

OILFIELD SITE RESTORATION COMMISSION MEETING
OCTOBER 18, 2012

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OFFICE OF CONSERVATION
STATE OF LOUISIANA

OILFIELD SITE RESTORATION COMMISSION MEETING

REPORT OF HEARING
HELD AT
BATON ROUGE, LOUISIANA
OCTOBER 18, 2012

Michelle S. Abadie, CCR
(225) 261-5109

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OFFICE OF CONSERVATION
STATE OF LOUISIANA

OILFIELD SITE RESTORATION COMMISSION MEETING

Report of the public hearing held by the Office of
Conservation, State of Louisiana, on October 18, 2012,
in Baton Rouge, Louisiana.

IN ATTENDANCE:

REPRESENTING:

- Sarah Wagner, Division OSR Engineer
- Blake Canfield, Staff Attorney
- Stephen Chustz, Interim Secretary, DNR
- James Welsh, Office of Conservation
- Karen Gautreaux, Nature Conservancy
- Don Briggs, LOGA
- Mike Lyons, Mid-Continent Oil and Gas Association
- Steve Maley, Louisiana Oil and Gas Association
- Paul Frey, LLA
- Randy Lanctot, LWF, Sierra and Audubon Society

1 OILFIELD SITE RESTORATION COMMISSION MEETING

2 OCTOBER 18, 2012

3 * * * * *

4 MR. WELSH:

5 Good afternoon, ladies and gentlemen. My name is
6 Jim Welsh, Commissioner of Conservation. I would like
7 to welcome everyone to the quarterly meeting of the
8 Louisiana Oilfield Site Restoration Commission.

9 I would like to introduce the new secretary, Steve
10 Chustz.

11 Steve, would you like to say any words?

12 MR. CHUSTZ:

13 I just look forward to working with this group. I
14 know you all do good work, and I've seen the evidence
15 of that already in my review of what has been going on,
16 so I look forward to working with you all.

17 MR. WELSH:

18 Thank you, Mr. Secretary.

19 With your permission, I'll go ahead with the
20 meeting now.

21 MR. CHUSTZ:

22 Yes.

23 MR. WELSH:

24 Okay. Let's call the roll.

25 Sarah, would you, please, do that?

1 MS. WAGNER:

2 Before we get started with the roll, I want to
3 recognize Commissioner Welsh as now having the
4 distinction of being the longest running Commissioner
5 of Conservation in Louisiana history. We congratulate
6 him on this milestone, ten years and counting.

7 MR. WELSH:

8 Thank you, Sarah. It's a real honor. This whole
9 week has been a surprise for me, all this fanfare, so
10 it's been an honor to be Commissioner. Thank you.

11 MS. WAGNER:

12 Okay. If you would, please, answer the roll when
13 your name is called.

14 Stephen Chustz?

15 MR. CHUSTZ:

16 Here.

17 MS. WAGNER:

18 Jim Welsh?

19 MR. WELSH:

20 Here.

21 MS. WAGNER:

22 Paul Frey?

23 MR. FREY:

24 Here.

25 MS. WAGNER:

1 Don Briggs?
2 MR. BRIGGS:
3 Here.
4 MS. WAGNER:
5 Karen Gautreaux?
6 (No response at this time. Ms. Gautreaux
7 appeared later in the meeting.)
8 MS. WAGNER:
9 Steve Maley?
10 MR. MALEY:
11 Here.
12 MS. WAGNER:
13 Randy Lanctot?
14 MR. LANCTOT:
15 Here.
16 MS. WAGNER:
17 Jim Maranto?
18 (No response.)
19 MS. WAGNER:
20 Mike Lyons?
21 MR. LYONS:
22 Here.
23 MS. WAGNER:
24 Troy Vickers?
25 (No response.)

1 MS. WAGNER:

2 Commissioner, that is seven in attendance and
3 does constitute a quorum.

4 MR. WELSH:

5 Okay. Thank you.

6 Would you just go on down the agenda, if you
7 would, Sarah?

8 MS. WAGNER:

9 Yes, sir.

10 Item II on the agenda is to approve the minutes
11 from the July 19th, Commission meeting. The meeting
12 transcript was e-mailed to each of you. Please let me
13 know if you did not receive a copy. Otherwise,
14 please, approve the minutes.

15 MR. WELSH:

16 Any discussion on the minutes?

17 (No response.)

18 MR. WELSH:

19 We need to vote on approving the minutes. We
20 need a motion to approve?

21 MR. BRIGGS:

22 I move we accept the minutes.

23 MR. WELSH:

24 Any second?

25 MR. LYONS:

1 Second.

2 MR. WELSH:

3 Mr. Lyons seconds.

4 Any discussion?

5 (No response.)

6 MR. WELSH:

7 Okay. They are approved. Thank you.

8 MS. WAGNER:

9 Thank you.

10 The next item on the agenda, Item III, is Fund
11 status. If you would, please, turn with me to Page 2
12 of your handout, starting at the top of the page, the
13 total cash in the Treasury is \$4,358,505, subtracting
14 current contractual obligations in the amount of
15 \$867,167, leaves an available balance of \$3,491,338.
16 Moving down the page to the collections section, first
17 quarter collections through September 30, 2012,
18 amounted to approximately \$1.1 million.

19 Continuing down to Page 2, under "subtract," you
20 will find the five-percent statutory deductions from
21 2009 and last fiscal year '12 listed. In the event of
22 a deduction due to a budget deficit this fiscal year,
23 the deduction amount is based on the Program's budget
24 authority not the Fund balance.

25 The Program's fiscal year '13 budget authority is

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1 \$4,956,231. The Program in the first quarter of the
2 fiscal year has committed to expend approximately \$3.6
3 million. This is due in part to carryover projects
4 from fiscal year '12, where the P&A work was
5 completed, but the project was not paid for until this
6 fiscal year. So, even though the Program has an
7 unencumbered cash balance of \$3.4 million, we only
8 have \$1.9 million in budget authority remaining.

9 The next page, Page 3, in your handout is a
10 supplement to the Fund balance sheet demonstrating the
11 annual fee collections per fiscal year since 1994.

12 Page 4 in your handout itemizes all of the Site
13 Specific Trust Accounts that the Program administers,
14 which currently covers 998 active wells secured with a
15 combination of cash, letter of credit, certificate of
16 deposits, and performance bonds, totaling
17 approximately \$62 million.

