authority

1. Identify Inactive Wells by Collecting Production Data

The failure to collect oil and gas production data—let alone to make that data transparently available to the public—makes it difficult for regulators, landowners or concerned residents to find potentially liable parties for abandoned wells or wells that are no longer productive that continue to pose an environmental health and safety risk. While other states have accessible databases where members of the public can investigate wells near them, find information on whether a well is abandoned, and find liable parties, Illinois lacks an accessible database.[188] Also, data collection issues hinder IDNR's ability to meet State and federal statutory obligations to identify orphaned wells on State-owned or privately owned land in Illinois.[189]

IDNR should be using its existing authority to identify truly "inactive" wells, a task made significantly more difficult without well production data that would allow IDNR to directly monitor whether a well is producing or not.[190] While IDNR regulations classify wells that are "inactive" as those that have not been producing for a period of 24 months, the lack of production data collected means IDNR does not have the data it needs to actually implement its regulatory classifications.[191] Without knowing if a well is producing, it is unclear how IDNR can possibly implement its current regulatory definition of "inactive." Without collecting production data, there are also serious questions about whether Illinois is capable of properly implementing its Federal Bipartisan Infrastructure Law grant.

In responding to a FOIA request, IDNR linked the failure to collect production data to the lack of a state excise tax, saying, "[t]he Department does not maintain production records since there is no state excise tax on crude oil."[192] Even without an excise tax, though, there is existing IDNR authority to begin collecting production data. Under 225 ILCS 725/8, "[t]he Department shall have the authority and it shall be its duty to make such inquiries as it may think proper to determine whether or not waste, over which it has jurisdiction, exists or is imminent. In the exercise of such power the Department shall have the authority to collect data . . . and to take such action as may be reasonably necessary to enforce this Act [emphasis added]."[193] "Waste," under this statute, is defined as including "the unnecessary or excessive surface loss or destruction of oil or gas resulting from evaporation, seepage, leakage or fire" and "permitting unnecessary damage to or destruction of the surface, soil, animal, fish or aquatic life or property from oil or gas operations."[194] These definitions of waste would cover situations where an operator fails to properly close an unplugged well. Under this existing authority, IDNR could begin to collect production data.

IDNR has a duty under Section 240.1130 of its regulations to ensure that any production well that has not been producing in the last 24 months "shall be deemed abandoned" and then "plugged."[195] IDNR needs production data to be able to identify what production wells are in fact idle under that definition and to be able to identify a potentially responsible party to remediate and successfully plug them. IDNR's current exclusive reliance on periodic physical inspections to identify inactive wells is simply inadequate. While inspectors are no doubt experienced and capable, and inspections are an important part of any enforcement regime, inspectors only visit each well every few years, and visual inspection alone is insufficient to determine whether a well is actually economically viable. For example, IDNR inspectors often look for obvious signs of neglect to assess whether a well is inactive, so they may not identify a well that should be classified as inactive under the regulations if its operator simply avoids letting vegetation overgrow visible mechanical components of a non-producing well.[196] In other states, operators have

been observed to pump a barrel or so of oil every two years just to remain technically active and delay plugging. In Illinois, unscrupulous operators do not even need to do that; they just need to run a pump during an inspection, and the well will be classified as active even if it does not produce a drop of oil. In other words, current Illinois practice is practically an invitation to fraud and gamesmanship. Reasonable data collection practices, ideally paired with a minimum production threshold (see below), would provide the State with the ability to evenly and reasonably enforce its laws. IDNR also already has the power to "require the keeping of such records, the furnishing of such relevant information and the performance of such tests as the Department may deem necessary to carry into effect the purposes of this Act."[197] In other words, IDNR has the necessary tools to collect production data—the issue is not authority, but implementation.

For the same reason, collecting production data is necessary for the State to meet its obligations under the federal Bipartisan Infrastructure Law. In the State's final budget application, IDNR requested funds and claimed that would be used for "…(iv) information regarding the use of funds received available on a public website (v) measure and track (i) emissions of gases associated with orphaned wells; and (ii) contamination of groundwater or surface water associated with orphaned wells."[198] Fulfilling these purposes would be greatly facilitated if IDNR had data necessary to determine whether a well is actively producing, idle, or abandoned.

