

TO: Casey Hammond
Assistant Secretary for Land and Minerals Management
United States Department of the Interior
1849 C Street NW, Washington, DC 20240

Dec. 4, 2019

Dear Mr. Hammond,

Thank you for taking a few minutes to talk to IPANM members on Tuesday, Dec. 3, 2019, regarding our significant concerns over BLM Rights-of-Way (ROW) Bonding issues. We hope you understand how this effort, underway in the BLM Farmington Field Office, is impacting all oil and gas operators, independent operators in particular. The potentially large bonds considered here will constitute a larger portion of an independent operator's budget. We share the desire to commit to reclamation efforts on the part of operators, but we believe there is a more pragmatic approach that won't cause a severe and, in some cases, catastrophic financial burden.

The following list of points summarize our understanding of the current situation related to the BLM ROW Bonding in New Mexico, as first triggered by notifications sent out to operators in the San Juan Basin from the BLM Farmington District Office:

- At your direction per our conference call discussion yesterday, operators who received some form of notification from BLM offices in New Mexico regarding ROW authorizations, renewals, amendments and relinquishment should pause on any administrative processing of those ROWs bonding issues until further direction from you and your office.
- Discussions between New Mexico BLM Director Tim Spisak and industry have led to a tentative proposal that would allow a federal blanket bond vs. individual bonds for ROWs in use by any single operator. However, the monetary amounts of bonding remain unclear. Proposed calculations indicate that BLM would require full reclamation cost bonding levels per ROW to be kept under a single, cumulative "running tab" of each of the operator's individual bonds.
- Southeast New Mexico operators in the BLM Carlsbad District Office have now begun receiving ROW bonding notices similar to those issued to Northwest New Mexico operators. The BLM Carlsbad District Office has already reached out to industry representatives, including IPANM, to begin a stakeholder process to discuss implementation of this effort in Southeast New Mexico in the Permian Basin. We have been told they are "on hold" with their efforts until industry concerns related to Farmington Field Office's actions are resolved.

As we have started applying the [Instruction Memorandum](#) (IM), it has become very obvious that the administrative burden on both the BLM and every operator would be very onerous if they have to keep track of which bond covers which ROW. As ROW's are bought and sold, releasing bonds and requiring new bonds will require a lot of time from both parties. In some cases, acquisition sales from one operator to another includes the transfer of hundreds of ROWs.

We sincerely appreciate New Mexico BLM Director Tim Spisak's good faith efforts find a resolution to industry's concerns. However, there remains two central problems with the updated,

tentative blanket bonding proposal. First, the bonding amount is still tied to individual ROWs. Thus, as acquisitions and divestitures are made, the amount of the blanket bond would be constantly changing. Securing a bond is not that simple for operators and having the BLM release a bond is even more difficult. Second, the amount of the bond is calculated to be the total cost of all ROW remediation obligations as though all of an operators ROW's would have to be remediated at once. This is quite unreasonable. Most small operators have to back up the full face value of any bonds with cash, a CD, or a personal guarantee. The proposed amount of the bonds would wipe out the funds operators need for operations and growth.

As discussed during our conference call yesterday, IPANM would like to propose the following alternatives to meet the shared goal of environmental protection through reclamation without threatening the financial solvency of operators:

- The implementation of ROW bonding amounts in line with those already utilized for wellsite financial assurance, those being a tiered blanket bond approach, including:
 - \$10,000 for a single ROW.
 - \$25,000 for a statewide bond covering all BLM ROW in a state.
 - \$150,000 for a nationwide BLM ROW bond covering all BLM ROWs.
- The BLM already has a formula that adjusts the minimum amounts of bonding (listed above) to account for the number of marginal wells that an operator has that would be closer to the end of their lifespan than a company with a lot of newly drilled wells. We not aware that the bonding requirements ever exceed \$150,000.

The tiered bonding approach described above would help in reducing the administrative and financial burden on oil and gas operators, and it would certainly reduce the burden on the BLM field offices. Likewise, the tiered bonding approach provides the assurance for reclamation of federal ROWs which, again, is not a significant problem in the field.

Finally, we'd like to offer you a chronological background summary of what has transpired on the overall BLM Rights-of-Way Bonding Issue in the United States:

1. During the prior federal administration, a BLM Wyoming Field Office decided to implement these new, extraordinarily high financial assurance bonding requirements individual ROWs on Wyoming federal lands. Again, the new ROW bonding was inconsistent with all other bonding level requirements, including wellsites.
2. Many operators in Wyoming objected to the significant cash bond amounts being imposed, especially without any clear evidence of delinquent reclamation cases on the part of operators. (We don't believe that the BLM has ever had to reclaim a ROW in the BLM Farmington Field Office.) In short, the BLM actions represented a costly and unnecessary solution in search of a problem.
3. Since the BLM Wyoming Field Office's implementation of ROW bonding requirements, operators attempting to bond ROWs on federal land in Wyoming have encountered inconsistencies in implementation of an already-vague requirement, especially regarding the amount of a large individual bonds required to cover these unprecedented full reclamation costs.

4. Many of our same IPANM operators (who also have holdings on these BLM lands in Wyoming) have attempted to move forward on ROW bonds in Wyoming. However, these operators report each new individual ROW bonding process is inconsistent, and ultimately turned into drawn out negotiations to reach a bonding level acceptable to the Wyoming Field Office.
5. As a result of the BLM Wyoming Field Office's ROW interpretation, it is IPANM's understanding that the BLM issued the [IM](#) in November of 2018 to essentially bring Wyoming's process to the rest of the country. As demonstrated, we believe this approach is highly problematic for both the BLM and operators.
6. The BLM Farmington District Field Office was selected as the next field office after Wyoming to carry out a full implementation of the IM. A BLM "Strike Team" is working with the Farmington District Office to assist in working through a backlog of ROW applications.
7. IPANM's numerous conversations with local, state and federal BLM officials confirm the BLM Carlsbad District Office is now beginning to send out their own notifications to Southeast New Mexico operators.

In summary, we strongly feel that the bonding requirements for BLM Rights-of-Way are different than any other bonding we've encountered in the Oil & Gas industry and other industries. Essentially, the BLM is requiring the equivalent of a full pre-payment of reclamation costs to conduct business, which is unprecedented. As operators on our public lands, we accept the responsibility of reclamation for our activities. However, the ROW bonding requirement as presented in the IM is unworkable for most operators on federal lands.

On behalf of the 350+ members of IPANM, we truly appreciate your time and efforts in this serious matter. We appreciate you taking the time to listen to our concerns and we hope the BLM will consider a more pragmatic approach and make immediate changes for BLM ROW bonding. We stand ready to provide input and comments to assist in developing a reasonable path forward for ROW reclamation assurance. As discussed during our conference call, we will follow up the second week of December for a response to our concerns and requests.

Highest regards,

Jim

Jim Winchester
IPANM Executive Director