18 Page 5 in the handout details the Site Specific
19 Trust Accounts that are funded in any part with cash.

20 The money associated with the Site Specific Trust
21 Accounts is separate. It's not to be used by the
22 Program for P&A of orphan wells. It's site specific
23 to the wells that are included in each account.

24 Pages 6 and 7 in the handout contain the internal
25 audit report on the Site Specific Trust Account

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1 balances. All records were reconciled, and no issues
2 were noted.

3 Item IV on the agenda concerns Program
4 statistics. If you would, please, turn to Page 8 in
5 your handout. On the left side of the page are the
6 statistics as of today, and on the right side, for
7 comparison, are the statistics presented in the July
8 Commission meeting. Starting at the top of the page,
9 to date, the Program has plugged 2,525 orphaned wells,
10 that is 14 wells plugged by the Program since our last
11 meeting.

12 Moving down the page to Section 3, orphan wells
13 remaining statewide, there are currently 2,828 orphan
14 wells. Of these that have been inspected and
15 prioritized, currently 33 are scored urgent 170 are
16 scored high, with the remaining moderate to
17 low-priority scores.

18 Section 4 lists the recently-orphaned well count.
19 Two wells were added to the orphan list in July, three
20 wells were orphaned in August, 16 were orphaned in
21 September, and there will be no wells orphaned in
22 October.

23 If you will direct your attention to Page 9, I
24 have included a graph showing the current orphan well
25 count in the state compared to the cumulative number

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1 of wells plugged by the Program.

2 On Page 10, I have included a new graph that was
3 requested by Mr. Vickers in the July Commission
4 meeting to help visualize the progress made in the
5 plug and abandonment of urgent and high-priority
6 scored wells since the adoption of the revised
7 performance indicators focusing on urgent and
8 high-priority scored wells. You can see, in fiscal
9 year '12, the Program plugged and abandoned 17 urgent
10 and high-priority scored wells, and so far this fiscal
11 year, six urgent and high-priority scored wells have
12 been plugged and abandoned by the Program. The urgent
13 and high-priority scored wells remaining to be plugged
14 is a dynamic number affected by current site
15 inspection, and so there will be some variations in
16 the remaining urgent and high-priority scored wells to
17 be plugged.

18 Item IV(B) on the agenda concerns the first
19 quarter of fiscal year '13 Program performance.
20 Please turn to Page 11 in your handout. This page
21 details the current performance indicators and the
22 Program's first quarter performance. As previously
23 mentioned, the Program plugged and abandoned six
24 urgent and high-priority scored wells in the reporting
25 period.

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1 Performance Indicator No. 2 is the percentage of
2 Program revenue utilized to restore urgent and
3 high-priority orphaned wells sites during the fiscal
4 year. In the first quarter, the Program utilized 77
5 percent of collected Program revenue.

6 Performance Indicator No. 3 is the number of
7 orphaned well sites restored during the fiscal year.
8 Eight additional wells were plugged and abandoned
9 resulting in a total of 14 orphaned wells in the
10 reporting period.

11 Performance Indicator No. 4 is the number of
12 safety incidents reported involving orphaned well
13 sites, which is zero for the reporting period.

14 The next page in the handout, Page 12, details
15 the OSR projects, which is Item No. V on the agenda.
16 Line Item 1 under "Active Oilfield Projects" is the
17 ten-well, one-facility project located in Caddo-Pine
18 Island Field, Caddo Parish. The project remains
19 active for site remediation. All the wells have been
20 plugged and abandoned previously.

21 The next Line Item No. 2 lists the nine-well
22 urgent and high-priority scored water project in West
23 White Lake Field, Vermilion Parish. Four of the wells
24 have been plugged and abandoned, and the project is
25 currently active. Representative photos of the wells

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1 and contractor plug and abandonment activity are
2 located on Pages 13 and 14 in your handout. On
3 Page 14, the pictures illustrate how deteriorated and
4 corroded these orphaned wells were, and that by moving
5 forward with this plug and abandonment project at this
6 time, we have prevented a potential environmental
7 incident. It would have only been a matter of time
8 before these wells had developed holes allowing oil to
9 leak into White Lake.

10 Line Item No. 3, on Page 12, details the 17-well
11 Big Creek and Monroe Fields, Richland and Morehouse
12 Parishes, bid project. This project is currently on
13 hold with six wells remaining to be plugged and
14 abandoned. Representative site photos are provided
15 on Page 15 in your handout.

16 Let the record reflect that Karen Gautreaux is in
17 attendance.

18 Line Item No. 4 details the 12-well, Caddo-Pine
19 Island Field, Caddo Parish project. This project held
20 it's mandatory site visit on October 2nd. Bids opened
21 Tuesday of this week, and they are currently under
22 review. Three contractors submitted bids.
23 Representative photos of the wells included for plug
24 and abandonment are located on Page 16 in your
25 handout.

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1 Line Item No. 5, still under active projects,
2 details the four-well water project located in Bay
3 Marchand Block 2 Offshore and Lake Raccourci Fields,
4 Lafourche Parish. This project held its mandatory
5 site visit yesterday, with seven contractors in
6 attendance. Bids open November 1, 2012. The urgent
7 scored wells in this project were selected to be bid
8 in an effort to foster a positive working relationship
9 with the US Coast Guard. These orphaned wells were
10 ranked critical, high risk by the US Coast Guard due
11 to the location in a highly-traveled channel. They
12 don't qualify for the Federal removal fund program
13 because they are not actively leaking.

14 Do you have any questions on active projects?

15 MS. WAGNER:

16 Moving to the projects completed since last
17 meeting section on Page 12, EMERG2013-02 was located
18 on Hamner Drive, Green Acres Subdivision, in Houma,
19 Louisiana, in Terrebonne Parish. It is illustrated on
20 Pages 18 and 19 in your handout. A homeowner called
21 in a complaint to the Lafayette District Office
22 indicating he was able to light his yard on fire due
23 to a gas leak. A CES agent was assigned to
24 investigate and obtain GPS coordinates of the reported
25 leaking site.

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1 According to the homeowner, the neighborhood
2 folklore was that a well was drilled on the property
3 in the early 1930's with a wooden derrick. The
4 closest registered oil and gas wells were over
5 three-quarters of a mile away and were all dry holes.
6 There were no records indicating a well had been
7 drilled on this property. However, an emergency was
8 declared due to the site leaking gas so close to a
9 home and was assigned well Serial No. 990474.

