Bonding Pool for Purchase of Existing Wells

This proposal concerns exploring a system for smaller oil and gas operators to avail themselves to an Idle Well Bonding Pool when purchasing existing oil and gas wells and thereby meet any idle well bonding requirements the Wyoming Oil and Gas Conservation Commission ("Commission") ***may*** require as part of transfer. This concept is limited in scope to cases in which idle well bonding would be an impediment to smaller established oil and gas operators purchasing existing wells. In the event that the Commission would require idle well bonding as part of the purchase and sale of existing oil and gas wells, providing a pool of money to which the purchaser would contribute a portion of the total bonding obligation, and then allow the pool to act as the surety, would allow the transaction to proceed rather letting a potential idle well bonding obligation squelch the deal. Allowing wells to be bought and sold can increase the wells' productive life and thereby continue to be an economic boon for the State of Wyoming.

The Commission's rules currently provide the following regarding transferring wells:

> **TRANSFER OF WELLS**. The Supervisor shall be advised by the Owner/Operator of all transfers of wells at least thirty (30) days before the closing date of the transfer and the Supervisor retains the right for an additional thirty (30) days to evaluate pending transfer of well(s). Notice of transfer of wells must be accompanied by a list of all wells to be transferred that includes the well name, API number, legal description and well status. The purpose of the notice is to provide the Supervisor with an opportunity to evaluate the status and number of wells that may be involved in the transfer and determine the need for additional bonding by the new Owner/Operator. No later than thirty (30) days after notification, the Supervisor will notify the parties of his preliminary determination of additional bonding. The previous Owner/Operator's bond shall not be released until the new Owner/Operator provides bonding, including the additional bonding **if requested**. The Supervisor shall have the discretion to hold the prior bond for a period for a period of six (6) months after the new bond has been posted to evaluate the performance and viability of the new operator. The Supervisor shall also provide thirty (30) days' notice of the transfer of any well(s) to the county where the well(s) is located.
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> Wyoming Oil and Gas Conservation Commission Rules Chapter 3, Section 4(a)(v) – Emphasis Added

Typically idle well bonding is $10/ft.

> The Supervisor may require an increased bond amount up to ten dollars ($10.00) per foot for each idle well taking into account the existing level of bond in place.
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> Wyoming Oil and Gas Conservation Commission Rules Chapter 3, Section 4(b)(ii)(A)

Additionally, the Commission can consider a plan to either plug and abandon the wells or return them to production in lieu of idle well bonding.

. . . . The Supervisor may accept a detailed plan of operation in lieu of additional bonding, which includes a time schedule to permanently plug and abandon idle wells or take such action as may be necessary to remove the well(s) from idle status. . . .

Wyoming Oil and Gas Conservation Commission Rules Chapter 3, Section 4(b)(ii)(C).

Often, as wells age and become depleted, and larger operators cannot continue to operate them economically, smaller low cost operators purchase those wells and operate them for several more years. Most of the time when older wells are sold, there are some shut-in (idle) wells that are included in the sale. The purchaser would evaluate the shut-in wells and the cost to plug or repair wells in making its offer. The problem arises when the purchaser would not only have to spend money to repair or plug the shut-in wells it acquires but also has to lock down its capital, which it could use to perform the work required, to post an idle well bond. If the purchaser would also have to post an idle well bond to proceed with the purchase, the feasibility of the purchase quickly breaks down and the wells cannot be sold. If the wells cannot be sold, all the wells would likely be plugged and abandoned rather than continuing produce and generate revenue for the State of Wyoming.

The Bonding Pool would function more like a traditional surety bond, which smaller operators often have difficulty procuring[1]. If the Commission and the purchaser cannot agree on a plan to rehabilitate and/or plug the shut-in wells, that does not involve posting an idle well bond[2], most smaller operators will not be able to purchase wells that come up for sale. The concept would be to create a pool of money to which smaller operators that qualify would deposit a portion of the total idle well bond amount (perhaps 10%) and allow the Bonding Pool act as the surety.

