



Infrastructure Investment and Jobs Act

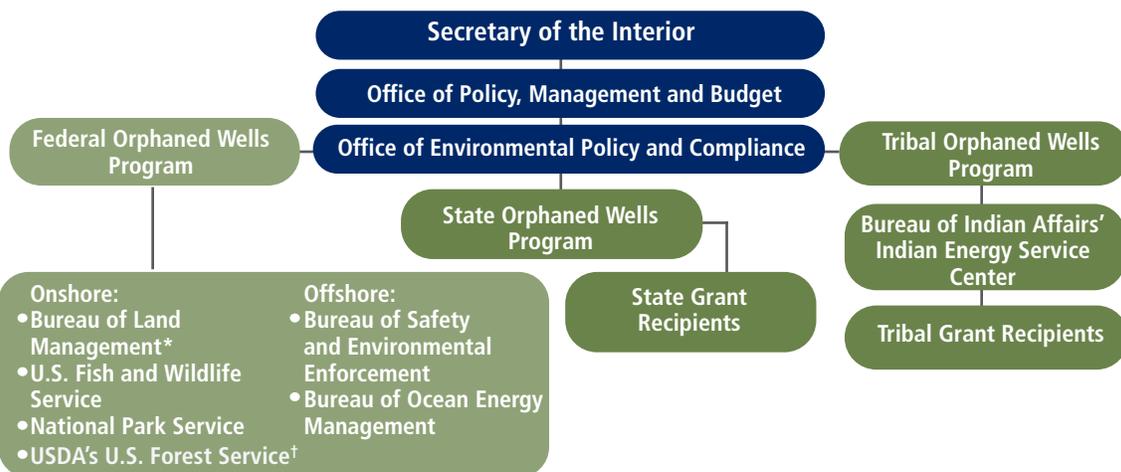
FLASH REPORT: ORPHANED WELLS PROGRAMS

BREAKING DOWN RESPONSIBILITIES FOR ADDRESSING ORPHANED WELLS

The President signed the Infrastructure Investment and Jobs Act (IIJA), Pub. L. No. 117–58, into law on November 15, 2021. The IIJA imposed new requirements for the U.S. Department of the Interior (DOI) to create programs to plug, remediate, and reclaim orphaned wells on Federal, State, tribal, and private lands, and it authorized nearly \$4.7 billion in appropriations through fiscal year (FY) 2030 for the DOI to administer these programs. We are issuing this flash report to provide information about the responsibilities for addressing orphaned wells, which can be complex because of the intersection of surface land rights and subsurface mineral rights, overlapping Federal and State program authority, and the involvement of multiple DOI bureaus and offices and the U.S. Department of Agriculture’s (USDA’s) U.S. Forest Service (USFS).

To carry out IIJA requirements, the DOI distributed responsibility for orphaned wells program management and funding. The Office of Environmental Policy and Compliance (OEPC) is responsible for administering the authorized funding for the Federal, State, and tribal orphaned well programs, and the Bureau of Indian Affairs’ (BIA’s) Indian Energy Service Center (IESC) is assisting the OEPC in developing and administering the tribal grant program. Responsibility for the Federal orphaned wells program is distributed based on whether the well is onshore or offshore: the Bureau of Land Management (BLM) serves as the technical lead for the Federal orphaned wells program for onshore wells, and the Bureau of Ocean Energy Management (BOEM) and the Bureau of Safety and Environmental Enforcement (BSEE) are the agencies responsible for offshore wells. See Figure 1 for the relationship between the participating bureaus, offices, and the USFS.

Figure 1: IIJA Orphaned Wells Programs



*The BLM serves as the technical lead for the Federal orphaned wells program.

†Once the OEPC provides the USFS with its Federal program funding, the USDA will have oversight of those funds, and the USFS will provide the OEPC with its orphaned wells data for the annual report to Congress.

Definitions

In simplest terms, **surface estate** refers to the ownership of the surface of a particular tract of land.

In simplest terms, **mineral estate** refers to the ownership of the minerals under a specified tract of land.

A **traditional split estate** occurs when a non-Federal (State or private) party owns rights to the surface estate and the Federal Government owns the rights to the mineral estate.

A **reverse split estate** occurs when the Federal Government manages the rights to the surface estate and a non-Federal party owns rights to the mineral estate.

