

Questions and Comments from the Cards at the Industry Forum

- 1) Any contemplation of uniform rules (Federal) on how to create and perfect security interests, overrides or other interests in OCS leases
- 2) Current view of overrides on leases
- 3) The primary driver behind these Financial Assurance changes seems to be decommissioning activities and the potential environmental risk if decommissioning activities aren't carried out
- 4) Can decommissioning activities be carried out under the authority of the Oil Spill Liability Trust Fund if a company is unable to pay?
- 5) What authority does BOEM have to utilize the Oil Spill Liability Trust Fund?
- 6) What is "Expected Default Ratio"? How would this be determined?
- 7) I applaud you for agreeing to look at each company on an individual basis to determine financial assurance. No two companies are alike, therefore it is essential that BOEM work with each company to determine its net liability and the financial assurance required for that net liability!
- 8) Thank you for also recognizing the need to allow companies to provide financial assurance in ways other than supplemental bonds.
- 9) Is consideration being given to doing away with the requirement to provide assurance at the Exploration Plan and DOCD timing, rather than at the time of permitting?
- 10) Presently the appeal deadlines are rigid and chill dialogue need to focus on making the future reassessment process not automatically "agency action" requiring an appeal which may otherwise detract from dialogue and eliminate desired agency feasibility
- 11) Would you post all of the comments on the ANPR as submitted by each commenter on your website, as well as a copy of this morning's power point presentation?
- 12) When does BOEM plan on having a final NTL in place for Financial Assurance?
- 13) How will BOEM address P&A amounts on expired leases and RUEs? Currently it appears that there is "double bonding" occurring here.
- 14) Will BOEM consider granting credit on security posted with third parties?

- 15) The assessment of risks and financial exposures on a lease-by-lease basis is more effective when everyone is aware of who has direct financial interests in each portion of a lease – including, for example, what particular NRI and GWI a company may have in each particular portion of a lease. However, this is hampered by the Adjudication Sections policy (in place for about 10 years or so) of limiting the number of depths that will be approved for operating rights for any aliquot in a lease. Essentially, adjudication would approve creating new “operating rights” other than for “deep” and “shallow”. But through farmouts and otherwise, companies often sever their financial interests to a greater extent. The assessment and management of financial risk and liability would be much better served if no artificial limit on the number of operating rights severances will be considered by adjudication – if adjudication would again allow multiple depths for approved operating rights.
- 16) A key to the success of the new BOEM financial Assurance Program is for BOEM to allow proportionate allocation of liability per lessee/lease. Each lessee being 100% liable for 100% of a lease’s liability under the new program seems unreasonable.
- 17) It is imperative that BOEM publish in the new NTL stated rules relative to the administration of bonds etc. for example: How can bonds be released? Replaced? How can other lessees get the benefit of bonds etc. when they may be required to cover P&A for a co-lessee? Further, if a company’s financials change from year to year requiring less financial assurance, how will bonds, escrows etc. be terminated? Also related – abandonment estimates should take into factors such as service lost reductions associated with lower commodity prices.
- 18) Will reports be made available showing a company’s total decommissioning liabilities? It seems that these reports are very difficult to obtain through BOEM.
- 19) Will BOEM consider requiring security from all pipeline owners, not only the ROW holder? Same for all platform owners, not only the RUE holder?
- 20) BOEM references a phase-in period to evaluate and determine if an operating entity fully meets all financial assurances requirements under the new proposed rule(s). Will the time frame / grace period provided be consistent from operator to operator or vary depending on how weak an operator’s balance sheet or financial wherewithal is determined to be?
- 21) Will the credit support documents be publically available? Can you see or view other companies credit support documents?
- 22) Will the draft NTL be submitted to OMB for review/scoring?
- 23) Will the NTL require “overly excess financial assurances” until the new regulation is finalized?

- 24) If self-insurance waiver being tied to performance issues with BSEE or payment issues with ONRR are you contemplating a yearly review? Could self-insurance waiver be nullified at any point?
- 25) If I understand correctly – all companies may be eligible for some level of self-insurance in combination with other financial assurance such as bonding. Will that apply only to the operator, or will expand to include all participants (meaning can each participant satisfy its proportional liability using any of these methods?) in the lease?
- 26) What process is contemplated for individual company dialog or challenge rights of decommissioning estimated and amount of self-insurance / exemption allowed short of IBLA appeal?
- 27) This is very broad and concerning that BOEM can cover all risks and liabilities, whether known or unknown, in the OCS. How does one determine an amount for such a risk? Alternately, will NTL limit to abandonment and royalty liability? If not, how will you determine the total liability of any given company?
- 28) Will BOEM restrict the type of entities it will allow to hold leases and/or operate in the OCS?
- 29) Will BOEM seriously consider allocation of financial liabilities based on a lessee's proportionate interest in a lease or is this concept off the table?
- 30) Changes in financial assurances program does not have to circumvent joint and several liability of the lessee.
- 31) Will BOEM use the finance records of a parent in assessing a lessee's financial strength or only the financials of the lessee?
- 32) If a company cannot meet the new financial assurances for their leases, what happens?
- 33) If BOEM's assessment indicates that full risk coverage exceeds the ability of industry to provide coverage, will compromises be considered?
- 34) Will BOEM do a cost/risk analysis regarding degree of theoretical taxpayer risk that is not secured vs. loss of oil and gas revenues by taxpayers due to requiring "full" coverage of theoretical risk?
- 35) There is already an enormous amount of private performance bonding/financial security in place. Can/will BOEM gather such data by obligor and obligee and consider that as part of the financial assurance that is already in place?