Without ongoing production data, IDNR cannot accurately determine whether a well has fallen into inactivity and should be classified as abandoned. Additionally, IDNR cannot distinguish between truly productive wells and those that are being kept nominally "active" by operators producing minimal volumes to avoid regulatory triggers. In this way, production data is essential because it identifies which wells should be prioritized for inspection, enforcement, and closure. Moreover, by enabling IDNR to readily identify inactive wells through reviewing production data, IDNR would be able to require responsible parties to fulfill plugging operations before the well owner or operator abandons those wells. Collecting production data would also allow IDNR to better identify wells that are truly orphaned because no owner or operator would exist to report production. The current reporting scheme and the failure to collect production data leaves IDNR without the information needed to effectively manage the environmental risks associated with aging oil and gas infrastructure and to successfully administer this important aspect of the Illinois and Gas Act as well as the Federal Bipartisan Infrastructure Law Award it received.

Additionally, publishing such production data would empower people to protect themselves. First and foremost, publicly available production data would enable impacted people, landowners, and municipal governments to identify inactive wells, understand basic ownership and operation information about them, and then decide whether pursuing private law causes of action may be warranted. Second, to the extent IDNR reforms the Landowner Grant Program to be an effective, efficient, and equitable means to catalyze well cleanups, Landowners can only qualify for reimbursement through it after the landowner obtains from IDNR an administrative order declaring the well abandoned or orphaned. Considering such findings would be considerably easier and more reliable with production data.

2. Track and Publish Well Data in a Useful Form

First, there is a basic transparency and accountability problem posed by the fact that since 2009, the State has stopped collecting and publishing publicly important basic information about permitted wells. The State should create and make easily available interactive maps, databases, and regular reports that present fundamental data of every oil well and operator in the State on a well-by-well and operator-by-operator basis in an accessible, searchable form. This is standard practice for oil producing states. For example, Colorado has a Production Data Inquiry site featuring production data for individual wells[199] and New Mexico has a "Detailed Balancing Report" where individuals can search for production data by operator name and month.[200]

While IDNR's Office of Oil & Gas still collects well records from permittees, there is no longer a State-published annual report making those records available to the public. In conversations with the authors, ISGS indicated that was due to resource limitations at IDNR. The only estimates of the volume of oil produced in Illinois come from Standard & Poor's, which collects voluntary data from industry that is measured at the production tank level—not from individual wells. Instead of a State-published, public report, ISGS offers to run private custom reports at prices of thousands to tens of thousands of dollars.[201] This data is of public importance and should be publicly available to assure basic transparency and accountability and to allow members of the public to understand the wells on or near the places in which they live and work, and to know the identities and histories of the corporate entities responsible for those wells. And it appears that it can be difficult even for regulators to access and search the limited data that is collected.

A specific issue with the current IDNR data is the lack of transparent historical transfer information that would empower landowners and IDNR to find prior operators to hold liable for plugging and remediation costs. In a FOIA response, IDNR indicated that "[t]ransfers of permits are not displayed in the Department's database in a historical format. To obtain the transfer history for a permit, research must be conducted by tracing database records backwards through several screens and possibly also using the Department's document imaging system."[202] This lack of accessible historical transfer visibility makes it impractical for anyone—from ordinary landowners to IDNR itself—to trace ownership of wells, locate predecessor companies who may be liable for clean-up costs, and identify patterns of well acquisition and transfer among operators.

This gap in information is not just an inconvenience for regulators; it facilitates liability-dodging schemes. Importantly, IDNR has the power to "require the person assigning, transferring, or selling any well for which a permit is required . . . to notify the Department of the change of ownership" within 30 days after the effective date of the assignment.[203] IDNR should utilize this power to create a transparent and detailed record of well ownership in the State. IDNR also has explicit authority to "ascertain and identify the ownership of all oil and gas wells."[204] Again, this authority must be effectively exercised to address the current gaps in well ownership records across the State.

3. Vigorously Pursue Section 19.1 Enforcement Actions

It appears that IDNR is not using the full extent of its enforcement authority by issuing orders that force responsible private parties to plug and remediate every abandoned well under the specific statutory responsibility to do so under Section 19.1. Section 19.1 of the Oil and Gas Act requires that when IDNR finds that "a well drilled for the exploration, development, storage, or production of oil or gas . . . has been abandoned . . . Department ***shall*** issue an order that the well be properly plugged, replugged, or repaired to remedy such situation" and gives the permittee 30 days to properly plug or replug the well.[205] Section 19.1 does not merely authorize IDNR enforcement; it requires it.