The **outer continental shelf (OCS)** consists of all submerged lands seaward of State coastal waters under U.S. jurisdiction out to 200 nautical miles. State coastal waters generally extend to 3 nautical miles offshore, with exceptions for Texas and the Florida Gulf Coast, which extend out 9 nautical miles.



Federal, State, and Tribal Programs

ONSHORE ORPHANED WELLS OVERVIEW

Federal Program

The IJJA authorizes \$250 million to carry out the Federal orphaned wells program. As the technical lead for the onshore Federal program, the BLM coordinates the needs of Federal land management entities with surface or mineral estate responsibilities to identify and address orphaned wells through awarding and overseeing IJJA funds for plugging and remediation efforts. The cognizant Federal land management bureaus and offices within the DOI are the BLM, U.S. Fish and Wildlife Service (FWS), and National Park Service (NPS), and, outside of the DOI, the USDA's USFS.

The BLM and the OEPC provisionally approved 278 orphaned wells projects under the Federal program for FY 2022. A project may consist of assessments or the plugging and remediation of a single well or a group of wells in a small geographical area. Estimated costs for these projects—which are located across nine States in parks, refuges, forests, and other Federal surface estates—ranged from \$25,000 to \$1,540,000 each (see Figure 2). For each subsequent fiscal year, the cognizant Federal agencies will prioritize and apply for IJJA funding to further address orphaned wells in their jurisdictions.

Figure 2: IJJA Federal Orphaned Wells Program FY 2022 Approved Projects

Bureau	No. of Approved Projects	Allocated Costs for Approved Projects (\$)	Locations
FWS (DOI)	177	\$15.3 million	Atchafalaya, Black Bayou Lake, Darbonne, Deep Fork, Lacassine, and Upper Ouachita National Wildlife Refuges
NPS (DOI)	26	\$10.8 million	Big Thicket National Preserve; Channel Islands, Cuyahoga Valley, Glen Canyon, Guadalupe Mountains National Parks; Gauley River National Recreational Area; and Jean Lafitte National Historic Park
USFS (USDA)	53	\$5.0 million	Allegheny, Angelina, Daniel Boone, and Sabine National Forests
BLM (DOI)	22	\$1.7 million	Bakersfield and Moab Field Office Lands
Totals	278	\$32.8 million	

State Programs

The IJJA authorizes nearly \$4.3 billion for grants to be awarded to States for their orphaned wells programs. States with established orphaned wells programs as well as States that want to develop such programs can apply for grants under the IJJA's State funding requirements. The OEPC issued guidance for initial grants to States on April 12, 2022, and 24 States applied for those initial grants (see Figure 3). The OEPC will issue guidance for formula and performance grants¹ authorized by the IJJA, which provide funding through FY 2030.

Figure 3: IJJA State Orphaned Well Program Initial Grants as of August 25, 2022

Initial Grant Type (Large or Small)*	No. of States that Applied	Total Amount of Initial Grant Funds Requested
Large	22	\$550 million
Small	2	\$10 million
Totals	24	\$560 million

*States applying for the large grants (up to \$25 million) were subject to a May 13, 2022 application deadline. States applying for the small initial grants (up to \$5 million) are not subject to the deadline.

Tribal Program

The IJJA authorizes \$150 million for the DOI to carry out the tribal orphaned wells program. If a well on tribal land becomes abandoned or is expected to become orphaned, the BIA works with the BLM to find the responsible party. Although the BIA does not currently maintain an inventory of orphaned wells, IESC officials stated that they are developing one. Additionally, the BLM maintains limited tribal orphaned well information, which the BIA can access. The IESC is currently working with the OEPC to develop guidance for tribes to apply for IJJA tribal program grant funds.

¹The DOI plans to administer formula grants using an eligibility formula based on oil and gas industry job losses, number of documented orphaned wells, and projected costs to plug and reclaim wells and adjacent lands. The DOI plans to provide performance grants to States applying to increase spending on orphaned well programs and improving oil and gas well regulations.



