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State land commissioner turns to courts to force oil well cleanup

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Oil rigs in the Loco Hills field in Eddy County, near Artesia, one of the most active regions of the Permian Basin, are shown in April 2020. The State Land Office has filed several lawsuits this year against well operators seeking to enforce regulations in an effort to prevent the state from ending up on the hook for cleanup of so-called orphaned wells.

Jeri Clausing/Associated Press file photo

Amid alarm bells from state government staff over mounting costs to the public related to plugging and remediating abandoned oil and gas wells, the State Land Office has found one avenue to force oil companies to pay for their own cleanup: taking them to court.

The agency has filed several lawsuits this year against well operators seeking to enforce regulations in an effort to prevent the state from ending up on the hook for cleanup of so-called orphaned wells.

The litigation represents one option for dealing with inactive wells, which emit methane and pollute soil and water in surrounding areas. Advocates and state regulators point to the need for more policies and regulations to address the problem, which is expected to grow and could cost the state hundreds of millions in coming years.

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State Land Commissioner Stephanie Garcia Richard has filed three lawsuits against four total operators so far this year, alleging their wells on public lands have been out of compliance with state regulations. Each of the complaints concerns drilling operations in the oil-rich Permian Basin in southeastern New Mexico.

State Land Office spokesperson Joey Keefe said the lawsuits are examples of the office's accountability and enforcement program, which was established to ensure companies comply with all requirements under the terms of leases for public land, including compliance with state Oil Conservation Division regulations requiring the plugging of inactive wells and reclamation of the site.

Garcia Richard's enforcement program has compelled drilling companies to plug 681 abandoned oil and gas wells on state lands "at no cost to New Mexico taxpayers," Keefe said, representing at least \$68 million saved by taxpayers in potential cleanup costs. He added the office's accountability and enforcement division has filed more than 40 lawsuits total since the start of the program, pertaining to inactive wells as well as other issues with lessees.

"It's important to note that most companies comply with lease terms when approached by the agency," Keefe said. "The agency takes legal action when other options have been exhausted."

'A bit of an elephant'

A recent Legislative Finance Committee report on abandoned wells noted the Stand Land Office's approach to addressing inactive wells through the courts began with a lawsuit in 2016. The office created its accountability and enforcement program in 2020 to ensure leaseholders comply with the terms of their leases.

“While [the Oil Conservation Division] is limited in its ability to hold previous operators responsible for well plugging and reclamation, the State Land Office can hold lessees responsible for the cleanup of well sites on state land if the operator cannot afford or refuses to do it themselves,” the report states.

The state Court of Appeals recently ruled in favor of the State Land Office in a case against Marathon Petroleum and others, deciding prior oil and gas lessees can be held responsible for cleanup necessitated by their activities on state trust lands. Marathon appealed the case to the state Supreme Court earlier this month; that appeal is pending.

Legislative Finance Committee staff told lawmakers during a June meeting current orphaned wells in the state will cost taxpayers about \$200 million for plugging and remediation. New Mexico could face costs of \$700 million to \$1.6 billion for plugging abandoned wells in the years to come, based on the agency’s analysis of current inactive or low-producing wells throughout the state.

Ben Shelton, deputy secretary of the Oil Conservation Division, called the report an accurate assessment of the challenges the division is facing with regard to orphan well liability, financial assurance and “how to manage this enormous level of work that, candidly, OCD is not set up to do.”

“This is something that has become a bit of an elephant, that the division is dealing with,” he told lawmakers during the meeting.

The report laid out some policy recommendations, including amendments to state law to change the type of financial assurance oil well operators are required to put down for down, or an amendment that would allow the Oil Conservation Division to



State Land Commissioner Stephanie Garcia Richard at a news conference in March 2025.

Michael G. Seamans/New Mexican file photo



reject transfers of leases to companies that appear unlikely to be able to fulfill retirement obligations for wells.

Ben Shelton

‘We set the terms’

Some environmental advocates have called for well operators to be required to provide higher financial assurance for wells, pointing out the statewide cap of \$250,000 per operator doesn’t cover the average cost of plugging and remediating well sites.

Sierra Club-Rio Grande Chapter Executive Director Camilla Feibelman called the problem “big, broad and costly” enough to require pursuing multiple strategies.

“Strategy 1 is going after any owner with some semblance of responsibility,” she said. “Number two is using the federal and bonding funds that we have locally to clean them up, but the top, most important thing is that we increase bonding rates to really cover the cost of cleaning up an abandoned oil or gas well, and at the same time ensuring that when there are transfers of ownership, that [the Oil Conservation Division] is really taking stock of whether the company acquiring is financially viable and that there’s not this legacy of cleanup that has to be done.”

Feibelman’s group has filed a petition — along with others — to the Oil Conservation Commission to increase bonding rates, but she said an amendment should be made by the Legislature as well.

“All of this should be seen under the context that a large majority of these fossil fuels being extracted are publicly held resources on public lands, right?” she said. “Private companies are profiting off of our resources — so we set the terms.”



An oil worker near Malaga in 2021. The State Land Office has filed several lawsuits this year against well operators, alleging their wells on public lands have been out of compliance with state regulations.

Associated Press file photo

The State Land Office's lawsuits cite common-law trespass and negligence statutes, seeking damages with interest or injunctions to force operators to plug wells. The agency filed a lawsuit against Tarco Energy in April, one against operator Scott Barthel in May and another in June against Aspen Operating Company and Rubicon Energy.

Each of the complaints alleges the companies have not responded to multiple requests for compliance with regulations from the agency.

In some cases, the dispute could be resolved without the state spending thousands on plugging and remediating public lands.

Joe Tarver, the head of Tarco Energy, said in a phone call this week he is hoping the State Land Office's case against his company can be resolved soon since he has been working with the Oil Conservation Division and the State Land Office in recent months to bring his wells back into compliance.

Tarver's company bought leases for 17 wells east of Artesia about seven years ago, he said. He plugged three of them initially, but he is planning to put most of them back into production using a method called "water flooding," in which water is injected into the reservoir at the site in order to drive oil toward the wells.

Tarver said he is working on cleaning up the sites and making fixes to the wells, but his company hit some hurdles in recent years, including the coronavirus pandemic, which he said killed two of his employees.

All in all, the wells at issue in the lawsuit would bring the state about \$250,000 to \$400,000 in royalties once he can get them back into production, Tarver said.

"I know there are quite a few wells in New Mexico where people run off, but we're working with them to get these cleaned up and get the work done," Tarver said. "We're trying to be a good citizen."

The other well operators sued by the State Land Office did not respond to requests for comment this week.
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