

How to Fix Louisiana's Deserted Oilfield Problem

Andrew Jacoby

January 2024

Louisiana State University
Orphan Well Symposium
Baton Rouge, Louisiana



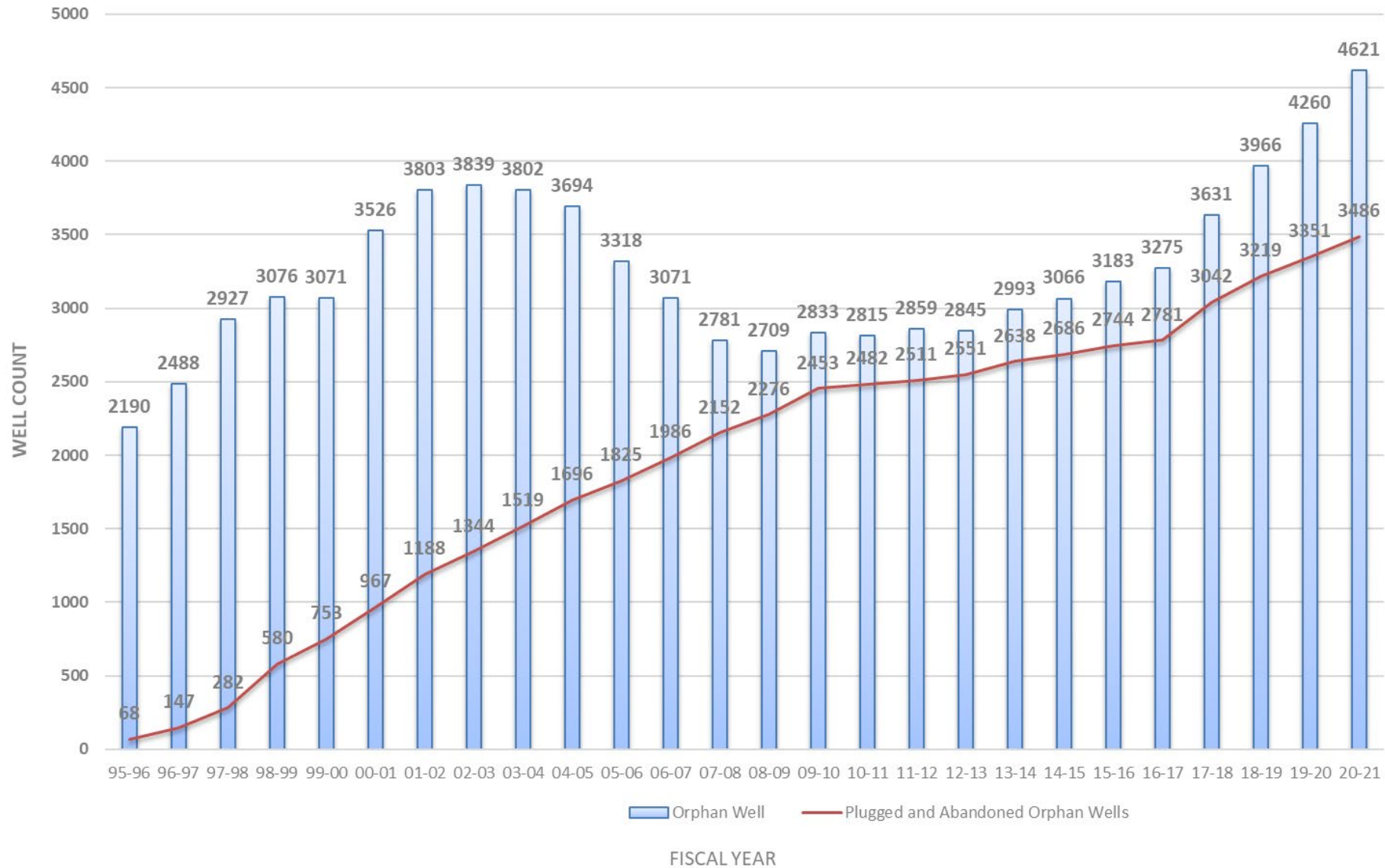
A few key definitions and distinctions

- “Plug and abandonment” (“P&A”) involves BOTH plugging wells AND cleaning up sites for sites and wells that are no longer used.
- A well (or site) that is “Abandoned”/“Orphan”/“Deserted”/“Zombie”
 - “Abandoned” has two opposite meanings. BETTER DEFINITIONS:
 - **“DESERTED” well = a well that should be plugged but which has not been plugged.**
 - **“ORPHANED” well = a deserted well for which there is no viable party to P&A a wellsite**
 - **DNR’s definition of “orphan” well, in practice: A well that DNR puts on a formal “lacks useful purpose” list to receive public funds to P&A, regardless whether there is a viable party who could be ordered to P&A the site.**

Why are deserted abandoned oilfield sites a problem?