The IDNR Division of Oil & Gas states that it conducts approximately 30,000 inspections per year and initiates approximately 3,000 enforcement actions each year.[206] In the past two years, however, it does not appear that IDNR has issued a single order expressly under Section 19.1.[207] While Section 19.1 is specific to abandoned or leaking well hearings and cessation orders, the 3,000 annual enforcement actions IDNR has reported are under Section 8a, which provides the authority to issue Notices of Violation and Director's Decisions for violations of or noncompliance with any part of the Illinois Oil and Gas Act.[208] As IDNR staff described it to the authors, the enforcement actions reported under Section 8a

are largely ineffective in causing well plugging and rarely if ever present any real consequences to the well permittees who are cited for violations. A majority of permittees do not willingly comply with the 8a actions, and based on conversations with IDNR officials, these actions are typically not subsequently enforced.[209]

Section 19.1 compels enforcement to require plugging of abandoned wells, and IDNR has not brought any actions under this authority for at least the past two years. Unanswered enforcement actions under 8a would seem to present a situation where a permittee has been given notice and an opportunity to be heard and has neither challenged the finding that their well is inactive nor properly plugged their wells. As such, the conditions to trigger mandatory Section 19.1 enforcement appear present. As previously stated in this report, IDNR has not applied Section 19.1 as an enforcement mechanism, but rather treats it exclusively as a way for well-violation recipients to request a hearing. This interpretation ignores the express language of the statute. Whether this is due to a misinterpretation of the language in Section 19.1, general resource constraints, an inability to identify inactive wells due to a lack of production data, or an inability to determine well-desertion due to historical data issues, there is a gap in necessary and statutorily-required enforcement.

B. Suggestions for Structural Reforms That May Require Statutory or Regulatory Amendments

While certain shortcomings within Illinois' system for regulating inactive oil and gas wells may be addressed by regulators acting under current authorities, Illinois' status as a policy laggard among oil producing states can only be remedied by structural changes to the underlying law. The following section offers legislative recommendations aimed at addressing the growing problem of inactive and orphaned oil and gas wells in Illinois. Several of these changes would simply bring Illinois in line with the laws of other states while others would help Illinois leap from laggard to leader, introducing new means to better protect the environment and public fisc.

1. Address Illinois's Inadequate Well Bonding System

Illinois's current bonding scheme fails to fully protect the public from the financial risks posed by idle and orphaned wells. Recent reforms have improved some aspects of the scheme, but major structural issues remain—namely, the misalignment of bonding amounts and actual plugging costs.

As previously discussed, S.B. 2463 set rigid bonding rates that fall far short of covering actual costs of well plugging and site restoration. This change does not give IDNR the authority to increase bond amounts from those limits, even though the statute purports to require bonds that reflect the actual costs of closure. This statute should be amended once again in order to allow IDNR to adopt updated regulations that set bond amounts at a level that reflects the actual costs of plugging wells and restoring well sites—costs that often far exceed the $10,000 statutory rate for single wells or the $1,000 effective rate for wells under blanket bonds. The current rates leave the State vulnerable to absorbing significant cleanup costs when operators walk away from their obligations, even where bonds are in place. At the same time, bonding should be the required means of financial assurance—not letters of credit or certificates of deposit—and should be required for every well in the State—not just for new or currently delinquent permittees. By increasing bonding requirements and ensuring there is a fully adequate bond in place for every well in the State—either directly through statute or through regulation authorized by statute, the legislature and IDNR can better protect public funds, incentivize responsible well management, and ensure that operators—not the State or its taxpayers—bear the financial burden of environmental remediation.

The State's bonding system is hampered by its inconsistent focus on whether it is regulating individual wells or well operators. While most of the bonding regulations turn on requirements for individual wells, blanket bonds functionally regulate operators without accounting for the actual costs of plugging each covered well. Blanket bonds allow a single operator to obtain a permit for a large number of wells without providing nearly enough funds to plug them all. Even under the new S.B. 2463 scheme, which limits blanket bonds to 100 wells, the rate cap of $100,000 for blanket bonds covering 100 wells or less is still in place, meaning that an operator executing a blanket bond for 100 wells need only provide $1,000 per

well in financial assurance even though the average cost of plugging alone is $40,000, as reflected in what IDNR has paid out from its Plugging and Restoration Fund.

This $1,000 per well amount is even more surprising when considering the fact that reclamation and remediation costs are high, particularly for sites with tank batteries and other associated infrastructure. In reality, the average cost of plugging is likely much higher than $40,000, when considering all costs. IDNR officials have clarified that their tracked costs of plugging do not include the costs of cleaning up oil and gas infrastructure, like tanks and flow lines.[210] Costs associated with such clean up can be very substantial, so the true financial burden of clean-up is considerably higher than $40,000 per well. Bonding requirements should be structured to reflect the actual anticipated costs of plugging and restoration for each well that receives a permit, and estimated clean-up cost of associated infrastructure like tanks should be equally shared among all wells such infrastructure serves.