10 A magnetometer survey was performed, and a hit
11 was confirmed at the edge of the driveway
12 approximately 22' from the corner of the residence. A
13 probe was utilized to further investigate, and the
14 object was determined to be cylindrical. An excavator
15 was brought to location to expose the potential
16 casing. After monitoring the air with a gas detector
17 to determine a safe working environment, excavation
18 began on July 27th. At approximately 8' below ground
19 level, what appeared to be 12-inch casing with a
20 collar looking up was discovered, that is picture
21 No. 3 on Page 18.

22 An emergency bid to plug and abandon was issued
23 with a mandatory site visit held on July 30th. Two
24 contractors were in attendance, and Elm Springs,
25 Incorporated, was awarded the project. Due to the

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1 presence of gas, the successful contractor was
2 required to provide proof of well control
3 certification and provide appropriate safety equipment
4 and gas monitoring equipment on location at all times
5 until the well was under control. Additionally,
6 because the location was within a neighborhood, the
7 parish required an emergency response plan to be
8 filed.

9 The casing was confirmed to be 10 3/4-inch
10 casing, and the contractor moved the rig over the
11 unpermitted well in the driveway as illustrated on
12 picture 4, also on Page 18. As a courtesy, a notice
13 was provided to the 14 residents that lived on Hanmer
14 Drive to explain what was found and that a contractor
15 would be plugging the unpermitted well. Page 19 in
16 your handout provides pictures illustrating the tight
17 confines of the site. The contractor confirmed that
18 the surface casing was set to 160' and was in
19 deteriorated condition from 11' to approximately 40',
20 and at 138' with a casing collar locator log. The
21 contractor did not find any additional strings of
22 casing in the well.

23 Elm Springs drilled to a depth of 290' and
24 confirmed gas was not coming from the wellbore but was
25 entering the surface casing through the holes.

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1 Compressed bentonite nodules were chosen instead of
2 cement for its sealing properties.

3 In fresh water, the bentonite pellets swell and
4 increases its size by 50 percent and forms a barrier
5 that is impenetrable to the gas. Gas sometimes
6 honeycombs through cement creating a channel through
7 the cement, which would be an ineffectual seal.

8 So the open hole, from 290' to 160', was filled
9 with the compressed bentonite nodules. The contractor
10 then milled windows in the surface casing and tried to
11 pull the casing out of the well to achieve the seal
12 with the formation in an effort to remove any annular
13 pathway for the gas to get to the surface. After
14 placing the bentonite in the well in several stages
15 and allowing sufficient time for swelling to occur,
16 the remaining wellbore was filled with water to
17 observe if any gas was still migrating through the
18 wellbore. After confirming no gas flow, 75 sacks of
19 cement were pumped into the well. The surface cement
20 plug was placed as an additional barrier in the
21 wellbore, as well as the compressed bentonite nodules.

22 This project was completed on August 26, 2012, at
23 a cost of \$418,388.32.

24 The gas sample that was taken prior to
25 commencement of P&A and sent for lab analysis was

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1 reported as pure methane and suspected to be biogenic.

2 The homeowner was satisfied with the contractor's
3 work and the Program's effort to plug and abandon this
4 unpermitted well.

5 Any questions?

6 MR. LANCTOT:

7 This was an unpermitted well, right?

8 MS. WAGNER:

9 Yes.

10 MR. LANCTOT:

11 And so, if it's an unpermitted well, there is no
12 record of the --

13 MS. WAGNER:

14 That's correct. There is no responsible party.

15 MR. LANCTOT:

16 Do you know the history of the ownership of the
17 property that the resident --

18 MS. WAGNER:

19 No.

20 MR. LANCTOT:

21 So there's no way that that person who bought the
22 property had any idea that there was a well --

23 MS. WAGNER:

24 From speaking with him, no, there was no
25 indication that he knew, except that once it started

1 leaking gas and talking to some of the people in the
2 neighborhood, he got the folklore about the drilling
3 occurring in the 1930's.

4 MR. LANCTOT:

5 Do you know how long they owned or they've lived
6 on that property, the residents?

7 MS. WAGNER:

8 I do not.

9 MR. MALEY:

10 Was gas just coming out in the yard or was --

11 MS. WAGNER:

12 It appeared, you can see in picture No. 1 on
13 Page 18, the area of grass that looks dead where it
14 wouldn't grow, and that it was confined to a certain
15 area. It was not the entire yard.

16 MR. MALEY:

17 But it was entering from shallow sands into the
18 wellbore?

19 MS. WAGNER:

20 Yes.

21 MR. MALEY:

22 Showing up in the wellbore?

23 MS. WAGNER:

24 Yes. It was in the annular space, and then the
25 holes in that surface casing allowing it to get into

1 the wellbore.

2 MR. WELSH:

3 I think that the owner was pretty satisfied.

4 MS. WAGNER:

5 He was very satisfied.

6 MR. WELSH:

7 That's good.

8 MS. WAGNER:

9 And appreciative of the Program being in place.

10 MR. LANCTOT:

11 Was this an orphaned well?

12 MS. WAGNER:

13 It becomes orphaned because of it being
14 unregistered and not having a responsible party.

15 MR. LANCTOT:

16 So any well, permitted or not, is --

17 MS. WAGNER:

18 If there is no responsible party, they can become
19 orphaned.

20 If we could move on, on our agenda, Item VII
21 on the agenda -- Item VI on the agenda is Federal and
22 Third-Party Activity. We continue to refer orphaned
23 wells on land that we believe might meet OPA 90
24 Federal removal qualifications to the EPA for removal
25 action. The EPA is currently plugging a leaking well

1 in Moore Sands Field, Pointe Coupee Parish, at no cost
2 to the Program, and they have several facility
3 removals in north Louisiana scheduled to occur in the
4 second quarter. Additionally, they just completed a
5 plug and abandonment project in North Broussard Field,
6 Lafayette Parish, that counts as one orphan well
7 plugged and abandoned at no cost to the Program.

8 The US Coast Guard New Orleans District is
9 actively rendering orphaned facilities located in
10 Barataria Bay unusable in an effort to prevent any
11 future environmental incident due to damaged or
12 leaking tanks in the event of another hurricane.

13 We appreciate the efforts of the EPA and the
14 US Coast Guard. They allow us to focus our Fund
15 dollars on wells that do not meet Federal removal
16 criteria, and we accomplish more acting together than
17 we would on our own.

