



CREATING GOOD JOBS, A CLEAN ENVIRONMENT, AND A FAIR AND THRIVING ECONOMY

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BlueGreen Alliance
Sean Gordon, Associate Policy Advisor
1020 19th St., NW | Suite 750
Washington, DC 20036
sgordon@bluegreenalliance.org

Comments on the Department of Interior's Orphaned Well Program (State Formula Grants)

The BlueGreen Alliance unites America's labor unions and environmental organizations to solve today's environmental challenges in ways that create and maintain quality jobs and build a stronger, fairer economy. Our partnership is firm in its belief that Americans don't have to choose between a good job and a clean environment—we can and must have both. We appreciate the opportunity to inform the Department of Interior's (DOI) implementation of the state and federal orphaned well program established in the Infrastructure Investment and Jobs Act (BIL).

Orphaned Well Cleanup Will Reduce Pollution and Create Jobs

Cleaning up orphaned wells in the U.S. is a great example of how America's environmental challenges can also be economic opportunities. In communities across the country, these wells pose significant public health and environmental hazards, often leaking methane gas, contaminating surface and groundwater, and degrading ecosystems. Orphaned wells (and pollution from leaking wells and associated infrastructure) are widespread in states where BGA works, especially in Appalachia and the southern midcontinent. This pollution harms the health of nearby communities, livestock and wildlife, while jeopardizing economies dependent upon outdoor recreation industries, farming and ranching.ⁱ

Reclamation not only remediates the host of environmental and health problems associated with these sites but also frees up land for new economic development opportunities in industry sectors like agriculture, recreational tourism, manufacturing, and clean energy production. Cleaning up these wells also creates immediate job opportunities. A BlueGreen Alliance analysis found that the BIL's \$21 billion investment in the remediation of Superfund, Brownfield, mine, and orphaned wells would create more than 150,000 jobs (direct, indirect, and induced) over the next 10 years. Orphaned well cleanup could create over 33,000 of those jobs.ⁱⁱ

Reducing Remediation Costs and Increasing Effectiveness of Federal Investments

In a 2021 analysis from Resources for the Future (RFF), researchers found that the median cost of plugging and reclaiming a well was \$76,000, a figure that can vary widely depending on the age, location, and depth of the well. While the estimated cost for plugging a well without surface reclamation can run as low as \$20,000, going beyond this initial step to reclaim and restore the site surface can lead to additional ecosystem benefits such as agricultural use and carbon dioxide (CO₂) sequestration.ⁱⁱⁱ

Encouraging the aggregation of bids could also increase the profitability of undertaking reclamation work while attracting more union firms. Individual well closure projects are often too small (by dollar value) to attract union contractors. This could be addressed by prioritizing more large orphaned well projects and by bundling smaller orphaned well projects. Aggregating projects into larger state contracts can also improve the efficiency of this funding. An RFF analysis of almost 4,000 contracts found that contracting in bulk could reduce per-well costs by over 3% per well, meaning that aggregation of contacts would make such work more lucrative for unionized firms.^{iv} As an example, the area based closure program, a collaborative initiative in Alberta, Canada, encourages oil and gas companies to work together to close, reclaim, and restore inactive sites. In 2019, this program increased closure activity by 19%, while reducing closure activity costs by 40%.^v Given these benefits, we encourage the Department of the Interior to emphasize project aggregation in its program guidance for state formula grants.

Attracting firms that employed skilled workers can bring vital benefits to these projects, including raising the quality of work and ensuring the greatest total reduction of methane emissions. If wells are not properly sealed by skilled workers, we will not see the climate and health benefits that are at the core of this program. Reducing the large amounts of methane emissions leaking from orphaned wells by properly plugging and restoring well sites will protect workers and communities, reduce pollution, and reap economic benefits for workers and communities across the country.

Creating High-Quality Jobs

DOI should consider the following high-road labor standards to ensure that projects create high quality jobs.