Another issue is when and how bonds are paid. Requiring bonds to be financed in full at the time of permitting can avoid much of the orphan well problem by ensuring that the corporations that seek to benefit from drilling wells are required to arrange for money to be available to plug those wells. Additionally, improving public access to bonding information would create new opportunities to hold responsible parties accountable.

Adequate bonding is particularly important in any state, like Illinois, with a declining oil and gas industry.[211] According to IDNR staff, one of the agency's only means to secure compliance with Section 8a orders related to inactive wells is IDNR's authority to deny new permits to operators with outstanding closure obligations. But in depleted fields with relatively little new drilling activity, the ability to withhold permits offers precious little leverage. Most operators simply do not need any new permits. However, if the State held substantial bonds, it could threaten to plug wells itself and collect on the bond money. In other words, where the industry is in decline, bonds become an especially important source of leverage for state agencies.

Setting bonding requirements at a sufficiently high level will not be fully effective if operators are allowed to contribute to bonds over time rather than maintaining sufficient closure funds for the well's entire lifecycle. Requiring that bonds are fully executed during the permitting process is essential to ensuring that enough money is available to plug and remediate idle wells, regardless of the financial status of the owners at the time the well needs plugging. Colorado's regulatory scheme provides an example of the issues that can arise when such requirements aren't in place. Colorado passed legislation in 2019 designed to strengthen bonding requirements, requiring every operator to develop a company-specific bonding plan.[212] However, this new legislation has fallen far short of the State's financial assurance goals. One reason for this shortfall is that lower-producing companies are allowed to contribute annually to their bonding requirements, spreading the cost over several decades.[213] The State then bears the risk of these smaller companies defaulting before they're fully bonded, leaving taxpayers to cover the remaining cost. The text of Illinois' bonding legislation—as amended as recently as Spring of 2025—does not make it clear whether well owners have the option to pay their bond obligations over time. However, it is imperative that well owners in Illinois be required to execute the full bond during the permitting process to ensure that the well can be plugged and remediated if needed,
even if the owner defaults, without requiring tax dollars.

Finally, making bonding data publicly available would be a simple step toward identifying well owners who shirk their obligations and holding them accountable for closure costs. IDNR's response to EAC's June 11 FOIA request provided insight into the individual well information that the Department maintains and informed policy suggestions for making data more accessible and useful to hold responsible parties accountable. Given that IDNR appears to maintain bond information, which is not publicly available online, in the same format as permit information, which is available and updated weekly, one way to better hold well operators and owners accountable would be for IDNR to publish bond information the same way it publishes permit information. This data would allow citizens, environmental groups, and regulators to hold companies accountable for their bonding responsibilities and ensure that large companies are not leaving wells unbonded and transferring them to smaller companies when they are no longer productive. Public information about bonding would also help make transparent the scale of the State's exposure to clean-up costs in the event that operators dissolve without fulfilling their obligations.

2. Set a Minimum Production Threshold for "Active" Classification

Along with creating a system to gather and maintain production data, IDNR should adopt a minimum production threshold greater than zero for wells to remain classified as "active." In the oil and gas industry, a well is generally considered productive only if it is yielding oil or gas in "paying quantities," meaning that the revenue generated from production exceeds the operating expenses of the well. Once a well no longer produces in paying quantities, it has reached its economic limit and is no longer considered an asset.[214] At that point, there is no legitimate reason for the operator to continue classifying the well as "active," leaving only the illegitimate reason of delaying closure obligations and avoiding the costs of plugging and remediation. Illinois statute does not specify what makes a well "active," and IDNR could operationalize this industry understanding to use whether a well is producing enough to cover operating costs as an administrable, brightline trigger for closure requirements. Because the key definitions of terms like "inactive" and "producing" are found in IDNR regulations and are not defined specifically in the Oil and Gas Act,[215] this reform should be achievable through either regulatory or statutory amendment.

IDNR should formalize a production threshold based on this standard—such that a well must produce a given volume of oil in order to maintain its active status. The Illinois Oil and Gas Act does not currently specify what makes a well active.[216] This reform could be particularly important in conjunction with other reform suggestions around the transfer of wells, because Section 6.2 of the Act creates a byzantine system to challenge proposed permit ownership transfers for non-productive wells. IDNR should operationalize this industry definition to clearly define what an "active" well means in practice, which could both be useful in the existing Section 6.2 process or, even more promisingly, be part of a reform that creates an effective, efficient means to properly close unproductive wells. Coupled with collecting production data, enacting a specific numeric threshold would enable IDNR to identify which wells are producing at uneconomic levels and to reclassify them as inactive, triggering the appropriate timeline for closure. It would also help prevent a recurring industry practice in which large operators retain marginal wells just long enough to sell them to smaller companies that cannot pay for plugging and remediation. These wells frequently end up orphaned.