- Unplugged wells serve as conduits for oil, gas, and produced water from underground to the surface and into groundwater zones, which is worsened when there are injection wells nearby.
- The SCR 89 Task Force, led by DNR's secretary, acknowledged that orphan well sites “deteriorate over time due to neglect from the operator of record and therefore become susceptible to releasing oil, gas, and saltwater to the surrounding area.”
- Abandoned sites pose safety hazards to humans and the environment (storage tanks/barrels of waste; flowlines sticking up can injure boaters; pit contamination is hazardous to humans).
- Instead of going down, **the amount of deserted wells is skyrocketing.**

Orphan Well Count vs. Cumulative Wells Plugged by OSR



Total
 “orphan”
 wells
should be
 declining
 to “0”

How many deserted and orphaned sites are there in Louisiana?

- DNR's official "orphan" lists 4,612 wells (circa Nov. 2021).
- A six-year Louisiana Oil Spill Coordinator's Office study found 29,726 abandoned oil field waste pits, tank batteries, collection and separating apparatuses, metering stations, and wells.
- BUT!
 - Many wells linger, unplugged orphans, with other non-"orphan" statuses.
 - The Legislative Auditor found that 37% of certain wells listed as "active" were actually inactive, which means they should have been plugged.
 - Many wells have lingered unplugged long after the legal mandate to plug within 90 days of "inactive" status.

An estimate of actually “deserted” wells (Nov. 2021 data)

Type	#“orphan” wells	Notes
Official “orphan” list	4,621	
“Temporary inactive” for over ten years	600	Status 20 (“A-35 temporary inactive well to be omitted from production report”) over 10 years
“No future utility” “shut-in” wells	474+17	Status 32 and 34 (no future utility for over one year)
“waiting” for over one year	12+5	Status 37 and 36 (shut in, “waiting on market/pipeline” for over one year)
“future utility” for over ten years	65+1,942	Status 31 and 33 (shut in, future utility, for over ten years)
“active wells” that are actually inactive	1,691+11,173	The Auditor found that 37% of “active” wells are, in reality, “inactive” (37% of status codes 9, 10)
Other	4+3	Status 19 (inactive well, no resp. party) + Status 8 (inactive injection well from 1985 or earlier)
GRAND TOTAL:	20,607	Half of the total reflects the Auditor’s finding that 37% of “active” wells are, in reality, inactive

Why the “deserted” well list is likely even higher than our estimate of **20,607**

- There are well “status” codes that likely contain even more “deserted” wells.
- Official counts do not include Louisiana’s offshore wells that have not been P&A’d.
- “No future utility” wells calculated does not include wells >90 days but under one year
- Status code 28 “unable to locate well – not P&A’d”
 - Appear to be either capped or P&A’d, but not verified.
 - How many of the 2,596 wells are not P&A’d?
- Does not include abandoned equipment if there is an operating well

PROBLEM: DNR improperly places certain wells on the “orphan” list, allowing public funds to be used to clean up the messes made by viable parties.

It does not appear that anyone—DNR or the Legislative Auditor—has carefully looked at whether public funds are being used to P&A sites where there are viable private parties.

1. DNR does not gather the info necessary to hold viable parties responsible (e.g., all working interest owners, including past operators).
2. DNR does not consistently issue orders to every current and former operator and working interest owner to P&A a well before adding it to the “orphan” list.
3. DNR does not prevent wells with viable parties from being added to the “orphan well” list to get public funding.

The MYTH of the \$250k threshold to hold former operators accountable

- There is a common misconception that DNR can hold *former* operators responsible only if the cost of cleanup more than \$250k. **This is WRONG.**
- This law applies ONLY IF (1) public funds are **already** spent on P&A and (2) that cost is over \$250k.
- This law does **not** apply to DNR **before** publicly funded P&A work is done.
- There is nothing stopping DNR—TODAY—from issuing orders to all past operators and working interest owners to P&A every one of the 20,607 deserted well sites.

OSRC's failures

- The OSRC has broad powers to prioritize wellsites, manage public funds used to P&A sites, and even sue. (La. R.S. 30:80, et seq.)
- By law, the OSRC affords power to private-entities to use public funds to clean up sites – conflict of interest?
- The OSRC primary failures are those of omission: when given the charge of overseeing massive amounts of public funds, the OSRC has failed to stop public funds from being used at sites where there are perfectly viable parties who should instead be paying for cleanup.

Problems with state laws, DNR regs, and DNR policy

- Inadequate financial security
- Loopholes allow wells to go without financial security
- Financial security doesn't cover cleanup
- DNR does not properly determine what wells are "inactive"
 - 37% of "active" wells are actually "inactive" (i.e., need to be P&A'd)
- DNR does not require operators to report production by well
- DNR chooses not to issue compliance orders, despite legal mandate, in 86.3% of instances of "inactive" wells

Problems, cont.