- **High-Road Wages.** Higher wages can attract highroad contractors employing skilled professionals who perform high quality work, helping projects meet construction milestones on-time and safely, without increasing total construction costs. Higher wages can have long-term economic benefits to a community and create a long-standing professional workforce for future projects. We appreciate the strong Davis Bacon provisions in the draft guidance. At the same time, Davis Bacon should be considered the floor of what the DOI can do to ensure job quality through this program.
- **Project Labor Agreements (PLAs).** Construction projects not subject to EO 14063 can still benefit from a PLA. These agreements control the terms and conditions of employment of workers on specific construction projects—including wages, hours, working conditions, and dispute resolution methods. PLAs can be utilized at the state and local level to ensure high-road labor standards and timely projects.
- **Community Benefits Plans.** DOI should consider conditions on these Formula Grants that support a meaningful engagement process with workers and communities. We encourage DOI to follow the example set by the Department of Energy in its Regional Clean Hydrogen Hubs FOA in order to ensure this funding leads to the employment of workers from local communities, and encourages broader pathways into good-paying jobs.

The Department of Energy’s Regional Clean Hydrogen Hubs [Funding Opportunity Announcement \(FOA\)](#) requires significant assessments of the communities that will be affected by the project, and engagement with relevant stakeholders. Applicants must develop a Community Benefits Plan (CBP) to describe their proposed actions for 1) community and labor engagement; 2) investing in the American workforce; 3) advancing diversity, equity, inclusion, and accessibility (DEIA); and 4) contributing to the Justice40 Initiative.

Components of the Community Benefit Plan include:

- A Social Characterization Assessment, where applicants include a brief writeup of the community dynamics, decision making processes, etc
- An Initial Stakeholder Analysis Summary, where applicants identify the stakeholders, sectors, labor unions, communities,

organizations, etc., involved with and affected by the upcoming project; and

- A Two-Way Engagement Statement where the applicant should include a statement discussing how program implementation incorporates community input for the project and the extent to which the host communities have indicated support.

Federal agencies are encouraged to require all three assessments in upcoming funding opportunities. The three documents work in tandem towards the goal of prioritizing the needs of affected communities while creating a platform for participation in the decision making process of project implementation

Worker safety and health and the right to organize a union are addressed in the required CBPs. Applicants must “describe the applicant’s comprehensive plan for the creation and retention of high-paying quality jobs and development of a skilled workforce. The plan must include a description of the proposed effort to include workers in the design and execution of workplace safety and health plans and how workplace health and safety and the right to join a union will be ensured. The DOE FOA for Hydrogen Hubs also requires the development of a plan to comprehensively analyze and manage all risks and build and maintain a strong safety culture that encourages open communication about safety and lessons learned. The plan must also address how workers will be protected from harassment and discrimination, how retention rates will be measured, and how worker and workplace concerns will be addressed.

The Community Benefits Plan must also analyze the existing burden on disadvantaged communities using EPA’s EJ Screen and the Department of Energy’s Energy Justice Dashboard. The potential benefits and harms of the proposed project must be determined and those findings must be shared with local community organizations, labor unions, Tribes and other concerned groups. **The FOA lays out how those discussions should lead to negotiated Community Workforce Agreements (CWA), Project Labor Agreement (PLAs), collective bargaining agreements and Community Benefit Agreements (CBA) that reflect community input and outline how the potential harms will be avoided and the benefits will be reached.**¹ A Community Workforce Agreement (CWA) or

¹ Community Benefits Plans and Community Benefits Agreements are not interchangeable. CBPs are typically created by developers as a way to demonstrate their commitment to community benefits, while CBAs are legally-binding agreements between developers and community groups that ensure that specific community benefits are provided. While both CBPs and CBAs can be effective ways to promote community benefits, CBAs offer several advantages over CBPs. CBAs provide a higher level of accountability and enforceability, as they are legally-binding and require developers to commit to specific benefits. CBAs also involve community groups in the negotiation process, ensuring that their voices and needs are heard and reflected in the final agreement.

Community Benefit Agreement (CBA) is an enforceable contract, supplemental to a PLA or collective bargaining agreement that reflects community input and outlines benefits for the community where the project is happening. CWAs and CBAs are beneficial tools for communities when included in PLAs, as they can be more expansive in scope and are sometimes negotiated with both union and community partners. CWAs frequently include local hire provisions, targeted hire of low-income or disadvantaged workers, and the creation of pre-apprenticeship pathways for careers on the project.