18 Item VII on the agenda is the annual report to
19 the Legislature. This report is provided in your
20 handout starting on Page 20, and satisfies the
21 requirements of Revised Statute 30:90.E. The report
22 was hand-delivered to the appropriate legislative
23 committees on September 13, 2012, and reports on the
24 Program's performance in the last fiscal year, which
25 ran from July 1, 2011, to June 20, 2012.

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1 Item VIII on the agenda concerns old business.
2 In your handout, starting on Page 24, are some of the
3 orphaning statistics that were requested during July's
4 Commission meeting.

5 The orphaning process occurs outside the Oilfield
6 Site Restoration Program's authority and is carried
7 out by the Inspection and Enforcement Section within
8 the Office of Conservation. When an operator is in
9 violation of Statewide Order 29-B, a compliance order
10 is issued. The compliance order details the
11 particular violation or violations and provides a
12 deadline for compliance. When this deadline has
13 passed, a reinspection of the violations occurs, and
14 if the operator is still in violation, a civil penalty
15 can be issued. The operator can also request
16 additional time to comply with the order.

17 If, after extensions have been granted and the
18 operator fails to comply, and after every action that
19 is available under the Commissioner's authority has
20 been exhausted to encourage compliance, including
21 fines, extension, suspension of authority to sell oil,
22 and the operator is still in violation, a ten-day
23 letter is issued to the operator. The non-compliant
24 operator then has one last opportunity to pay a fee
25 and contest the orphaning. If the operator does not

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1 contest, on the 20th of that month, all wells listed
2 in Conservation records for that operator are given
3 orphan status. Once a well is published in the
4 *Louisiana State Register*, it is then an orphan well,
5 and the OSR Program is the mechanism to plug and
6 abandon it and remediate those sites.

7 If you'll look at the statistics starting on
8 Page 24, in fiscal year '10, 412 wells were orphaned
9 that involved 76 operators. 57 of those 76 operators,
10 the orphaning was a result of an Inspection and
11 Enforcement compliance order. 41 of those 57
12 operators were orphaned because of a plug and
13 abandonment order. Seven of the operators orphaned
14 had an inventory of more than 20 wells at the time of
15 orphaning.

16 In fiscal year '11, 174 wells were orphaned that
17 involved 34 operators. 28 operators were orphaned as
18 a result of an Inspection and Enforcement compliance
19 order. 19 of those 28 were orphaned because of plug
20 and abandonment orders. Two operators had an
21 inventory of more than 20 wells at the time of
22 orphaning.

23 In fiscal year '12, 221 wells were orphaned that
24 involved 49 operators. 42 of the 49 operators were
25 orphaned due to an Inspection and Enforcement

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1 compliance order. 21 were plug and abandonment
2 orders, and only three operators had more than 20
3 wells at the time of orphaning.

4 So far, in fiscal year '13, 21 wells have been
5 orphaned involving 16 operators. 13 operators have
6 been orphaned due to Inspection and Enforcement
7 compliance orders, and seven of those 13 were plug and
8 abandonment orders. There are no operators in the
9 first quarter of fiscal year '13 that had more than 20
10 wells in their inventory at the time of orphaning.

11 The above statistics have not been fully
12 analyzed. However, 50 percent of the operators were
13 orphaned as a result of noncompliance with an order to
14 plug and abandon the well. If you combine the 29-B
15 violations and the plug and abandonment orders, 70
16 percent of the operators in the last four years were
17 orphaned due to noncompliance.

18 Are those the type of statistics that you were
19 looking for in orphaning?

20 MR. LYONS:

21 (Nods head.)

22 MR. WELSH:

23 I see some nods.

24 MS. WAGNER:

25 Any discussion?

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1 MR. LANCTOT:

2 You asked for that, Mike?

3 MR. LYONS:

4 Well, we agreed, I think, to work together, and
5 Don was not here but we put Don on our little working
6 group too, to see if we could slow down the addition
7 of new orphaned wells. I don't know if there is a way
8 to do it, but we keep seeing wells being orphaned, and
9 we never quite reach that 50 percent, you know, get
10 more plugged and abandoned and cleaned up than are
11 orphaned in a year.

12 Although, I know you said there were 21 orphaned
13 this year.

14 MS. WAGNER:

15 So far this fiscal year, yes, sir.

16 MR. LYONS:

17 Yes, that just beginning. In any case, we're
18 going to take a look at it again. We've done that
19 before to see if there is something we can do to, you
20 know, extend the tide and get over the hump where we
21 are actually plugging and abandoning more than we're
22 adding. We're just going to take a look at it and see
23 what we can do. I don't know what the answer is.

24 MR. LANCTOT:

25 Can you explain this to me, and I know a lot of

1 people here are busy, but I'm not so busy and I can
2 listen, so you can take a little bit more time with
3 explaining it. When there's a reported problem, and
4 it's determined -- or it's considered an orphan, all
5 wells associated with that operator are orphaned?

6 MS. WAGNER:

7 That's correct.

8 MR. LANCTOT:

9 Then that operator has an opportunity to say, oh,
10 no, this one is doing great. In other words, there's
11 like 21 or 20 or 10 -- let's say, I've got ten wells,
12 and I messed up on a couple of them and you all find
13 out and I'm in trouble and you orphan all my wells
14 because of that, but not all my wells are making a
15 mess. What -- initially, they are orphaned, but then
16 some of them can come off the list if I --

17 MS. WAGNER:

18 Other operators can become operator of record of
19 those orphaned wells. We encourage that. You cannot
20 because you have been orphaned, so your -- all the
21 officers associated with that orphaned operator are
22 flagged, and for a period of time, that's in the
23 statute, I think it's two years, cannot come back
24 unless they fix the problems associated with their
25 orphan companies.

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1 MR. LANCTOT:

2 Okay. Well, I guess that's sort of what I'm
3 talking about is, if I've got a couple of problems,
4 maybe I'm not a very diligent operator and I've got
5 other people doing some work, I'm in Las Vegas or
6 something like that, and I come back and now I've got
7 problems, and I've gotten orphaned, I mean, all my
8 facilities have gotten orphaned, and I say, oh, no,
9 I'm going to fix these and have these removed from
10 that orphaned list --

11 MS. WAGNER:

12 Once the process has gone through and they've
13 been orphaned, and you come and say, I want -- you can
14 get back in good standing and you can pay your fines
15 and your back fees and put up money for security, and
16 then you can take those wells back over, but you have
17 to make right why you were orphaned. So there is a
18 process.

