

Orphan and Abandoned Well Hearing  
Senate Majority Policy Committee  
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Testimony of James Kunz, III  
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Good morning, Chairman Laughlin and members of the committee. My name is James Kunz, a third-generation member of the International Union of Operating Engineers, Local #66. I would like to thank you for the invitation to speak on the subject of “Decommissioning of Orphan Wells” in the Commonwealth of Pennsylvania. The combination of a sudden and large influx of public funding through the U.S. Department of the Interior coupled with the nature of dealing with abandoned infrastructure creates several challenges. Fortunately, I believe that these challenges can be overcome with thoughtful policy decisions.

Some policy has already been established by the Bipartisan Infrastructure Law and is outlined in the “Phase 1 State Formula Grant Guidance July 2023.”<sup>1</sup> Most notably the requirement of Davis-Bacon Prevailing Wages. This will help ensure that Pennsylvania workers will not see their wages driven down by out of state construction firms seeking to profit from Pennsylvania public works spending while also not increasing the costs of these projects<sup>2</sup>.

Other challenges will need to be addressed by Pennsylvania DEP and the Pennsylvania Legislature. Most notably, how do we encourage the best contractors in the Commonwealth to enter a segment of construction that was not on their radar before this new stream of funding? How do we convince them that despite all the other public construction opportunities available that plugging orphan wells is worth their attention? I believe there are two important policy decisions that will help do this.

First, the value of the contract must be worth the risk. Every time you put a drill or the bucket of an excavator in the ground you are entering the unknown. Just ask any Operating Engineer what it’s like to dig around sewer and water lines. The owner of those pipes swear that they are right where they have marked the ground. And yet, quite often, you find that they are not. That is an experience that happens with the owner of the infrastructure present and participating, something

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<sup>1</sup> <https://doi.gov/sites/doi.gov/files/state-formula-grant-guidance-07.07.2023.pdf>

<sup>2</sup> Duncan, K., & Ormiston, R. (2019). What Does the Research Tell Us about Prevailing Wage Laws? *Labor Studies Journal*, 44(2), 139-160. <https://doi.org/10.1177/0160449X18766398>

impossible with orphaned wells. Despite these risks, there is a robust contracting business across the commonwealth that works in the sewer and water industry every day. I believe this is in part because sewer and water line work is often bundled. Bundling offers a contractor some room for one project to have the worst unknowns happen and others have none, helping to balance out the risk. As an added benefit, the administration of bundled contracts appears to be much easier on government agencies and most likely would help save on administrative costs. The Federal Highway Administration has put together some great information on the benefits of bundling that I highly recommend reading.<sup>3</sup>

Second is oversight and enforcement. I've spoken with several signatory and non-signatory contractors about orphan well plugging. Some of these contractors work in adjacent industries and others work in the private sector of well plugging. Oversight and enforcement of prevailing wages, safety, scheduling and other contract obligations was a serious concern. In the public procurement process DEP must accept the lowest responsive and responsible bidder's bid. If contractors feel that there is not a culture of robust enforcement and oversight that encourages bidders to submit bids reflecting the true costs of meeting their contractual obligations, they are not going to bid. Every bid cost money, whether it is successful or not. Contractors do not like throwing away money if they think their competition isn't playing by the same rules. DEP and the Legislature can create this culture by more clearly defining what a responsible bidder is as well as establishing what oversight and enforcement will look like.

The Operating Engineers and our signatory contractors are excited for the future of orphan well plugging. With sound policy and continued funding from both the Federal Government and the Commonwealth of Pennsylvania, there looks to be years of work that will provide good jobs with family sustaining wages. Our members and the contractors we partner with have always stepped up and performed when new opportunities have presented themselves. I spent much of my early career bending miles of pipe as we met the sudden demand of the natural gas industry. The self-funded joint labor management apprenticeship program I graduated from trained hundreds of apprentices and upskilled hundreds of journey workers during that time to meet those needs. We will do it again for orphan well plugging, so long as our contractors feel confident to bid. The policies I have discussed will do just that.

I'd like to again thank you for the invitation and time to speak here today and look forward to answering any questions you may have.

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<sup>3</sup> [https://www.fhwa.dot.gov/ipd/alternative\\_project\\_delivery/defined/bundled\\_facilities/](https://www.fhwa.dot.gov/ipd/alternative_project_delivery/defined/bundled_facilities/)