- **Targeted Hire.** Targeted hire provisions—often a key feature of CWAs—mandate or incentivize the hiring of workers on a project from certain communities, which may include women, people of color, veterans, the formerly incarcerated, indigenous people, economically disadvantaged communities, communities heavily impacted by climate change or climate change policies, workers dislocated by the energy transition, and many others. These communities may be targeted through contracting requirements, hiring requirements, or the use or establishment of pre-apprenticeship programs. Ideally, these provisions establish long-lasting pipelines for members of disadvantaged communities to access good jobs and careers in the clean economy. We were encouraged to see this provision included as a requirement of each state’s work plan.
- **Local Hire.** Local hire provisions mandate or incentivize the hiring of workers from within the state or local community. Without this provision, work crews from out of state can be brought in, minimizing the job creation benefits for the local community. Local hire provisions may mandate a certain percentage of local workers be used, they may offer incentives to hire local workers, or they may simply require that local employment impacts are considered alongside other benefits of projects being evaluated. Entities receiving funds should work to identify existing community networks for recruitment of disadvantaged workers. We appreciate DOI requiring states to provide details around local hire in work plans.
- **Registered Apprenticeship, Pre-Apprenticeship, and Labor Management Partnerships.** One of the main mechanisms for building career pathways is through registered apprenticeship, pre-apprenticeship, and other union-affiliated training programs.

Apprenticeships are registered through a state apprenticeship agency or through the Federal Department of Labor. Registered apprenticeships are paid positions that combine on-the-job training with classroom instruction in a trade. Construction unions operate robust registered apprenticeship programs while industrial unions work with employers on joint labor management training programs that also provide a combination of classroom and on-the job skills training. Pre-apprentice programs aim to ensure that workers can qualify for entry into an apprenticeship program and have the skills and support they need to succeed. These programs are generally designed to target certain populations or demographics such as low-income workers, workers of color, women, and other marginalized communities. Additionally, many unions offer training throughout a member's career to enable them to stay up to date with changes in technology. The most successful pre-apprenticeship programs are those affiliated with registered apprenticeships or other contractually agreed on-the-job training programs. DOI should require or incentivize pre-apprenticeship opportunities targeting disadvantaged communities that are linked to registered apprenticeship programs and/or other union-affiliated training programs. DOI should also award funding to entities that integrate pre-apprenticeships with community-based "wrap around" services to maximize retention of disadvantaged and underrepresented workers as they enter careers. We appreciate that DOI's draft guidance required information on training programs, pre-apprenticeships and registered apprenticeships to be submitted with the state work plan.^{vi}

DOI should consider additional high-road labor standards, such as: respect of workers' organizing rights; occupational health and safety standards and programs; avoidance of misclassification, and excess use of contracted or temporary employees; and omitting or limiting drug testing or background checks. In addition, DOI should engage with the U.S. Department of Labor (DOL), including the Employment and Training Administration (ETA) and Good Jobs Initiative in particular, to establish these standards and determine what information and tools DOL can provide to support the identification and categorization of job opportunities for local workers. We encourage DOI to sign a Memorandum of Understanding with DOL in order to ensure a consistent application and enforcement of high-road labor standards.

Completing orphan well plugging and remediation work effectively will require a well-trained workforce. To ensure the availability of a skilled workforce to

conduct these projects, the DOI should follow the example set by the Department of Transportation (DOT) with its use of highway funding for workforce development. The DOT has leveraged funds from the BIL to improve workforce development programs by providing a 100% federal cost share of local and state projects that support one of the following four goals: increasing women and minority participation, addressing workforce gaps, building skills supporting emerging transportation technologies, and attracting new sources of job-creating investment. DOI should consider approaches to create dedicated federal funding for workforce development activities and that allow states flexibility in meeting their workforce needs.