Requiring operators to demonstrate that their wells are producing in paying quantities—alongside regular production reporting—would create a more objective, enforceable standard for well status and closure. It would also strengthen the State's ability to proactively address the growing orphan well problem and ensure that financially viable parties, not the public, are held accountable for long-term remediation costs.

Illinois policymakers can look to other states that impose production levels as a model for a similar requirement in Illinois. For example, in Ohio, West Virginia, Colorado, and other states, oil and gas operators are required to report to the state individual production statistics for each well they own.[217] In both Ohio and West Virginia, horizontal well production must be reported quarterly while vertical well production must be reported annually.[218] In Ohio, if the reported annual production for a well is less than one hundred thousand cubic feet of natural gas or fifteen barrels of crude oil, the owner of the well may be required to apply for temporary inactive well status.[219] In West Virginia, the law does not set a specific number, but a well must be producing in "commercial quantities" to qualify for active status.[220] West Virginia law defines "production in commercial quantities" as production of natural gas or oil "from a reservoir which is either sold or delivered to one other than the operator, or retained by the operator or any owner of the production at severance for beneficial economic use."[221] Illinois policymakers could adopt either of these approaches—a predetermined statutory number or a broader standard—to ensure that well owners and operators are not unnecessarily prolonging the process of closing and plugging wells. The preferrable policy, to aid in administrability and clarity, would be a statutory production minimum for a well to retain "active" status.

3. Create an Excise Tax

As IDNR identified in its FOIA response, an excise tax could be a potential vehicle for collecting production data. Thirty-four states collect excise taxes on the extraction, production, and sale of oil and gas.[178] An excise tax would not only raise revenue, but would also be a means of collecting production data. As discussed above, collecting production data would enable IDNR to identify which wells are in fact idle and fulfill requirements under the State's budget application "[t]o identify and characterize undocumented orphaned wells on State and private land."[222]

States take several different approaches to excise taxes. Most tax the market value, while others tax the volume produced or some combination of the two.[223] Most collected taxes are deposited into the general revenue fund, but some states use the revenue to fund conservation or environmental cleanup projects.[224] Implementing an excise tax would also facilitate the proper closure of inactive wells by improving data collection, allowing regulators to identify idle wells and their operators and enforce closure requirements. Enacting an excise tax would also internalize some of the social and environmental costs of ongoing oil extraction because policymakers could direct excise tax revenue to fund plugging and other environmental efforts.

Colorado and New Mexico are just two examples of states that have excise taxes on oil production.[225] In 2024, Colorado collected over $178 million in oil and gas severance tax revenue[226] and New Mexico collected over $1.9 billion in tax revenue from 710 million barrels of crude oil and 3,570 billion cubic feet of natural gas.[227]

An excise tax is an effective way to collect revenue, but even if the revenue were nominal, the collection of production data would be indispensable for IDNR to perform its existing enforcement and oversight responsibilities. As there is no method to collect production data from operators, there seems to be no obvious method to determine which wells are no longer producing oil and gas and therefore require plugging.[228]

4. Codify the Availability of Predecessor Liability

Predecessor liability refers to the principle that an entity may be held responsible for the clean up of wells even after it transfers such wells to another entity. While the two entities are free to negotiate responsibility for clean up as between them, predecessor liability assures that other impacted parties like landowners or neighbors or the state may hold either entity responsible. This is a powerful, yet often underutilized, legal tool for holding prior operators accountable when wells are transferred to parties who cannot pay for plugging and remediation.[229] Under the existing system, if a current permitee is unwilling or unable to pay for plugging and remediation costs, its wells will fall into the Plugging and Restoration Fund Program even if a previous owner can be identified and that previous owner transferred the wells to the current permittee for the purpose of avoiding well closure responsibility. Essentially, predecessor liability helps ensure that companies cannot simply divest themselves of environmental obligations by transferring ownership to parties who are unlikely to perform necessary plugging and remediation of wells.

To ensure companies cannot just treat aging wells like a hot potato, several jurisdictions have codified predecessor liability in the oil and gas context. For example, predecessor liability is available for wells on federal property (both offshore wells and those on federal land).[230] Additionally, California,[231] Louisiana,[232] and Pennsylvania[233] all have statutes providing for at least some predecessor liability.