- DNR does not consistently do follow-up inspections
- DNR loophole allows operators to avoid P&A for just \$250/yr
- DNR allows watered down “blanket” financial security
- DNR chooses not to create an upper limit on “inactive” status
- DNR helps bad “orphan” well operators operate new wells
 - DNR does not collect adequate info on operators
- State law curiously absolves (in certain instances) “former operators” who should be paying for the mess they made



“I’m afraid he’s right—there’s nothing in here about slobber balls.”

DNR's hands are mostly tied, but it has nevertheless chosen mostly *not* to use the power it has to address the problem

- DNR was given a mission it lacks funding to fulfill completely.
 - **DNR is woefully underfunded.**
- State laws do not adequately empower DNR to properly address the problem and, in fact, state laws hinder DNR's ability to address the problem by codifying unnecessary loopholes and fomenting more deserted wells.
- Despite the underfunded mission, DNR retains rulemaking power.
 - **But DNR has chosen not to use its rulemaking authority to FULLY address the orphan well problem, though the recent rulemaking is a step in the right direction.**

The Legislature and DNR have mostly made things worse

- The 2014 Legislative Auditor's report highlights problems and issues 21 recommendations
- The 2015 legislative bills by Sen. Allain and Rep. Montoucet
 - **Reform effort defeated**. Would have closed a few of the loopholes.
- The 2015 DNR's rule change **made things worse**
- The 2016 SCR 89 Task Force report
- The 2016 DNR's "emergency" rule **made things worse**
- The 2016 Act 634 **made things worse**
- The 2023 DNR rule change is **a great step in the right direction**.

REFORMS NEEDED: **general principals**

- Every well should have adequate financial security that follows the well from drill date on.
- Production fees (which fund OSR) should be high enough to P&A all orphan wells.
- DNR should have increased funding for inspectors to identify all truly orphan sites.
- No person associated with an “orphan” well should be allowed to operate any well unless and until the person plugs the orphan well and cleans up the orphan site.
- Every former operator, partner, and working interest owner, and of a deserted well should be actively pursued and held responsible.
- Only truly “future utility” wells should be given that temporary status, which should be carefully monitored and capped by length of time.
- P&A work should include removal of equipment, environmental sampling, and cleanup of any environmental problem, and certification thereof.
- Clean house of any conflict issues at the Oilfield Site Restoration Commission

REFORMS NEEDED: **specific reforms needed**

- Remove the arbitrary \$250,000 cleanup loophole that currently allows former operators to walk away scot-free in certain instances.
- Mandate that all P&A work must include (1) clearance of all oilfield equipment (tanks, flowlines, etc.), (2) environmental sampling to ensure the site is clean and that all pits were properly closed and cleaned, and (3) signed assurances and certification to this effect.
- Mandate that well production be reported on a per-well basis so that inactive wells are better identified (and improve accuracy of tax payments). Mandate that flow meters be used on all wells to verify each well's production.
- Empower DNR with the statutory authority and funding, and charge DNR with the duty to pursue all former operators of “orphan” wells in advance of public funding of P&A work.
- Increase the production fee, remove exemptions from the production fee, add an orphan well surcharge to drilling permit fees, and increase the cap of the OSR Fund.
- Close the “future utility” loophole by ensuring that only truly “future utility” wells are allowed that status, and only with robust financial security, with a mandate on operators to provide an annual report describing plans for reentry of the well.

REFORMS NEEDED: **specifics, cont.**

- Place a “cap” on “future utility” status of 10 years, after which the hole must be re-entered or plugged.
- Prohibit a well from being “future utility” if there is no active mineral lease on the site.
- Remove all financial security loopholes so that (1) all wells have financial security that is (2) adequate, (3) well-specific, and (4) is attached to the well from the drill date on.
- Collect full information on all operators and operator ownership (including Social Security Numbers, etc.), mandate that ownership information be kept current with DNR, and mandate that DNR actively block operators who have unplugged “orphan” wells, including blocking “orphan” operators from simply starting new LLCs.

Oilfield Site Restoration Commission reform

- The auditor should look at whether there is a conflict in having commissioners from industry oversee public funds involving industry.
- The auditor should look at whether the OSRC has done everything it can to address the orphan well problem.
- The state legislature should rewrite the laws to ensure commissioners have auditing backgrounds and are not linked to the industry the commissioners oversee.

The economic reason to support reform

- “Former” operators are more likely to be big, out-of-state operators (e.g., “big oil” Texas operators), with deeper pockets than Louisiana “mom and pop” operators.
- **This is good business:** mandate that “big oil” Texas operators take a tiny portion of the money they earned in Louisiana off Louisiana oil and gas, and invest that tiny portion of profit into Louisiana contractors to hire Louisiana workers to cleanup Louisiana sites, all for messes made by those Texas operators.
- Louisiana oilfield workers need JOBS, and that includes P&A work.
- The reform obstruction by oil and gas lobbyists, state legislators, and DNR hurts Louisiana’s oilfield contractors and Louisiana workers.