Finally, in addition to creating high-quality jobs completing reclamation and remediation of orphaned well sites, it is imperative that the materials purchased and utilized for this program support American manufacturing, and workers and communities at home. We applaud DOI's inclusion of domestic content preferences within the draft guidance and recommend robust enforcement of these provisions to ensure the promise of high-quality job creation in reclamation and remediation work is realized.^{vii}

Program Structure and Reporting

Prioritizing the Most Dangerous Wells

States with existing orphan well plugging and remediation programs generally prioritize well closure based on their risk to public health and the environment. The Abandoned Mine Land (AML) Program can serve as a model for the DOI when prioritizing wells for reclamation on federal lands, addressing states without prioritization criteria, and evaluating the prioritization used by states applying for grants. Through the Surface Mining Control and Reclamation Act (SMCRA), States and Tribes reclaim coal mine sites abandoned pre-1977. The AML program has reclaimed nearly 800,000 acres of damaged land and water across the country.^{viii} Over the course of its first 40 years, it eliminated over 46,000 open mine portals, reclaimed over 1,000 miles of dangerous highwalls, and protected 7.2 million people nationwide from AML hazards.^{ix} States and Tribes in the AML program rank AML sites on a priority scale of 1 to 3, with priority 1 and 2 sites completed first. Priority 1 sites are those impacting the environment that pose “extreme danger” to public health and safety, and priority 2 sites are those that pose “adverse effects” to public health and safety.^x While we were encouraged to see that DOI is asking states to identify how their methodology and process for prioritizing wells in state work plans, we urge DOI to offer more concrete guidelines for how states should prioritize well cleanup.

Because orphaned well sites are leaking methane and volatile organic compounds (VOCs) and threatening public health, prioritizing well sites that are causing the highest levels of public harm and environmental degradation through a priority designation similar to that within the AML program would ensure the most harmful, unsafe, and/or highest emitting well sites are remediated first. One major constraint of this approach is its inability to prioritize projects that are also linked with long-term economic development and job creation efforts, given the AML program's strong focus on remediating the most harmful sites first.

Creating Economic Opportunities

The RECLAIM Act (H.R.1733/S.1455), introduced in the 117th Congress, offers a potential model for states to follow to ensure that well remediation also creates economic opportunities. The bill would amend the existing AML program to target projects in communities that have suffered from a decline in the coal economy and require local stakeholder collaboration in development goals and planning. DOI may expand the benefits of the orphaned well program to rural and disadvantaged economies by including metrics that evaluate economic conditions and opportunities, local stakeholder engagement in the development of plans, and the demographic makeup of the community. For example, communities that have experienced a decline in oil and gas development may benefit—and have sufficient local skilled labor available to do the work—by prioritizing reclamation in those regions.^{xi}

Additionally, if communities have identified that reclamation work is an important local economic development initiative, DOI may be a valuable partner in achieving local goals by targeting cleanup in those regions. Finally, because DOI is investing significant revenue toward cleanup, tracking and reporting numbers of jobs, wages, and total investment in cleanup at each well site will assist local agencies, states, and stakeholders to recognize the economic impacts of reclamation (as in the RECLAIM Act we mentioned above).

Protecting Communities

Analysis from the Environmental Defense Fund (EDF) found that an estimated 9 million Americans live within one mile of an orphaned well, which includes 4.3 million people of color and 550,000 children under the age of five.^{xii}

It is imperative that DOI meaningfully engage with environmental justice and frontline groups during the implementation of this program, as these communities often endure the brunt of pollution and contamination from

oil and gas operations.^{xiii} We are encouraged by the incorporation of equity considerations in DOI's draft guidance, including recommending state work plans use the CEQ's [Climate and Economic Justice Screening Tool](#) to identify the processes and methodology used to "identify and prioritize orphaned wells based on threats to public health and safety, environmental harm—particularly harms due to methane emissions—and other land use priorities, including the remediation of hazardous sites in overburdened and underserved communities."^{xiv} The draft guidance also requires that states 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, utilizing the CEQ's [Climate and Economic Justice Screening Tool](#) and the EPA's [EJScreen](#). However, identification of communities does not necessarily equate to meaningful community engagement during project development. We encourage DOI to add Community Benefits Plans and/or Community Benefits Agreements as a condition of funding to better ensure communities see benefits from these projects.

