

## Minutes

Annual Business Meeting Planning Call  
Friday, February 19, 2016

A Legal and Regulatory Affairs Committee conference call was convened on February 19, 2016 to discuss the Committee's planned project related to State Financial Assurance Requirements. Committee Chairman Matt Lepore convened the call at approximately 2:05 p.m. Central Time.

### 1. Template for State Financial Assurance Requirement Summary

Prior to the conference call, Hannah Barton, in a conference call reminder, circulated a draft template for states to use to list their current financial assurance requirements. The intent is to have a readily available collection of various states' financial assurance requirements as a reference for state regulators and other interested stakeholders.

Mr. Lepore requested feedback from Committee members regarding the template. Cathy Forester, Alaska, noted she had not received the template; Ms. Booth will re-send the template to ensure all who are interested have it available.

Mark Watson, Wyoming, suggested that the template include a space for narrative comment, or explanatory notes. It was agreed that the template would be revised to include such a space.

Hal Fitch, Michigan, noted that IOGCC's state statutory compilation currently includes a good bit of information about state financial assurance requirements

### 2. Report on Surety Bonding Markets

Lynn Helms, North Dakota, noted during the January 15, 2016 planning call that surety bonds were common in North Dakota and operators did not seem to have difficulty obtaining such bonds. Others reported that obtaining surety bonds was difficult in their states.

Mr. Helms arranged for Justin Graham, an insurance broker who has provided surety bonds for oil and gas operators, to provide an overview of the surety bonding process. Mr. Graham noted:

- There are not a lot of surety companies in the oil and gas bonding market; most companies work through insurance brokers or agents.
- The leading trade association for surety companies is the Surety and Fidelity Association of America.
- When evaluating a company seeking to obtain a surety bond, a bonding company evaluates: business and personal credit and working capital equity.

- Obtaining a surety bond is difficult for newer companies.
- Oil and gas bonds involve long term exposure for the bonding company and, therefore, receive close scrutiny.
- Mr. Graham has seen surety bonds provided to oil and gas operators for as much as \$250,000.
- Bond pricing is in the neighborhood of an annual premium of 3% of face value; Lynn Helms noted he understands an annual payment is required, and that a minimum total payment must be made over time.

### 3. Dedicated orphaned well P & A funds

Following up on a topic touched on briefly during the January planning call, the Committee discussed funds established in some states for the express purpose of plugging and abandonment of orphaned wells. These funds typically exist in addition to the state's standard financial assurance requirements.

Howard Leach noted that Mississippi imposes an annual fee of \$100 on every open wellbore in the state, regardless of the well's status (i.e., producing, shut-in, etc.). The fee is a statutory requirement.

Keith Thomas noted that Oklahoma has a plugging fund that is funded out of severance taxes imposed on the value of production.

Mike Williams reported that Ohio also has a dedicated plugging fund that is funded out of severance tax; the current funding level is 14% of severance tax.

### 4. Bankruptcy concerns – what happens if an operator declares bankruptcy or “walks away”?

The Committee briefly discussed concerns related to potential bankruptcies by operators. Mr. Lepore noted that Texas appears to have a strong lien statute that may provide a state agency with an opportunity to obtain some payment if an operator abandons a location.

Keith Thomas reported that Oklahoma has a priority lien statute, but that a regulatory agency must still “hash things out” with the bankruptcy trustee.

Mike Williams noted that Ohio also has a priority lien, but that it can be invoked only where site conditions pose an imminent risk to public health, safety, and welfare.

The Committee discussed the possibility of having a speaker at the Annual Business Meeting to provide a high-level overview of bankruptcy proceedings, with a focus on possible ways for

state regulatory agencies to better position themselves to secure payment to cover needed site remediation, reclamation, or well plugging and abandonment.

5. Next Meeting

The Committee will meet again via telephone conference on Friday March 18, 2016 at 2:00 p.m. Central Time. This meeting will focus on continuing efforts to obtain financial assurance summaries from states, and potential guest speakers for the Annual Business Meeting. Carol Booth will circulate an agenda and the conference line information.