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Western Organization of Resource Councils

LAW AND ORDER IN THE OIL AND GAS FIELDS A REVIEW OF INSPECTION AND ENFORCEMENT PROGRAMS IN FIVE WESTERN STATES Summary Overview

Oil and gas development is booming in the West, with permits being issued and wells being drilled at a record pace. The Bush administration and Congress have promoted greater domestic oil and gas production by offering tax breaks, easing regulations, and directing the U.S. Bureau of Land Management (BLM) to issue more permits at a faster pace. State agencies have also been granting more oil and gas permits than ever before.

The BLM and state agencies have made some genuine efforts to improve their oversight of oil and gas development. However, state and federal officials and agencies have failed to balance their efforts to speed development with an equally strong emphasis on protecting landowners, health, safety, air, land, and taxpayers from negative impacts of development.

“Law and Order in the Oil and Gas Fields” examines oil and gas inspection and enforcement programs in Colorado, Montana, North Dakota, New Mexico and Wyoming. The report presents information on oil and gas drilling, permitting, inspection and enforcement activities over the past five years, and offers recommendations to strengthen inspection and enforcement programs.

Major Findings

Inspection and Enforcement Requirements and Resources

- The BLM has made substantive improvements to its Inspection and Enforcement Program since 1998, but these improvements have been targeted at production inspections, rather than environmental compliance inspections.
- The BLM’s Grand Junction, Miles City and Farmington Field Offices and all state oil and gas agencies except for the North Dakota Oil and Gas Division exceed the recommended inspector staffing level of 300 wells per inspector.
- Although the six western BLM Field Offices surveyed were responsible for 79% of active oil and gas wells on BLM lands nationwide in 2003, these six offices employed only 26% of all BLM inspectors at that time.
- As the number of active oil and gas wells has increased, the number of state oil and gas inspectors has generally not increased.
- Most state agencies do not have detailed inspection and enforcement policies or guidelines.

Inspection Activity

- Based on 2003 staffing and inspection levels, state agencies conduct enough inspections to inspect active wells once every 1–3 years on average, while the six BLM Field Offices surveyed conduct enough inspections to inspect active wells once every 2-10 years on average and inspect active wells for environmental compliance once every 4-59 years.
- The average number of inspections per inspector in the six BLM Field Offices surveyed for this report has fluctuated, declining 24% overall in the last five years.

- Environmental compliance inspectors in the BLM spend an average of just 15% of their time on inspection and enforcement activities.

Violations and Enforcement Actions

- Neither the state oil and gas agencies nor the BLM impose many fines, nor do they issue many orders to plug wells, cease and desist operations, or forfeit bonds. While this could indicate good behavior on the part of operators, there is evidence to suggest some agencies lack the will to enforce the law.

Public Information and Participation

- Of the 22 state and federal agencies surveyed for this report, only two reported tracking citizen complaints and agency responses to those complaints.
- Many state agencies and bureaus have increased the amount of information that is readily available to the public, particularly over the internet, but these efforts are uneven across states, and between agencies and bureaus within some states.

Major Recommendations

Inspection and Enforcement Staffing Levels and Training

- The number of inspection and enforcement staff should be adequate so that each full-time inspector is responsible for no more than 300 active wells.
- State and federal inspection and enforcement programs should be reviewed, including but not limited to, the adequacy of staffing levels.

Inspection Frequency, Procedures and Documentation

- The BLM should require inspection of every active oil and gas well at least once each year for environmental compliance.
- States should adopt specific goals for inspection frequency, similar to the BLM's National Inspection and Enforcement Strategy.
- No new drilling permits should be issued if inspection goals are not met.
- State oil and gas agencies and the BLM should strengthen their inspection procedures and develop standardized check lists for use during environmental compliance inspections.

Violations and Enforcement Actions

- State agencies and the BLM should have clear policies that instruct inspectors on when and how to take enforcement actions, including how to follow up on violations when they are not resolved within the time period allowed.
- State agencies and the BLM should exercise their authority to revoke, modify or suspend any permit, assess administrative penalties or seek civil penalties or criminal sanctions, and require the forfeiture of financial assurance instruments.

Public Information and Participation

- All state agencies and the BLM should closely track and document their inspection and enforcement activities, and make all information readily available to the public.
- All agencies should encourage the public to report perceived violations, apprise the public of the process to be followed in filing complaints, and document and thoroughly investigate every citizen complaint.