Ideally, the Bonding Pool would be self-sufficient. If the program would become popular enough, and used by enough smaller operators, the Bonding Pool would have enough money in its fund to meet its obligation. However, the State of Wyoming would have to be the ultimate guarantor of the Bonding Pool. Perhaps as funds from the conservation tax regenerate, those funds could be used for the Bonding Pool.

There would also have to be some criteria for operators to be eligible to use the Bonding Pool. For example, the size of the company, how long the operator has been operating oil and gas well in the state, the company's financial stability, the operator's compliance history, the number of idle wells the operator has had over time, the operator's history of repairing or plugging wells idle wells, and other similar factors would need to be considered in determining if an operator would be eligible to use the Bonding Pool.

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[1] Most often when smaller operators are required to post idle well bonding, they must secure a letter of credit with deposits (usually a CD) for the entire idle well bond amount. This makes bonding idle wells unfeasible when most smaller operators purchase wells.

[2] Most often, the Commission and an established operator are able to come up with an idle well plan that is agreeable to both. The Bonding Pool would provide an avenue to the operator in the event the Commission the operator cannot reach such an agreement.

In 1988, M& K Oil Company, Inc. ("M & K") purchased the South Highlight Muddy Unit ("Unit") from Apache Corporation. At the time, many of the 10,000 ft. deep wells in the Unit were shut-in and needed to be reworked or plugged. Over time, M & K was able to repair and produce several of the wells in the Unit and plug others that were not able to be repaired. M & K continues to produce oil and gas from the Unit today. If M & K would have been required to bond the idle wells in the Unit, it would not have been able to make the purchase. If Apache could not have sold the Unit, the likely result would have been for Apache to plug and abandon the Unit as it was no longer a feasible project for that company.

Another example is M & K's purchase of the Hay Creek Field, and some surrounding wells, from Kiesling Oil Company ("Kiesling") in 2007. In that case, Kiesling had been out of compliance with the Bureau of Land Management ("BLM") and State of Wyoming's rules and regulations. The State of Wyoming and BLM were both on the verge of revoking Kiesling's operator's/blanket bond[3]. Again there were several shut-in wells and a lot of other things that needed to be addressed. Again, M & K was able to purchase the wells from Kiesling, repair some wells, plug others, address a lot of the land owner's concerns, and install gas gathering line to market gas from the field. Again idle well bonding would have been an impediment to the deal. Had that purchase failed, rather than being able to continue producing the wells and generate revenue that benefits the State of Wyoming, the State of Wyoming and BLM would likely have revoked Kiesling's operator's/blanket bond and ended up assuming the plugging liability.

In conclusion, it is essential that smaller operators be able to buy wells that are no longer economically feasible for larger companies to operate. Smaller independent operators are a critical component of the State of Wyoming's economy. Smaller operators are often able to squeeze every last drop out older oil and gas wells and plug and abandon them when the time comes. Continuing to produce wells for as long as possible creates revenue and jobs for the State of Wyoming and is a huge benefit for its citizens. For the most part, idle wells have not prohibited the purchase and sale of oil and gas wells, but idle wells have become a greater concern lately. A pool of money to support idle well bonding that may be required when wells are bought and sold moving forward could benefit all the parties involved. Purchasers would be able post bonds without tying up large amounts of capital and the State of Wyoming's would have funds in place should it have to assume any plugging liability. In all, the State of Wyoming would benefit if a Bonding Pool like this were made available to operators that qualify to use it.

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[3] In order operate oil and gas wells, an operator is required to post a certain amount bonding in general. Wyoming Oil and Gas Conservation Commission Rules Chapter 3, Section 4(a)(ii). The bonding discussed in this memo is additional bonding that *may* be assessed on idle wells when they are transferred pursuant to Wyoming Oil and Gas Conservation Commission Rules.