Establishing predecessor liability can prevent a common industry practice: larger companies selling off unproductive or marginally productive wells to smaller, private companies with little financial backing and limited operational capacity. These smaller entities often operate on narrow profit margins and are more likely to dissolve, go bankrupt, or abandon their responsibilities entirely. Once these entities disappear, their wells become legally "orphaned," and cleanup becomes the responsibility of the public. Without robust regulatory oversight or enforceable mechanisms for tracking and assigning liability, this model allows well-funded operators to offload the long-term environmental and economic costs of oil and gas production while maintaining short-term profitability.[234]

Illinois case law shows predecessor liability has been applied in private breach of contract actions when the specific contracts allow it. The effectiveness of predecessor liability, however, is far from guaranteed and often turns on the specific language of lease agreements and transfer contracts. In some cases, lease documents explicitly disclaim continuing liability after the assignment of a well, insulating prior owners from future obligations.

There is no provision of State law that makes predecessor liability theories available in other private law causes of action or under IDNR's enforcement powers. A predecessor liability statute should allow both private citizens *and* IDNR to bring claims against prior owners or operators who should be held responsible

for abandoned or leaking wells. This flexibility would maximize accountability for entities who strategically attempt to pass along their liability to small, insolvent companies.

A statutory provision for predecessor liability would be invaluable for harmed property owners and for the State itself, which in many cases would have incentive to seek costs from prior operators rather than bear them via the PRF. However, without publicly accessible historical transfer data, identifying previous operators for private action is difficult. To use predecessor liability in actions where a well is non-producing or deserted, it is imperative that prior operators and historical transfers can be identified and transparently tracked in publicly-accessible IDNR information.

5. Fix the Temporary Abandonment Scheme

The temporary abandonment renewal scheme needs to be modified to avoid allowing wells to be perpetually "temporarily abandoned." Closing this loophole could strengthen enforcement of closure requirements to ensure these wells do not pose environmental and health risks. Currently wells can be in "temporary abandonment" status for 5 years, with the ability to renew this status.[235] With no clear limits on extensions, this current scheme could result in wells being idle and in "temporary abandonment" status indefinitely, pushing back necessary plugging and remediation. This results in the perpetuation of environmental and public health harms that can result from unplugged wells and increases the likelihood of responsible parties avoiding closure costs and liability.

To address the problem of wells remaining indefinitely in "temporary abandonment" status, Illinois lawmakers could simply eliminate the category. Alternatively, to allow businesses with legitimate reasons for temporarily shutting down a well and to require them to do so responsibly, Illinois policymakers can look to California's multi-pronged regulatory model, which offers several promising strategies.[236] First, California has imposed steeper fees for idle wells, creating a strong financial disincentive for operators to delay closure. The only way an operator can avoid steep, immediate fees is to file and follow an Idle Well Management Plans, which compels such operator to submit concrete timelines to either return wells to production or permanently plug them. These plans ensure that wells do not linger in regulatory limbo without a clear future. Third, California has effectively limited the duration of idle status by setting idle well fees to be significantly higher the longer a well is idle (from $1,000 per well for wells idle less than three years to $22,500 for wells idle over 20 years, with several intermediate fees in between).

Illinois could adopt similar reforms and ideally would also set firmer limits to avoid gamesmanship. Doing so would strengthen enforcement and reduce the number of wells allowed to remain idle indefinitely. An ideal reform would include (1) increasing fees over time to reflect the growing environmental and financial risk of long-term abandonment, (2) requiring operators to submit binding plans for each idle well's future, and (3) establishing a firm upper limit on the number of years a well can remain idle before action is required. Such reforms could shift the burden of managing and closing inactive wells back onto the responsible parties—where it belongs.

6. Set Limitations on Transfers Between Operators

Strengthening requirements around transfer of ownership of wells would reduce the possibility of operators transferring wells that are inactive, or soon to be inactive, to avoid closure costs and liability. Accessible historical data on transfers is a first, necessary step to identify potentially-liable previous operators.

First, IDNR has existing statutory authority to consider mineral right leases terminated and require well plugging if a landowner requests that the agency hold a "hearing[ ] to determine if oil and gas leases submitted with an application for a permit or transfer of a permit for a well are operative on the basis that prior oil and gas leases covering the same lands have terminated due to non-development or non-production."[237] The statute then goes on to proscribe a very specific hearing procedure that IDNR must implement, including unrealistic procedural and burden of proof requirements on any party that would challenge a permit transfer (to the extent any third party could even become aware of a transfer in time to challenge it). That said, the statute *does* already recognize that IDNR should reject permit applications or permit transfers when the underlying lease should be considered terminated due to wells there being inactive in reality. A rewrite of Section 6.2 could enable and require IDNR to actually act on that

recognition with the power to efficiently identify functionally inactive wells that should not be transferred to new ownership or operation, but rather should be closed and to otherwise empower IDNR to block transfers that are likely to lead to orphaned wells.