19 MR. LANCTOT:

20 Do many people do that? I suspect most of them
21 are just --

22 MS. WAGNER:

23 I would say I probably get five requests a year
24 to be reinstated, and how many of them actually follow
25 through with the list that we get them for their steps

1 to be reinstated, maybe one.

2 MR. BRIGGS:

3 And the companies that are fined that these wells
4 are orphaned by, are they in bankruptcy?

5 MS. WAGNER:

6 Some of them are in bankruptcy.

7 MR. BRIGGS:

8 If they aren't in bankruptcy, do we pursue them,
9 are there any other ways that we can? I mean, they
10 have that obligation.

11 MR. CANFIELD:

12 I guess I would have to say, if we're talking
13 generally, the vast majority of the people that become
14 orphaned, honestly, are unreachable, do not respond to
15 any type of communication. A lot of times, the
16 corporate organization itself is no longer in
17 existence.

18 The ones that are in bankruptcy, it actually
19 sometimes complicates the process as far as orphaning
20 is concerned. There is a general hold put on any
21 transfer of assets for companies that are going
22 through bankruptcy. There are exceptions to that for
23 environmental concerns, and so, generally, we're able
24 to orphan it if we feel that it's absolutely
25 necessary, especially to plug and abandon any type of

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1 emergency situation, and at that time, we look to the
2 trustee or the estate of the -- excuse me -- the
3 trustee for the bankruptcy -- bankrupt entity to pay
4 for whatever costs they can pay for. I know we've
5 done that maybe a handful of times in the years that
6 I've been here, I've been able to go through the
7 process, get financial security, you know, that is
8 outstanding to help defray the costs.

9 We have looked in the past at trying to go after
10 individual companies that have some sort of
11 obligation. Typically, the issue you run into is
12 corporate identity issues -- and often, it's very,
13 very difficult to find the responsible party at all.

14 MR. BRIGGS:

15 That kind of saddens my heart. It does all the
16 time, because, I mean, we are right at the number of
17 wells we were practically 20 years ago when we set
18 this program up. We had, if I remember right, about
19 3,100. We have 2,800 now. It would take us -- I
20 remember it very well that based on the dollars back
21 then, it would take us ten years to pay it all out,
22 and it's taken us longer than that because costs have
23 gone up.

24 And one of the alternatives we've always -- you
25 know, we've looked at and explored this idea of going

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1 in there and bonding wells, and they're doing this in
2 other states. The problem we have, we went in and set
3 up some standards everybody has to bond. We looked at
4 the bond market, and they're pretty hard to come by.
5 With the bonding, the second thing that you're faced
6 with, so many of these companies can't afford to bond,
7 and then we look at it and say, well, look, it's not
8 right for our companies that are -- you know, existing
9 and paying their bills and taking care of their
10 obligations to have to continually have to fund all
11 these wells, and I, for one, would love to see a way
12 that -- to make all this work and do away -- it's not
13 right for companies that are in business today to have
14 to pay for all this, and it's wrong for these
15 companies to ride everybody down, but they do, and, I
16 mean, I get the feeling sometimes we have companies
17 that will sit there until they know they are going
18 down the tube. Eventually, they'll just step away.
19 They organize their assets so they take a step away
20 and they bankrupt everything, they don't have to pay
21 for anything. The State comes in and does the work.

22 It's a tough issue, and if I thought we could
23 bond everybody and not drive -- we get so many wells,
24 and it's one of those things, what do you do? I'm
25 just not sure. I don't have the answer for it, and I

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1 wish I did.

2 MR. MALEY:

3 Could you characterize, like the corporations,
4 the LLCs, are they mostly domiciled in Louisiana, or
5 are some of them interstate companies?

6 MR. CANFIELD:

7 I don't know that I could give you an accurate
8 characterization, just kind of anecdotally, I've seen
9 probably almost 50/50 or a mix, you know, somewhere
10 in there. I don't see anything that jumps out at
11 me, like a pattern. I think there are more
12 Louisiana-domiciled entities than
13 non-Louisiana-domiciled entities, but as far as the
14 percentages, I don't know.

15 MR. MALEY:

16 Do we make any kind of effort to see what is
17 going on in the state's surrounding, for example,
18 Texas and Arkansas, if there's companies crossing
19 state lines and they've already caused a problem over
20 there, we can anticipate perhaps a Louisiana problem
21 or vice versa?

22 MR. CANFIELD:

23 I don't believe we look into compliance issues
24 for every type of operator. I think there are
25 requirements for certain, you know, commercial

1 disposal facilities, some injection operators, there
2 are requirements in the statutes for them to give a
3 compliance history, and that will cut across state
4 lines.

5 I think the issue that, you know, we look at is
6 what we're statutorily or regulatorily allowed to
7 consider whenever we issue a permit, whenever we take
8 a compliance action, whenever we, you know, orphan an
9 operator, and it just is not currently something that
10 is a consideration legally, in the law itself.

11 MR. MALEY:

12 Am I correct in thinking that the State has no
13 standing in a bankruptcy -- I mean, Sarah mentioned
14 the instance of emergencies that came up during a
15 bankruptcy. Is that the only thing that would elevate
16 the State having a claim or working with the trustee?

17 MR. CANFIELD:

18 Right. I am by no means an expert in this, but
19 we do normally forward these issues to the Attorney
20 General's Office for handling, and my very limited
21 understanding is that there is an ability for State
22 government to enter into the bankruptcy proceedings
23 where they're owed assets for some type of
24 environmental obligation, and exactly what you have to
25 show to prove that obligation, I would probably be

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1 guessing if I tried to answer that.

2 MR. FREY:

3 Mr. Canfield, I'm just looking at this Page 27,
4 this last fiscal year, the orphaning summary that
5 Sarah put together. There are three operators that
6 had in excess of 20 wells. I added those up quickly,
7 that's 134 wells from those three operators. Are
8 those three operators -- obviously, they're not
9 existing companies anymore. Were they local or
10 state-based companies?

11 MR. CANFIELD:

12 My memory is that these three companies did not
13 challenge the orphaning, and typically, my, you know,
14 involvement and review of it is that it would be, if
15 there was a challenge that the State has to defend, so
16 I do not have that answer. I would have to look it
17 up.