Federal, State, and Tribal Programs

Responsibilities for Different Orphaned Well Scenarios

The entity responsible for plugging an orphaned well should determine well status designation, acquire funding to address the well, and perform onsite inspections of the plugging and remediation efforts. There are five common scenarios that typically affect the responsibility for orphaned wells program projects:

- 1. All Federal Estate:** When the orphaned well is located on a Federal surface estate and the mineral estate is also Federal, the BLM manages the mineral rights and coordinates with the cognizant Federal agency to plug the well using Federal orphaned wells program funding.
- 2. A Traditional Split Estate:** When the orphaned well is on a non-Federal (e.g., State or private) surface estate and the mineral estate is Federal, the BLM manages the Federal mineral rights and typically coordinates with the surface estate owner to plug the well using Federal program funding. However, the State may request to plug the well if there is a benefit to the State in doing so (e.g., to help it more easily award a contract for plugging multiple wells). The State may have a different definition² of what constitutes an orphaned well, so it must also receive concurrence from the BLM that the well is orphaned. If the BLM concurs, the State may plug the well using IJA State program funds.
- 3. A Reverse Split Estate:** When the orphaned well is on a Federal surface estate, but the mineral estate is non-Federal, either the cognizant Federal agency or the State may plug the well using its respective program funds. However, the cognizant Federal agency may need to obtain approval from the State to plug the well because the State has current jurisdiction over the minerals. In addition, States may have differing definitions of orphaned wells, so when the cognizant Federal agency coordinates with the State to plug the well, it must confirm the orphaned status with the State.

- 4. All Non-Federal Estate:** When the orphaned well is located on a non-Federal surface estate and the mineral estate is also non-Federal, the State plugs the well using State program funds.
- 5. All Tribal Estate:** When the orphaned well is located on a tribal surface estate, the mineral estate is tribal, and the land is held in trust by the Federal Government,³ the BIA or the tribe will plug the well using IJA tribal program funds. The IJA permits tribes to request that the BIA plug wells on their behalf.

Figure 4 shows the different orphaned wells project responsibilities based on these scenarios.

² The IJA contemplates that States will use their own definitions or terminology for orphaned wells. Accordingly, what constitutes an orphaned well on State land is defined by that State.

³ "Trust" status occurs when title to the resource rights (e.g., land, minerals) is held by the U.S. Government for the benefit of an individual Indian or tribe.

Well site in Deep Fork National Wildlife Refuge taken September 2022.

Photo courtesy of the FWS.





Federal, State, and Tribal Programs

Figure 4: Post-IIJA Onshore Orphaned Wells Responsibility Matrix

Scenarios	Obtaining IIJA Funding	Contract or Financial Assistance Awards Management*	Technical Inspections of Site Throughout Plugging Process
All Federal Estate	OEPC with BLM	Cognizant Federal agency	Cognizant Federal agency
Traditional Split Estate	BLM (or State program with BLM's concurrence)	BLM (or State program with BLM's concurrence)	BLM (or State program with BLM's concurrence)
Reverse Split Estate	Cognizant Federal agency or State	Cognizant Federal agency or State	Cognizant Federal agency or State
All Non-Federal Estate	OEPC via IIJA Grants	State	State
All Tribal Estate	OEPC and BLM with IESC	Tribe or BIA	BIA

*The BLM has stated that it plans to use indefinite delivery, indefinite quantity (IDIQ) contracts to consolidate funding resources efficiently. The cognizant Federal agencies can then use these IDIQ contracts for awarding well plugging contracts.

The IIJA changes some of the responsibilities for traditional and reverse split estates, as shown below in Figure 5.

Figure 5: Changes Caused by the IIJA

Estate Type	Prior to the IIJA	After the IIJA
Traditional Split Estate	The BLM was solely responsible for permitting and addressing the well operations while coordinating with the surface estate owner to address orphaned wells.	The BLM is not solely responsible for permitting and addressing the well. Instead, the State can use State program funds to plug an orphaned well after receiving concurrence from the BLM that the well is orphaned within the meaning of the IIJA.
Reverse Split Estate	The State was responsible for permitting and addressing well operations, regardless of well status.	States are responsible for the well operations, unless the well is in an orphaned or idled status . Orphaned wells can be determined or addressed by either the cognizant Federal agency or the State, and funding can come from either the IIJA Federal or State orphaned wells programs.





Federal, State, and Tribal Programs

OFFSHORE ORPHANED WELLS OVERVIEW

Offshore orphaned wells and infrastructure were not authorized specific funding in the IJJA and are instead included as part of the Federal program. For FY 2022, there are no approved offshore well projects; however, there may be projects in future fiscal years once BSEE applies for IJJA funding to plug orphaned wells. Because the Federal Government controls the OCS and associated mineral rights, it is solely responsible for addressing orphaned wells in the area, with BOEM and BSEE coordinating to lead the Federal program for offshore wells.