- 36) In looking at the summary slide – there was no mention of factoring in commodity prices. As you know, financial metrics/ratios are largely influenced by the prices of oil, gas and NTL. Does BOEM plan to include that in their evaluation of credit worthiness? And further not punish a company when a sharp downturn may occur – allowing a longer term look at the company and its production / assets etc?
- 37) Will BOEM consider granting temporary credit (not assessing decommissioning liability) on pending site clearances approvals on BSEE's side? Note: Some site clearance approvals have been pending for a couple of years.
- 38) Is there a limit to the changes that can be made via NTL versus regulation and if so, what is the limit and who determines what that limit is?
- 39) Do you require proof of physical damage insurance especially for windstorm? If not, why not? This should be considered in evaluating potential exposure.
- 40) Would a field wide decommissioning security agreement (DSA), with BOEM named as a beneficiary under a trust created by a DSA?
- 41) Will a decommissioning security agreement (DSA) for a field cover the full liability for the field's well and platform abandonment obligations thereby being executed from the cumulative liability in the OCS of a lessee?
- 42) Will this new financial assurance program apply separately between the regions?
- 43) Will BOEM help those companies who have 3rd party bonds in place get the beneficiary company to allow the bond to be transferred to have BOEM as the beneficiary?
- 44) Will current NTL used for 2015 exemption analysis?
- 45) Please explain the rationale of asking for supplemental bonds prior to the permitting of an action which actually results in the accrual of liability. For instance, why should company be required to post bonds on all wells envisioned in a DOCD when initially only one well may be permitted and others may never be drilled?
- 46) Please allow bonds to be posted at permit approval NOT at plan phase – absolutely no risk to stakeholders and huge savings!
- 47) Why does BOEM assess decommissioning liability on wells never drilled or projects never sanctioned?

- 48) My question pertains to one of the areas that is currently not being focused on – the timing requirements for posting financial assurance for new wells being proposed in Exploration and Development Plans. As these wells are only in the early Planning phases and some will not be drilled, why isn't financial assurance being required at the Drilling Permit Phase and not during the Exploration and Development Planning Phase?
- 49) We feel that the Bond should be required during the permitting phase (APD) rather than the *planning* phase (ED or DOCD). Could we discuss BOEM's thoughts on this?
- 50) Has the Government ever had to use funds to clean up obligations not covered by an operator?
- 51) Has the BOEM had to actually conduct or fund any abandonments? I do not mean the effort required to have others up the chain of title conduct the abandonment.
- 52) Please discuss current thoughts on record title and operating rights for both bonding and how such distinct liabilities will be looked at in contemplated self-insurance?
- 53) What are the considerations about the allocation of financial assurance requirements between record title and operating rights holders?
- 54) What is BOEM's plan to address Operating Rights Owners? Currently only record title owners are addressed.
- 55) Will each co-owner be required to have financial assurance for 100%?
- 56) Will the revised NTL address liability of operating rights owners on proportionate liability or will those issues be considered in connection with the rulemaking?
- 57) How will obligations be allocated between record title and operating rights?
- 58) Does BOEM plan on assessing decommissioning liability on operating rights?
- 59) You stated that a company either must be: (1) Publically traded and rated investment grade or (2) have a 1 (high) composite credit with Dun & Bradstreet. Most private, non-public companies do not post financials to D&B, therefore will not have a "composite credit rating". Does this automatically eliminate those companies from having the ability to qualify for self-insurance?
- 60) Does a D&B rating for a private company really help you understand a company's financial strength? It is a subset of data collected rather than a complete analysis

- 61) With Investment Grade (BBB) hurdle, you have eliminated all companies from exemption that are under \$10B market capitalization – (1) is that the intent? (2) Does this not discriminate against the smaller companies?
- 62) Will there be an expansion of staffing at BOEM in order to implement financial assurance changes, particularly given company-specific assessments contemplated?
- 63) When will draft revised NTL come out?
- 64) When do you plan to have in in place?
- 65) Is BOEM prepared or planning to increase staff appropriately to manage the goals of individual company assessments and financial stability / credit risk reviews?
- 66) Where or who are the financial experts for deciding these ratios?
- 67) If you are planning to offer several “financial assurance packages” how will you be dealing with the increased staffing needs?
- 68) BSEE has recently started assessing pipelines. This is having a desperate effect on smaller operators as pipelines have multiple owners but only one recognized ROW holder which is assessed. BSEE & BOEM are doing themselves a disservice from the standpoint of financial assurance by not recognizing co-owners in these pipelines and should consider doing so.
- 69) How does BOEM plan to improve the length of time required to clear P&A amounts in its database?
- 70) Will BOEM help companies get quicker BSEE processing of site clearance releases.