18 MR. FREY:

19 I assume no one -- does anybody recognize these
20 folks?

21 (No response.)

22 MR. FREY:

23 So they could have been -- these wells could have
24 been drilled several years ago, and --

25 MR. CANFIELD:

1 And I think I do -- you know, just to kind of
2 bring up the issue of going after assets of an
3 orphaned operator, one additional thing, and I don't
4 know that it's often considered is, while we have the
5 legal ability to seek reimbursement for legal expenses
6 in going after recovery, if you have a bankrupt
7 company or a company with very few assets, then you
8 sometimes are in the situation where you will spend
9 more money out of the Fund trying to recover less
10 money, and, you know, that's another decision that,
11 you know, has to be part of -- another item that has
12 to be considered before making a decision. I just
13 failed to mention that when we were talking earlier.

14 MR. BRIGGS:

15 I mean, this really is disturbing. I mean,
16 especially when you look at we've got 66,000 wells out
17 there, and maybe, you know, Mike, we should put
18 together -- you know, one of the things I was thinking
19 about, maybe put together a committee with a lot of
20 independents and some of the majors and have some of
21 the production, this certainly affects them too, and
22 get them to come to the table with us and help make a
23 decision on what could be done.

24 The only way I know to do this is what they've
25 done in other states, and that's when you do the

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1 bonding, you know. When you do a minimal bonding,
2 maybe for instance, on the corporate wells, but you
3 can imagine what this will do to Caddo-Pine Island
4 Field and all those little operators in the central
5 part of the state, and the Monroe gas field, and I can
6 just go on down the list, you know.

7 We've had 20 years experience with this now, and
8 maybe it's -- 10 years, whatever it is, I mean, since
9 1993, so it's been a long time, and I think that we
10 ought to try to do something like that and let some
11 people come to the table and -- because they are the
12 ones that are paying for this, and, you know, they're
13 going to -- we're going to have to let them help make
14 a decision on it, see if we can come up with some
15 ideas, whatever.

16 MR. FREY:

17 Before we leave this too, I have a question. I
18 was looking at the statutes, and sometimes that's
19 dangerous, but did I correctly interpret that the
20 statutes capped the Fund at \$10 million?

21 MR. CANFIELD:

22 Yes. The cap -- well, I guess the way I look at
23 it is, once it's reached that \$10 million cap, then
24 additional funds can no longer come in until it falls
25 below -- is it 6 or 4?

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1 MS. WAGNER:

2 Six.

3 MR. CANFIELD:

4 Six million.

5 MR. FREY:

6 And that includes the Trust accounts, too?

7 MR. CANFIELD:

8 It does not include the Trust accounts. There is
9 an exception for Trust accounts. Are there any other
10 exceptions you know of?

11 (No response.)

12 MR. CANFIELD:

13 I think that's the only one I know of.

14 MR. FREY:

15 And that was -- you know, when you said things
16 cost a little differently now versus then, 20 years
17 ago, but that \$10 million cap, I mean, is that -- you
18 know, if we have enough operators to clean these sites
19 up, could we possibly look at doing that, that is not
20 going to help on the orphan wells that are coming into
21 the Program, granted, but we need to start working on
22 the -- those that are on that list.

23 MR. LYONS:

24 I'm going to assume, you know, that these wells
25 aren't producing, that there's very little production

1 coming from these wells? At least if the guy has 20
2 wells and he agrees to orphan them, then there's got
3 to be very little -- I mean, maybe a couple of them
4 are producing and -- what are we seeing? I'm just
5 wondering if we can identify -- I don't know if
6 they're on this inactive list, or I'm not sure, maybe
7 some of them are sitting there on the inactive list,
8 been there for years. If we could identify, you know,
9 the potential group that is going to be orphaned, you
10 know, if they're going to be the small production
11 wells, and, you know, what are we looking at, how many
12 are we looking at, is there anything that we can do
13 with them to incentivize them to do what they should
14 be doing? I don't know. I'm just -- if we can
15 anticipate the problem by saying, well, here it's a
16 segment, you know, this 20 percent of oil and gas
17 operators are going to end up in the orphan program at
18 some point, then maybe we can start to plan ahead.

19 I know there are people that can't afford to P&A
20 these wells. I mean, you know, we know there are
21 fields where there is very little production left, and
22 they're just getting what's left, but if we can figure
23 out ahead of time, you know, what we may be looking
24 at, it may give us a way to begin to address it. I
25 don't know, you know.

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1 We've talked about this ever since the beginning
2 of the Program, as Don said, and we've -- just
3 generally speaking, we thought we'd be done, you know,
4 after about 10 years. So, obviously, if we can do
5 something -- if we don't do anything, we're going to
6 be here 20 years from now probably still doing the
7 same thing we're doing.

8 MR. LANCTOT:

9 Those wells that are just barely producing,
10 they're -- they're lost causes, pretty much.

11 MR. LYONS:

12 What's that?

13 MR. LANCTOT:

14 Those wells that are barely producing, they're
15 lost causes, if they don't have a bond or anything
16 associated with it, right?

17 MR. LYONS:

18 Right.

19 MR. LANCTOT:

20 Pretty much.

21 MR. LYONS:

22 I would imagine.

23 MR. LANCTOT:

24 What about the wells that are producing pretty
25 well? And we know what wells are producing, right,

1 because we get severance and all, and those wells or
2 those operators that are not bond -- that don't have
3 -- you know, they aren't in our Site Specific Account
4 or something like that, why can't we go and -- this
5 would take legislation, but since we have the
6 severance tax and -- do we have any authority via that
7 concept of severance to increase this -- this -- I
8 think we could do that, increase the severance tax on
9 profitable wells that aren't covered, and that money
10 would be escrowed for the ultimate fix, you know, or
11 clean up, that's just sort of a thought I had, you
12 know. It's a can of worms, but you've got these
13 producers out there, operators out there, that are
14 doing pretty well that maybe aren't covered. These
15 are the people that, along -- down the line, they may
16 be the ones we're looking at aren't producing anymore
17 and they're just going to go bankrupt, or whatever the
18 case might be, and more orphaned wells.