BOEM studies the environment and leases mineral resources on the OCS primarily to private companies for OCS drilling. It also oversees the program for obtaining bonds to cover decommissioning obligations in cases of bankruptcy or when wells or associated infrastructure become orphaned. BSEE provides regulatory enforcement of OCS oil and gas drilling and is responsible for decommissioning offshore energy infrastructure when it is no longer useful for operations to protect against threats to safety and the environment. BSEE obtains available funding from BOEM to award contracts to decommission wells and infrastructure such as pipelines and platforms.

Scope and Methodology

We conducted our inspection in accordance with the *Quality Standards for Inspection and Evaluation* as put forth by the Council of the Inspectors General on Integrity and Efficiency. To accomplish our objectives, we interviewed IJJA orphaned wells program managers to obtain an understanding of DOI and bureau orphaned wells responsibilities; conducted walkthroughs of bureau information systems to obtain information and an understanding of IJJA orphaned wells programs; researched the IJJA for program specifics; and confirmed our understanding with DOI and bureau officials.

Infrastructure Investment and Jobs Act Milestones in Year 1



December 30, 2021	Deadline for States to submit notice of intent to apply for formula grants	Complete
January 14, 2022	Establish Federal program to plug, remediate, and reclaim orphaned wells and associated pipelines, facilities, and infrastructure on Federal land	Complete
January 29, 2022	Publish the amount each State is eligible to receive in formula grants on a public website	Complete
May 14, 2022	Deadline for States to apply for initial grants funding	24 States completed applications for initial grants
November 15, 2022	First annual report due to Congress describing programs established and grants awarded under the IJJA	Complete



LOOKING AHEAD

The DOI has stated that it will award most of its IJJA funding through contracts and grants. As we have experienced in other contexts, given the large amount of funding that is being quickly distributed, there is an increased risk of fraud and misuse. Our current and planned oversight efforts of the orphaned wells program include the following:

Current Oversight Efforts

- We are reviewing the status of recommendations in an evaluation (Report No. 2016–EAU–061, *Bureau of Land Management’s Idled Well Program*) of the BLM’s idled well review policy and data entry in its Automated Fluid Minerals Support System. This system is used to track oil and gas information on public and tribal lands.

Planned Oversight Efforts

- We plan to review bureaus’ data availability and accuracy for monitoring and reporting on orphaned well activities and perform data analysis to identify potential weaknesses, risk areas, and other orphaned wells data concerns.
- We plan to review contract and grant cost oversight and compliance with Federal regulations, award terms, and the IJJA.

To prevent fraud, waste, and abuse, our office anticipates that we will regularly:

- Host discussions and provide training to DOI employees, grant recipients, and contractors.
- Enhance detection through data analysis and the development of sources of investigative information.
- Improve oversight through focused training of investigators, auditors, and inspectors.
- Coordinate oversight efforts throughout the Inspector General community and share results, trends, and best practices.



REPORT FRAUD, WASTE, ABUSE, AND MISMANAGEMENT

The Office of Inspector General (OIG) provides independent oversight and promotes integrity and accountability in the programs and operations of the U.S. Department of the Interior (DOI). One way we achieve this mission is by working with the people who contact us through our hotline.



If you wish to file a complaint about potential fraud, waste, abuse, or mismanagement in the DOI, please visit the OIG's online hotline at www.doioig.gov/hotline or call the OIG hotline's toll-free number: **1-800-424-5081**

Who Can Report?

Anyone with knowledge of potential fraud, waste, abuse, misconduct, or mismanagement involving the DOI should contact the OIG hotline. This includes knowledge of potential misuse involving DOI grants and contracts.

How Does it Help?

Every day, DOI employees and non-employees alike contact the OIG, and the information they share can lead to reviews and investigations that result in accountability and positive change for the DOI, its employees, and the public.

Who Is Protected?

Anyone may request confidentiality. The Privacy Act, the Inspector General Act, and other applicable laws protect complainants. Section 7(b) of the Inspector General Act of 1978 states that the Inspector General shall not disclose the identity of a DOI employee who reports an allegation or provides information without the employee's consent, unless the Inspector General determines that disclosure is unavoidable during the course of the investigation. By law, Federal employees may not take or threaten to take a personnel action because of whistleblowing or the exercise of a lawful appeal, complaint, or grievance right. Non-DOI employees who report allegations may also specifically request confidentiality.