

# Bipartisan Infrastructure Law:

## Public Webinar on Orphaned Wells State Formula Grant Draft Guidance

*Orphaned Wells Program Office  
U.S. Department of the Interior*

**March 2, 2023**



# Webinar Run of Show

- Welcome and Introduction
  - Steve Feldgus, Deputy Assistant Secretary for Land and Minerals Management
- Overview of orphaned wells program
  - Kimbra Davis, Director, Orphaned Wells Program Office
- Overview of formula grant draft guidance
  - Peter Gallagher, Advisor – Orphan Wells
- Comments from pre-registered webinar attendees
- If time remains, comments from attendees that did not sign-up to speak
- End of webinar

# Establishment of the Orphaned Wells Program

- The Infrastructure Investment and Jobs Act (IIJA) (Public Law 117-58) was signed into law on November 15, 2021.
- Also known as the Bipartisan Infrastructure Law (BIL).
- Section 40601 of the BIL establishes the Orphaned Well Program to address legacy pollution, including methane emissions and water contamination.
- On January 10, 2023, Secretary Haaland established the Orphaned Wells Program Office within the Department of the Interior (DOI).

# Establishment of Orphaned Wells (cont.)

## Title VI – Methane Reduction Infrastructure

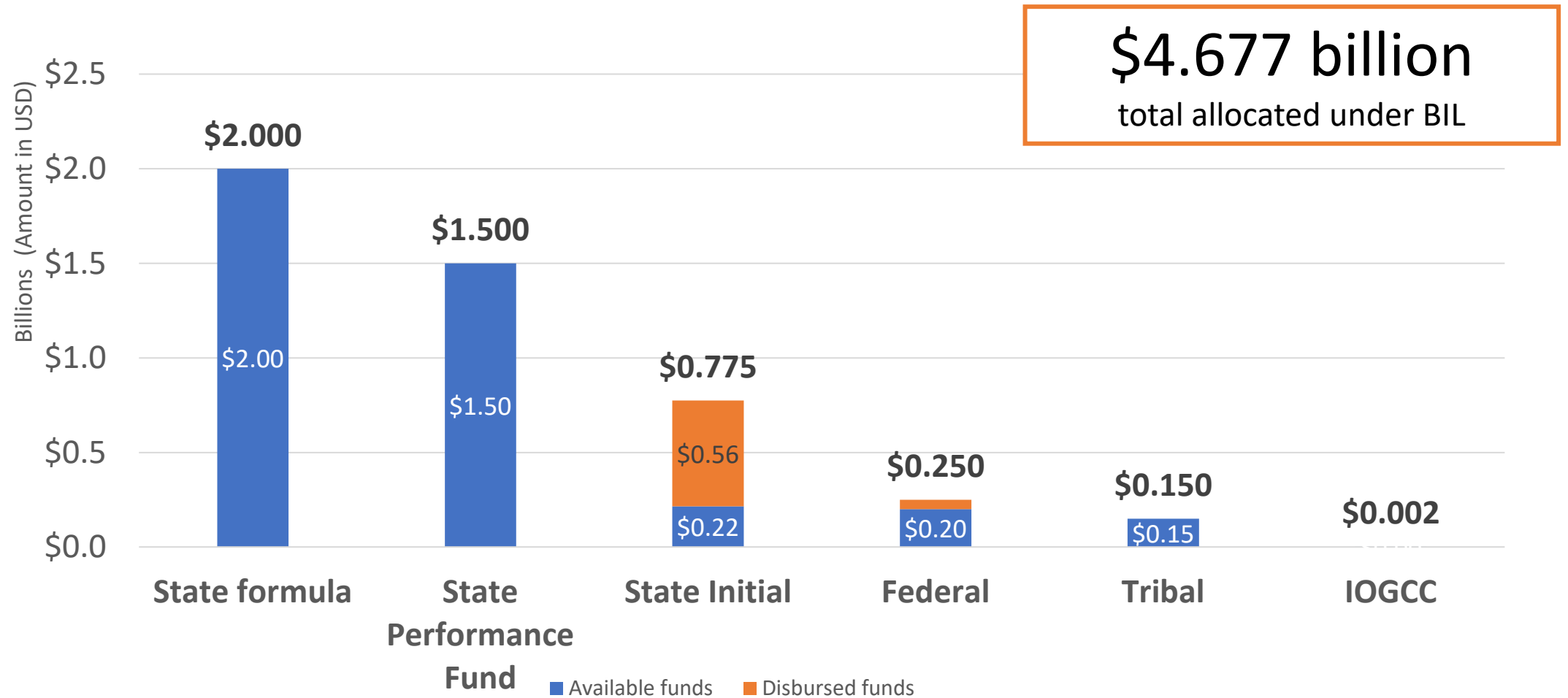
### Section 40601: Orphaned Well Site Plugging, Remediation, & Restoration