19 If we could start getting -- I think that's what
20 you're saying, Mike. If we can start getting some
21 resources now available to address that either we
22 could -- you know, they would get the money to
23 properly address their wells, or if they left them, we
24 would do it with the additional severance that was
25 collected. I don't know if that is a feasible

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1 concept, that's just a thought of how we might
2 approach it, because this is -- if there's money out
3 there coming in off those wells, we ought to be able
4 to get some of it outside of the percentage that --

5 MR. BRIGGS:

6 You're starting to sound like President Obama.

7 MR. LANCTOT:

8 I sound like a responsible oil man, you know,
9 that doesn't want to leave a mess, that's what I
10 thought I sounded like.

11 MR. BRIGGS:

12 Opening up a severance tax opens up a can of
13 worms, like you said. We have raised this rate that
14 we have on orphaned wells, which is equivalent to
15 doing what you're talking about, okay, since raising
16 the rate gives us more money the plug and abandon the
17 wells, okay, but, you know, again, we've done that
18 before. I don't know what the rate is now. It's
19 probably like a penny and a little bit on natural gas.
20 I'm not sure what it is now, one-and-a-half cent to
21 two cents?

22 MS. WAGNER:

23 It's one-and-one-half cent per barrel of oil and
24 condensate produced and three-tenths of one cent for
25 every thousand cubic feet of gas.

1 MR. LANCTOT:

2 Since 1996, how much has a barrel increased in
3 the value?

4 (No response.)

5 MR. LANCTOT:

6 Okay.

7 MR. BRIGGS:

8 We, in the industry, would object to -- once you
9 get into severance tax, then everybody is going to
10 change the severance tax, and that's not something you
11 want to do.

12 MR. LANCTOT:

13 Yes, that's why I said maybe it's a can of worms,
14 but --

15 MR. BRIGGS:

16 You can do it differently than changing the
17 severance tax.

18 MR. LANCTOT:

19 Well, we don't want to --

20 MR. BRIGGS:

21 We have the highest rate in severance tax than
22 any other state in the United States, okay.

23 MR. LANCTOT:

24 We've got some exceptions to that, by the way,
25 but we want to -- we don't want to go after the folks

1 that are responsible and they are paying their Site
2 Specific funds, you know, they're covered. We're not
3 going to have any problem with those. We want to go
4 after those folks that aren't covered and are
5 producing -- profitably producing now, if it takes a
6 little bit of that profit to ensure that they're going
7 to clean up, so that's the concept. Now, whether it's
8 an additional severance that can be levied on those
9 producers or something else, to take the burden that's
10 totally being -- well, spread across the whole
11 industry.

12 MR. LYONS:

13 You're probably talking about a bond, and other
14 states have gone to a bond. If those guys are
15 producing, they put up the bond, you know. They never
16 go on the orphan list, so then we have eliminated
17 those wells, as you indicated, that are, you know,
18 doing pretty well. They pay a bond. The problem is
19 going to be the people who can't afford to bond and do
20 we end up with, you know, 40,000 wells being orphaned,
21 or 20,000 or whatever.

22 MR. LANCTOT:

23 The ones that really can't afford it, we're going
24 to end up paying to clean up their sites anyway. The
25 ones that can afford to pay, they -- maybe there is a

1 way.

2 MR. LYONS:

3 Well, many of those are going to do it anyway,
4 you know.

5 MR. LANCTOT:

6 I don't know.

7 MR. LYONS:

8 I think we're at a point where, you know, a lot
9 of the companies we're worried about are gone, you
10 know, and the ones that are here making money now,
11 many of those are going to do the right thing, you
12 know, P&A the wells, but if you had a bond, then they
13 would have, you know -- if they didn't, then the bond
14 would cover them.

15 We know that a large -- you know, there's a group
16 of people who cannot afford a bond, and they're
17 probably not going to P&A their wells, so that is
18 where this program comes in, and if we can identify
19 those and just keep it to those, not let that number
20 grow anymore, then we could address those. I don't
21 know the answer.

22 MR. BRIGGS:

23 Let me make a suggestion, and no one is getting
24 more frustrated with this process than you and I am,
25 and that is not right for the guys that are working

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1 hard and taking care of their business and et cetera,
2 but what I'd like to do, if you would allow me to,
3 give me 60 days and let Mike and I pull together a few
4 more people and just sit down and do some talking, get
5 a variety of people together from north Louisiana to
6 shallow producers, Monroe gas field, Caddo-Pine,
7 spread our whole group out and see what they can put
8 together and what ideas they may have. It could be --
9 I have no idea.

10 I mean, when you all look at the bond market --
11 the last time I looked at the bond market and doing
12 this, you're not going to get it. You're not going to
13 get it, and the guys who can afford the bonds, they're
14 not the problem. It's the guys that can't afford the
15 bond, and then you get the stripper wells and those
16 are reduced-rate wells, and they're all just kind of
17 trucking along, and it's a problem. It could be we
18 raise the rate, put a little more work together, you
19 know, get another engineer in your group and have to
20 increase the Program a little bit, if that's what we
21 have to do, but I agree that we need to do something,
22 and I think that we ought to -- I'd like us to pull
23 together a bunch of people that would work through
24 that.

25 MR. WELSH:

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1 Maybe you want to maybe volunteer to come up with
2 a group of people, names, and get this going?

3 MR. BRIGGS:

4 Yes. I -- Commissioner, I would like to do that
5 in-house with our own membership and just bring
6 together a bunch of people, and then from that, and
7 we'll present some ideas to the Commission. I'm
8 thinking that they're paying it, they don't like it,
9 and so maybe possibly they'll come up with some ideas
10 on how to do it.

11 MR. WELSH:

12 Well, that might be a good agenda item for a
13 future meeting to have a group together and make
14 recommendations and prepare something for the
15 Commission.

16 MR. BRIGGS:

17 I'd be glad to do that.

18 MR. WELSH:

19 Okay.

20 MR. LANCTOT:

21 Should we formalize this by making a request to
22 Don, Mike, LOGA, and Mid-Continent to get together
23 with their members and come back, you know, with some
24 ideas to --

25 MR. LYONS:

1 I don't think we have to do that.

2 MR. LANCTOT:

3 We've been talking about this for a year, I
4 think.

5 MR. LYONS:

6 But we're offering to do that. Don is offering
7 to do that, so, I think, in essence, it's on the
8 record that we have agreed to try and get some
9 operators together, by the next meeting I assume, you
10 know. Don said 60 days. The next meeting is going to
11 be in January or February.

12 MR. WELSH:

13 January the 17th.

14 MR. LYONS:

15 Yes. We'll try and do it by that date or give
16 you a progress report on what they're saying.

17 MR. BRIGGS:

18 Right.

19 MR. LYONS:

20 But we think -- as Don said, it's a problem, so
21 let the guys that are paying this fee see if they are
22 willing to come up with some solution.

