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To:	PLANO
FROM:	Paul B. Simon
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RE:	<b>PLANO May 2016 Legal Update</b>

**EMERGENCY RULE OF OFFICE OF CONSERVATION PROVIDES RELIEF**

On April 14, 2016, the Louisiana Office of Conservation issued a Declaration of Emergency and promulgated an Emergency Rule to decrease the amount of financial security certain oil and gas operators are required to post to obtain a permit to drill, recomplete, or take-over a well. The Emergency Rule is effective immediately and decreases essentially by half the amount of security that affected operators are required to post for their wells in Louisiana. A copy of the Emergency Rule can be found [here](#).

The background for these actions is that, in May 2015, the Office of Conservation amended its financial security requirement rules. The new rules effectively doubled the amount of financial security operators were required to post for wells they completed, drilled, or took over from another operator. The exact amounts required by the “old” and now-suspended “new” rules are provided at the end of this post.

These new regulations followed a critical report the Louisiana Legislative Auditor had issued one year prior, on May 28, 2014. That report recommended the Office of Conservation revise its regulations to increase the amount of security it required from oil and gas operators. Notably, that report was issued just one month before the oil-price peak of over \$105 per barrel for WTI in June 2014. By May of 2015, the price had already fallen below \$60 per barrel, and today is even lower.

In the Emergency Rule, the Office of Conservation explicitly recognizes that these price conditions make the new regulations for increased financial security inappropriate, stating that, “[t]he price of oil has dropped to historically low levels and most operators are unable to afford the increased financial security amounts promulgated in LR 41:952.” This is the first reason the Emergency Rule provides to justify its Declaration of Emergency. The second is that “recent extensive flooding has precluded operators from producing their wells and may require the use of remaining assets to restore production.”

The Emergency Rule therefore recognizes that the new regulations could be counterproductive by increasing the financial strain on operators, particularly stripper operators working on marginal wells that soon could require plugging and abandonment. The Emergency Rule states that “if these new rules continue to be enforced they will likely result in Conservation orphaning the wells of these small operators, ultimately putting them out of business and thereby make the environmental concerns created by orphan wells more severe.”

The Emergency Rule is valid for 120 days and can be renewed by the Office of Conservation. Renewal seems likely, as the Emergency Rule characterizes its action as “truly only the first step

in working toward a more lasting solution to achieve the goals raised in the legislative auditor’s report.”

This Declaration of Emergency and related Emergency Rule are the first major, public actions taken by the Office of Conservation under its new Commissioner, former Attorney General Richard Ieyoub, who was appointed recently by Governor John Bel Edwards, who succeeded Governor Bobby Jindal in January 2016. These actions follow extensive lobbying from a host of legislators acknowledged by name in the Emergency Rule. It also follows vigorous public comment from the industry, which communicated effectively the difficulties created by the current price environment, which make additional regulations imposing costs on the industry inappropriate at this time. At the least, these actions, and their explicit justification provided in the Emergency Rule, constitute an encouraging sign that the new administration is willing to listen to the industry on these issues, and willing to take at least some meaningful action to provide relief to the industry as a consequence in these difficult times.

The financial security requirements of these regulations do not apply to operators who have been registered operators with the Office of Conservation for the previous four years, have no outstanding violations, and have “exhibited a record of compliance with the statutes, rules, and regulations of the Office of Conservation.” All other operators were and are required to post financial security in the following amounts, for the “old” and “new” regulations. As noted above, the “old” regulations are now again in effect, as the Emergency Rule suspended the “new” regulations. These financial security requirements are as follows:

For each well:

MEASURED DEPTH	"OLD" RULE (in effect)	"NEW" RULE (suspended)
	AMOUNT (per foot)	
For land locations		
≤ 3,000'	\$1.00	\$2.00
3,001-10,000'	\$2.00	\$5.00
≥ 10,001'	\$3.00	\$4.00
for inland water locations		
any depths	\$8.00	\$12.00
for offshore water locations		
any depths	\$12.00	\$12.00

Plus blanket security from each operator:

# wells per operator	"OLD" RULE (in effect)	"NEW" RULE (suspended)
	AMOUNT	
For land locations		
≤ 10	\$25,000	same
11-99	\$125,000	same
≥ 100	\$250,000	same
for inland water locations		
≤ 10	\$125,000	\$250,000
11-99	\$625,000	\$1,250,000
≥ 100	\$1,250,000	\$2,500,000
for offshore water locations		
≤ 10	\$250,000	\$500,000
11-99	\$1,250,000	\$2,500,000
≥ 100	\$2,500,000	\$5,000,000