- \$4.677 billion total
  - Available until 9/30/2030
1. State and Tribal Grant Program
    - \$4.3 billion for State and private lands
    - \$150 million for work on Tribal lands
  2. Federal Program

BLM, NPS, FWS, BSEE, USFS

    - \$250 million

# Allocations of funds under the BIL



Note: The Bill allows up to 3% of available funding for administrative costs and a directed transfer to the Office of the Inspector General of 0.5% of available funding

# Definitions – Orphaned Well

- With respect to **State or private land** –
  1. has the meaning given the term by the applicable State; or
  2. if that State uses different terminology, has the meaning given another term used by the State to describe a well eligible for plugging, remediation, and reclamation by the State.

\*\*The BIL does not restrict funding to orphaned oil or gas wells\*\*

# Eligible Uses of Funds

1. **Plug, remediate, & reclaim** orphaned wells
2. **Identify and characterize** *undocumented* orphaned wells
3. **Rank** orphaned wells based on factors including, public health / safety, potential environmental harm, & other land use priorities
4. Make information available on a **public website**
5. **Measure and track** –
  - emissions of **methane** and other gases associated with orphaned wells
  - **contamination** of groundwater or surface water
6. Remediate soil & **restore native species habitat** that has been degraded due to the presence of orphaned wells & associated pipelines, facilities, infrastructure
7. Remediate land adjacent to orphaned wells and decommission or remove associated **pipelines, facilities, infrastructure**
8. Identify and address any **disproportionate burden** of adverse human health or environmental effects of orphaned wells on communities of color, low-income communities, and Tribal & indigenous communities

# State Grants

- Three types of orphan well state grants: Initial, Formula, and Performance
- Initial Grant (up to \$775 million)
  1. Small-scale: up to \$5M - 2
  2. Large-scale: up to \$25M - 22
    - Large-scale application deadline 5/13/22
    - Awards in August (24 states, \$560M)
    - Small-scale application period remains open
- Formula Grant (\$2 billion)
- Performance Grants (\$1.5 billion)

Draft guidance in early stages of development

  1. Matching Grants
  2. Regulatory Improvements Grants



# State Formula Grants

- Formula Grant (\$2.0 billion total) factors:
  1. Job losses in O&G industry
  2. Number of documented orphaned wells
  3. Cost of plugging, reclamation, removal of associated infrastructure
- State NOI Formula Grant deadline: 12/31/21 (26 states).
- Total formula funding available in Phase 1 is \$500 million (out of \$2 billion total).
- Draft guidance released on January 30, 2023.
- Considering comments from States, NGOs, industry, and public stakeholders to improve and further refine guidance.
- Comments on the draft guidance can be emailed to [orphanedwells@ios.doi.gov](mailto:orphanedwells@ios.doi.gov)
- Comment period ends **March 24, 2023**.

# State Formula Grant Phase 1 Eligibility

State	Phase One Formula Eligibility	State	Phase One Formula Eligibility
Alabama	\$436,000	Missouri	\$6,975,000
Alaska	\$7,341,000	Montana	\$1,331,000
Arizona	\$1,262,000	Nebraska	\$1,075,000
Arkansas	\$1,448,000	New Mexico	\$18,720,000
California	\$36,495,000	New York	\$11,573,000
Colorado	\$14,006,000	North Dakota	\$14,318,000
Illinois	\$9,553,000	Ohio	\$59,852,000
Indiana	\$3,647,000	Oklahoma	\$53,168,000
Kansas	\$8,722,000	Pennsylvania	\$79,178,000
Kentucky	\$20,461,000	Texas	\$82,563,000
Louisiana	\$22,396,000	Utah	\$1,355,000
Michigan	\$1,522,000	West Virginia	\$30,293,000
Mississippi	\$1,770,000	Wyoming	\$10,539,000
		<b>TOTAL</b>	<b>\$500,000,000</b>

# Guidance Comparison

## Initial Grant Guidance

- Standard Forms (424, 425, etc)
- Quarterly reporting (12 months to obligate)
- Davis-Bacon Act compliance
- BABA compliance
- 10% cap on admin costs (lg-scale grants)
- Obligate 90% in 90 days (lg-scale grants)
- *Recommended* Elements
  1. Measure or estimate methane flow
  2. Measure or estimate SW/GW contamination
  3. Use Data Reporting Template (lat/longs, API, g/hr, acres restored)
  4. Identify & address disproportionate burden...