Lastly, because of the negative environmental and health effects of orphaned wells and their close proximity to communities across the country, DOI should update its orphaned well inventory to better reflect the number, size, and type of orphaned wells under its management. This information should be stored as a publicly available database that citizens, state agencies, and communities can easily access.

Building State Capacity for Effective Remediation

The cost of fully cleaning up every orphaned well across the country will be more than the \$4.7 billion authorized in the BIL. Identifying any and all other programs across agencies that can be leveraged to support complete cleanup may be a way to maximize BIL funding. Identifying complementary funding to complete cleanups ahead of time will ensure seamless continuation of the cleanup project. Ensuring that projects utilizing different funding sources can be completed at once will be more cost effective overall and avoid potential administrative and cost delays. While BIL funding may get contractors interested in bidding on work, additional available funding will allow for more site cleanup without hiring delays and long gaps between projects. More funding will be needed to fully address the scope of the problem.

Finally, it is important that the state agencies implementing plugging and remediation activities through state programs are sufficiently funded and staffed to complete proper oversight and administration of the program.

Conclusion

We welcome the continued rollout of DOI's orphaned well remediation program and appreciate the opportunity to provide further comments on how that program can be implemented in ways that create high-quality, family-sustaining jobs, reduce methane emissions and pollution, and leave behind healthier and cleaner communities.

ENDNOTES

ⁱ Pew Charitable Trusts, Why 'Orphan' Oil and Gas Wells are a Growing Problem for States, July 9, 2018. Available online: <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2018/07/09/why-orphan-oil-and-gas-wells-are-a-growing-problem-for-states>

ⁱⁱ BlueGreen Alliance, "Build Back Better Will Create Jobs Across the Country," 2021. Available online: <https://www.bluegreenalliance.org/site/build-back-better-investments-will-create-jobs-across-the-country/>

ⁱⁱⁱ Environmental Science and Technology, *Decommissioning Orphaned and Abandoned Oil and Gas Wells: New Estimates and Cost Drivers*, 2021. Available online: <https://pubs.acs.org/doi/pdf/10.1021/acs.est.1c02234>

^{iv} Department of Interior, FY 2023 Formula Initial Grant Guidance. Available online: <https://doi.gov/sites/doi.gov/files/draft-state-formula-guidance-2023123-eop-final-for-eop-approval.pdf>

^v Ibid.

^{vi} Department of Interior, FY 2023 Formula Initial Grant Guidance, 2023. pg.7. Available online: <https://doi.gov/sites/doi.gov/files/draft-state-formula-guidance-2023123-eop-final-for-eop-approval.pdf>

^{vii} Ibid.

^{viii} Appalachian Citizens Law Center, *Abandoned Mine Land Program: A Policy Analysis for Central Appalachia and the Nation*, July 8, 2015. Available online: <https://appalachiancitizenslaw.files.wordpress.com/2015/07/exec-summary-abandoned-minereclamation.pdf>

^{ix} Pennsylvania Department of Environmental Protection, "AML Program Information: Abandoned Mine Reclamation in Pennsylvania." Available online: <https://www.dep.pa.gov/Business/Land/Mining/AbandonedMineReclamation/AMLProgramInformation/Pages/default.aspx>

^x Department of the Interior, Natural Resources Revenue Data, Abandoned Mine Land Reclamation Program. Available online: <https://revenue.data.doi.gov/how-revenue-works/aml-reclamation-program/>

^{xi} Columbia Center on Global Energy Policy and Resources for the Future, *Green Stimulus for Oil and Gas Workers: Considering a Major Federal Effort to Plug Orphaned and Abandoned Wells*, July 20, 2020. Available online: https://www.energypolicy.columbia.edu/sites/default/files/file_uploads/OrphanWells_CGEP-Report_071620.pdf

^{xii} Washington Post, "Abandoned Mines Are a Huge Climate Problem," October 15, 2021. Available online: <https://www.washingtonpost.com/politics/2021/10/15/abandoned-wells-are-huge-climate-problem/>

^{xiii} Ibid.

^{xiv} Department of Interior, FY 2023 Formula Initial Grant Guidance. Available online:
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