Assuming a well proposed for ownership transfer is still viable from a production standpoint, the next step is ensuring that all wells transferred to new ownership have adequate financial assurance before changing hands. Empowering the agency to reject transfers that function as liability-dumps and requiring collection of full-cost bonds at the time of transfer would go a long way toward mitigating the State's risk with respect to clean up costs.

Any legislation establishing new requirements for well transfers must explicitly include stock transfers. One important model is California's Assembly Bill 1167, a 2023 addition to that state's ambitious idle well remediation program, which created bonding requirements as part of any sale or transfer of wells. The bill explicitly addresses the issue of well owners transferring idle and marginally productive wells to less solvent entities and requires that "no well be transferred to another owner until and unless a bond has been filed that would cover the full cost of plugging and abandonment and site restoration."[238] However, because the language of the bill did not explicitly include stock transfers, California regulators have controversially interpreted the legislation as excluding such transfers, which resulted in nonenforcement against a merger that created the largest oil company in the state.[239] To be fair, California's law is likely being misinterpreted by the agency. Still, to avoid similar problems, Illinois policymakers can look to California for a model, but should take care to explicitly avoid any loopholes with respect to new restrictions or conditions for well transfers.

Aside from strengthening bonding requirements for transferred wells, Illinois regulators can more strictly limit the rapidity and bundling of transfers to ensure clarity of ownership and prevent operators from avoiding their closure obligations. Placing limits on how many transfers an individual well can undergo within a certain time frame would ensure that each transfer is clearly recorded, building an accurate chain of ownership which regulators can trace for predecessor liability enforcement. Additionally, preventing operators from bundling a large number of wells and transferring them all at once would help prevent larger operators from dumping their less productive wells onto a smaller company that may become insolvent and leave the State with the burden of cleanup. Preventing large transfers, or requiring them to have greater financial assurance, would reduce the concentration of risk more generally.

7. Reform the PRF to Function Properly in Parallel to a Reformed Bonding Scheme

The PRF already operates as a State-run fund tasked with plugging orphan wells. A reformed bonding scheme, along with the other suggestions in this report, would substantially reduce the burden on the PRF by both increasing the likelihood drilling companies are required to fulfill their closure obligations and by ensuring there are sufficient bond resources associated with each specific well that must eventually be closed. But even if all of the suggestions are adopted, the problem remains that Illinois is plagued with thousands of old wells whose operators have long since ceased to exist and legitimate bankruptcies of smaller or older well operators can occur. The PRF should be reformed and augmented to properly handle such true orphans. Additionally, while full-cost bonding should pay for most clean up, it still leaves gaps where operators go bankrupt and leave unusually expensive-to-clean wells.

Alongside an improved bonding framework, the PRF should operate as a sufficient State-managed fund to serve as a supplemental source of financial assurance when an operator's bond proves insufficient to cover the full cost of well plugging and site restoration or when previously-plugged wells fail after their operators disband. Such a fund would provide IDNR with an accessible pool of liquid assets to bridge the gap between bonded amounts and actual remediation costs. This structure would ensure that financial shortfalls do not delay or prevent the timely plugging of wells that pose environmental or safety risks. A PRF revamped in this way could also be a source for operational and enforcement funds that IDNR needs to better administer and enforce its statutory responsibilities.

To work in this way, and to ensure that the oil drilling industry bears the full costs of cleaning up after itself, the PRF needs substantial reforms. Whereas it is now largely reliant on inconsistent—and ultimately inadequate—federal grants, the PRF ought to have enough capital at all times to promptly plug orphan wells, and that funding should come from the oil and gas industry. This could be financed through some

combination of increases to existing annual fees or imposing a reasonable excise tax on oil and gas production and/or refining. The level of fee or tax necessary to fully fund the PRF should be determined based on what is necessary to promptly clear the current back-log of orphan wells and to keep up with the number of wells at risk of falling into orphan status annually. In addition, current statutory constraints on IDNR's use of funds in the PRF "to amounts attributable to earnings on monies in the Fund or from amounts in the Fund other than permittee contributions," should be reexamined to provide IDNR with necessary funds and flexibility in coordination with these other reforms.[240]

A properly funded PRF would complement individual bonding and underlying private clean-up requirements and function as a backup mechanism[241]—available to cover cost overruns, address unforeseen environmental conditions, or respond to operator defaults where existing bonds prove inadequate. Furthermore, such a PRF would be the mechanism to respond to wells that require re-plugging of wells whose operators have dissolved. Because plugging is not always permanent, Illinois needs a flexible and readily accessible source of funding to address such long-term environmental contingencies. Maintaining both individual operator bonds and a robust, industry-funded PRF would balance the principles of operator responsibility and regulatory adaptability—providing IDNR with the financial tools necessary to manage the evolving risks associated with aging oil and gas infrastructure.