23 MR. LANCTOT:

24 The only reason I suggest that is because I know
25 we've been talking about this, like you said, a few

1 times in the past -- or Don has. Well, we need to get
2 our group together, the people that are affected, and
3 get some ideas, see if we have any, at least talk
4 about it, and I know how it is when you represent an
5 organization, it's one thing if, you know -- you say,
6 you're going to go back and talk with them and you're
7 a man of your word and you're going to go do that, but
8 it's another thing if you can say to them, hey, you
9 know, we've been asked by the Oilfield Site
10 Restoration Commission to look at this, you know. So
11 I don't know if that makes any difference, but
12 sometimes if you've got a reluctant Board of Directors
13 or whatever, it helps to have a motion to say, look --
14 you know, that's just a little wisdom, you know, from
15 years.

16 MR. BRIGGS:

17 I appreciate that, but I -- I don't need to have
18 that, you know. I mean, I'll tell you that I'm going
19 to do that, and -- along with Mike, and we're going to
20 do that, and pull together some people and get
21 together and have them all and have a meeting, tell
22 them, this is an issue and we've got to square off and
23 do it or someone is going to do it for us, that is the
24 way I normally handle those kind of things, and we'll
25 see what comes out of it, and then I'll get back with

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1 you -- Mike and I will, and -- I don't know. Off the
2 record.

3 (Off-the-record discussion.)

4 MR. BRIGGS:

5 We'll certainly give you a good idea of what we
6 think might could happen.

7 MR. WELSH:

8 Gary, do you have something?

9 MR. ROSS:

10 Yes, sir. What I was going to ask for the
11 Commission -- I have no doubt that Mr. Briggs will be
12 able to put together a group and they do some study.
13 What can this office prepare to help you in your
14 evaluation, you know, I don't want to call it
15 profiling, but what we can do is give you a complete
16 list, a finite list, of the operators in the state,
17 the number of wells they have. We can tell you what
18 their previous years' level of oil and gas production
19 is. We've looked at some of these in cases where I
20 would tell you that, if they took the last five years
21 production and saved every nickel of it, they couldn't
22 have taken care of their obligations for plug and
23 abandonment and clean up and restoration of the site,
24 but would that type information be of assistance to a
25 group that you put together, and I'd like to see you

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1 then interact with the staff, you know, for additional
2 information that you may need?

3 MR. BRIGGS:

4 I think that is a great idea. Anything like that
5 would be very, very helpful, and we look forward to
6 that. It's a good start, some profiling, I think,
7 would be pretty interesting. Thank you, sir.

8 (Off-the-record discussion.)

9 MR. WELSH:

10 Okay. That was a good discussion, and we'll look
11 forward to cooperating with Mr. Briggs and Mr. Lyons
12 to participate, and we'll get you what you need, and
13 we'll hopefully have something for next January.

14 Great.

15 MS. WAGNER:

16 Okay. Back to the agenda, Item No. VIII on the
17 agenda is new business. We have one contractor to
18 present for approval to the OSR's approved contractor
19 list. Rene Cross Construction, Incorporated, has
20 submitted a complete application that has been
21 reviewed by staff. They are interested in bidding on
22 all plug and abandonment projects statewide, and we
23 recommend approval of this contractor.

24 MR. WELSH:

25 Any discussion on the contractor?

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1 (No response.)
2 MR. FREY:
3 I move we approve.
4 MR. WELSH:
5 We have a motion to approve.
6 A second?
7 MR. BRIGGS:
8 Second.
9 MR. WELSH:
10 Seconded.
11 Any discussion?
12 (No response.)
13 MR. WELSH:
14 Okay. Rene Cross Construction is on the approved
15 contractor list.
16 MS. WAGNER:
17 Thank you.
18 Additionally, staff recommends removal of two
19 contractors from the approved list due to failure to
20 provide a current mailing address. I have provided
21 the contractor list on Page 29 in your handout.
22 Engineering and Environmental Solutions,
23 Incorporated, is contractor No. 26, they are located
24 in Baton Rouge, and Eagle Construction and
25 Environmental, L.P., contractor No. 22, is located in

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1 Texas. Both of those companies have had their recent
2 bid solicitation notices returned to us as
3 undeliverable, and staff has been unable to locate a
4 current address, so we recommend that the Commission
5 votes to remove them from the approved contractor
6 list.

7 MR. WELSH:

8 Any discussion on that?

9 MR. LANCTOT:

10 Who are they?

11 MS. WAGNER:

12 Engineering and Environmental Solutions is
13 contractor No. 26, and Eagle Construction and
14 Environmental, L.P., is contractor No. 22.

15 MR. LYONS:

16 I'll move that they be removed.

17 MR. MALEY:

18 Second.

19 MR. WELSH:

20 Okay. That's done.

21 MS. WAGNER:

22 Thank you.

23 Item X on the agenda lists the dates of our next
24 meetings in 2013. The meeting announcements will be
25 mailed to each of the members.

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1 That concludes what I have prepared to present
2 today.

3 MR. WELSH:

4 Okay. Since nobody knows what we'll be doing
5 those days, if there's a need to modify the dates,
6 we'll --

7 MS. WAGNER:

8 In the future, yes, sir, we can.

9 MR. WELSH:

10 -- but we'll tentatively set these dates.

11 MR. WELSH:

12 Okay. Any other discussion?

13 (No response.)

14 MR. WELSH:

15 This is, of course, the last meeting of the year,
16 and as I have done in the past, I thank you all for
17 coming, that you all are here and make the Program
18 work, and I much appreciate it.

19 Having said that, if there is no other discussion,
20 this meeting is adjourned.

21

22

23

24

25

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CERTIFICATE

I, MICHELLE S. ABADIE, Certified Court Reporter, do hereby certify that the foregoing Oilfield Site Restoration Commission meeting was conducted before James Welsh, Commissioner of Conservation, on October 18, 2012, in the Department of Conservation Hearing Room, Baton Rouge, Louisiana; that I did report the proceedings thereof; that the foregoing pages, numbered 1 through 51, inclusive, constitute a true and correct transcript of the proceedings thereof.



Michelle S. Abadie

MICHELLE S. ABADIE, CCR #24032
CERTIFIED COURT REPORTER

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