## Draft Formula Grant Guidance

- Standard Forms (424, 425, etc)
- Semi-annual Reporting (5 years to obligate)
- Davis-Bacon Act compliance & certification
- BABA compliance & additional text
- 10% cap on admin costs
- Other *Required* elements
  1. Measure methane flow, if detected
  2. Measure and track SW/GW contamination
  3. Use Data Reporting Template (lat/longs, API, g/hr, acres restored)
  4. Identify & prioritize wells within 0.5 miles of communities...
  5. Well documentation (or reduced funding)
  6. Financial assurance certification
  7. Use DOI methane protocol

# Phasing & Formula Updates

## Phase 1 = \$500M Total (of \$2B)

### Why?

- Inventory and costs are moving targets
- NOIs identified 129,088 documented OWs in 26 States
- 7 States will plug as many or more wells with Initial State Grants than reported for the NOI
- 4 States will plug ~half of their NOI wells with the Initial State Grants
- Should these 11 States forego their Formula Grant funding even as they find more eligible wells?
- Inventory is an eligible use of funds and new wells are documented regularly and need to be plugged

### Please comment:

- 2 Phases, with one recalculation of the formula for the remaining \$1.5B?
- 4 Phases of \$500M each, with a formula recalculation prior to each phase?
- No phases? Other ideas?

# Application Period

## **Phase 1 = 6 month rolling applications**

### Why?

- States are in different levels of readiness to apply for the Formula Grants, with different timing needs
- Grant processing workload would be distributed over time
- Unused funds would be rolled into the next Formula Phase and subject to recalculation
- Several States have indicated that Formula funds will be needed before Initial State Grant funds expire (10/1)

### Please comment:

- Shorter application period?
- Longer application period?
- Other ideas?

# Environmental Justice

## IV. C. Other Required Elements

### iv. Work Plan

(e) Details of ***how the State will identify and prioritize*** well plugging and site reclamation that will remedy disproportionate burdens of adverse human health or environmental impacts of orphaned wells on communities of color, low-income communities, and Tribal and indigenous communities

## IV. D. Restrictions on funding use

iii. Consistent with Sec. 40601(c)(2)(A)(viii), States will identify and factor into their project prioritizations ***orphaned wells within 0.5 miles*** of communities of color, low-income communities, and Tribal and indigenous communities. Identification of such communities will utilize established tools, such as ***EJScreen*** or ***CEJST***.

# Methane Measurement

## V. Standards for Measurement, Plugging, and Remediation

- i. States will conduct an inspection of each orphaned well site being considered under this grant to screen for leaks of methane and other gases—***and if identified to measure the rate of such leaks***
- ii. States will follow the methane protocol developed by the Department of the Interior

## VIII. Reporting Requirements

### E. Data Collection and Reporting

- i. (e) Pre-plugging methane emission ***measurement*** (unless initial screening was non-detect);
- i. (f) Post-plugging methane emission ***measurement*** (or non-detect screening);

# DOI Methane Protocol

- Guidelines were researched, discussed, and prepared by an interagency team that met from August 2021 through March 2022. Published by DOI in April 2022.
- The protocol is designed to classify methane emissions from a well into one of three categories:
  - Not-detected: Emissions are not higher than background levels.
  - Detected: Emissions are higher than background levels.
  - Detected and may be high: Emissions are higher than background levels and any one of five qualifying criteria are present that indicate emissions rates may be high.
- Pre-classification into one of three categories can help decision-makers to prioritize wells for plugging based on anticipated relative methane emissions.
- The methane protocol includes a detect/non-detect threshold to decide if further analysis is necessary. **As part of this initial screening step, states are not required to calculate an emissions leak rate (grams/hour) at each well.** Finding a concentration measurable in ppm or percent volume is adequate to determine if further analysis is necessary at the well site.
- For details, see the DOI protocol: <https://www.doi.gov/sites/doi.gov/files/federal-orphaned-wells-methane-measurement-guidelines-final-for-posting-v2.pdf>



# Next Steps, Contacts, and Resources

- Comments sought through **March 24** and may be emailed to:  
[Orphanedwells@ios.doi.gov](mailto:Orphanedwells@ios.doi.gov)
- Once received, States have 5 years to obligate formula grant funds. Unobligated funds must be returned to DOI. “Obligate” is a legal term meaning that a state has made a definite commitment, such as a contract, to spend the money. “Obligate” does not mean the money must be received by the state’s counterparty. As long as a state has obligated the money by entering into contracts or other commitments before the deadlines, that state will have complied with the BIL.
- Orphaned Wells Program Website:  
[www.doi.gov/oepr/legacy-pollution-remediation-and-reclamation](http://www.doi.gov/oepr/legacy-pollution-remediation-and-reclamation)