8. Create a Leak Reporting Bounty Scheme

Incentivizing Illinois landowners to monitor gas and oil wells and flow lines on or near their property and to report any flowline leaks or unplugged, inactive wells would strengthen the regulation system statewide. The Landowner Grant Program already empowers landowners to identify and close unproductive wells on their properties. Illinois regulators could take this deputization of landowners a step further by creating a financial incentive for private monitoring of wells and reporting noncompliance to authorities.

Legislators could design such a program using the framework of New York City's Citizens Air Complaint Program, which allows citizens to file complaints online about illegal idling of trucks and buses and potentially receive a cash reward.[242] Individuals who report illegal idling that results in a fine are entitled to 25% of that fine, which usually ranges from $350 to $600. The Program has become the single-most effective means of enforcing the City's Air Code, and in 2023 citizens submitted over 86,000 complaints.[243] Implementing such a program for oil and gas well and pipeline monitoring in Illinois would help regulators identify abandoned wells and maintain flow lines by incentivizing landowners, particularly those in the highest-producing counties, to invest in monitoring technology and stay alert to potential leaks. Illinois citizens would report such incidents to IDNR's Office of Oil and Gas Resource Management, the body responsible for addressing citizen complaints about oil and gas operations.[244]

9. Adjust or Remove the Cap on Damages for Land Restoration Remedies at Private Law

The current case law in Illinois shortchanges landowners who are harmed by oil and gas drilling on or near their property—if the responsible drilling company can convince the court that the cost to clean up its operations is greater than the loss of property value caused by their damage, the property owner can only recover the lower amount. To better align land restoration remedies with the actual costs of environmental harm and incentivize private enforcement, the State legislature should consider enacting a statute that eliminates the current common-law cap on damages based on land value. This could be done either through simply setting damages at the full cost of restoration or allowing landowners to elect their remedy—either the full cost of restoring the property to its pre-damage condition, or compensation based on the property's market value. This reform would address the inadequacy of current case law in situations where the cost of restoration exceeds the land's market value, as is often true for environmentally sensitive but economically undervalued areas.[245] By permitting full restoration damages regardless of land value, the statute would not only honor landowners' rights to reclaim the use and ecological integrity of their property, but also enhance the financial viability of private litigation, creating a stronger deterrent against negligent or irresponsible conduct by oil and gas operators.

V. Conclusion

While any proposal to strengthen oversight of the oil and gas industry may meet political resistance, such reforms are essential to protect public health, land, and water resources. And in any event this report does not primarily address actively producing wells, but those long past their productive lives that continue to leak methane, contaminate soil and groundwater, and impose costs on nearby communities. Ensuring that responsible parties bear the full cost of plugging and remediation is vital not only to protect the environment and public health, but to fairness: the State and its residents should not be left to fund the cleanup of private industry's waste.

Well-plugging initiatives could also serve as economic development tools, creating skilled jobs in Illinois' oil-producing counties that are otherwise facing steep fossil fuel-related job losses.[246] A large-scale plugging and restoration effort could convert a growing environmental liability into an engine for local employment and economic revitalization.

Ultimately, Illinois' environmental and fiscal health demand that it is the companies that drilled and profited from these wells—rather than the public—that must pay to plug them. That common-sense "polluter pays" principle underpins existing law, yet weaknesses in data collection, enforcement, and bonding requirements have rendered it largely ineffective. These gaps allow operators to walk away from their obligations, leaving behind wells that emit greenhouse gases and other dangerous pollutants, threaten aquifers, and blight rural landscapes.

Focused statutory amendments to the bonding framework in 2025 represent a modest start but fall far short of what is needed. The State faces thousands of idle and orphaned wells—potentially representing over a billion dollars in unfunded cleanup costs—and decades of cumulative pollution concentrated in some of Illinois' most economically distressed communities. Without decisive legislative and regulatory action, this burden will continue to grow, deepening both fiscal and environmental inequities. Illinois must act now to close these gaps, strengthen financial assurance requirements, and ensure that those who profited from oil extraction bear the true cost of restoring the land and water they have damaged. Anything less will leave the public to inherit a toxic and costly legacy.

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Illinois' Billion-Dollar Blind Spot: How Flawed Laws And Data Gaps Leave Residents Bearing The Environmental, Health And Financial Costs Of Inactive Oil Wells