

OVERSIGHT OF THE LOUISIANA OILFIELD RESTORATION ASSOCIATION'S (LORA) EFFORTS TO ADDRESS ORPHANED OIL AND GAS WELLS

**OFFICE OF CONSERVATION –
DEPARTMENT OF ENERGY AND NATURAL
RESOURCES**

PERFORMANCE AUDIT SERVICES

Issued October 24, 2024

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October 24, 2024

The Honorable J. Cameron Henry, Jr.
President of the Senate
The Honorable Phillip R. DeVillier,
Speaker of the House of Representatives

Dear Senator Henry and Representative DeVillier:

The purpose of this audit was to evaluate the Office of Conservation's (OC) oversight of the Louisiana Oilfield Restoration Association (LORA).

Overall, we found that OC does not sufficiently monitor LORA to ensure it remains financially solvent and complies with the requirements of the cooperative endeavor agreement (CEA) between the two entities. In addition, the CEA does not establish clear and comprehensive terms for LORA's operations, does not adequately protect the state from financial risks if LORA becomes insolvent, allows LORA significant flexibility on how to spend its funds, and provides no timelines for how long LORA has to fulfill its obligation to plug orphaned wells.

In particular, we found that while OC has sole oversight of LORA, OC does not do enough to monitor LORA to protect operators and the state from the risk that the association will be unable to meet its financial obligations. LORA is not subject to federal and/or state regulations that apply to financial institutions, so its operations and solvency are not monitored by the regulatory agencies that oversee other companies that provide financial security.

We also found that, under the requirements of the CEA, LORA provided 45.5% of all financial security for Louisiana wells as of October 2023. However, OC does not have a contingency plan in place to address any financial or safety risks to the state if the CEA is terminated or LORA cannot cover its obligations.

In addition, we found OC has never exercised its authority to monitor LORA's actual administrative expenses to determine if the percentage allowed is reasonable. However, OC did allow LORA to increase its percentage for administrative expenses from 20% to 36% after the required minimum reserve balance of \$5 million was reached. As a result, LORA retained an additional \$1.1 million that could have been used to plug orphaned wells.

We found as well that OC did not include provisions in the CEA to help ensure LORA operates in the state's best interest. Specifically, the CEA does not address how LORA should spend its investment income, does not establish measurable targets for evaluating LORA's performance, and does not contain an audit clause to allow the legislative auditor access to LORA's records.

We found, too, that OC did not ensure that LORA prioritized plugging orphaned wells that were secured, as required by the CEA. Of the 175 wells secured by LORA that were orphaned through December 2023, 130 (74.3%) remained unaddressed as of October 2024.

Additionally, we found that OC did not ensure that LORA operated in a cost-effective manner so that its costs to plug wells were lower than those of the Oilfield Site Restoration Program, especially when the characteristics of wells plugged and administrative expenses were factored in.

The report contains our findings, conclusions, and recommendations. I hope this report will benefit you in your legislative decision-making process.

We would like to express our appreciation to the Office of Conservation for its assistance during this audit.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Mike Waguespack", with a long horizontal flourish extending to the right.

Michael J. "Mike" Waguespack, CPA
Legislative Auditor

MJW/aa

LORA OVERSIGHT

Louisiana Legislative Auditor

Michael J. "Mike" Waguespack, CPA



Oversight of the Louisiana Oilfield Restoration Association's Efforts to Address Orphaned Oil and Gas Wells

Office of Conservation – Department of Energy and Natural Resources

October 2024

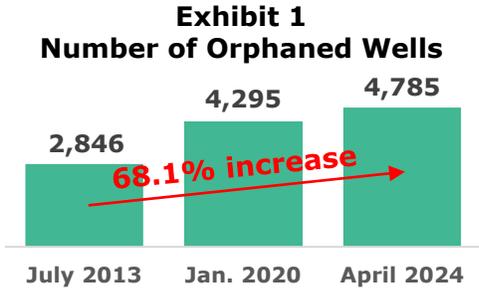
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Introduction

We evaluated the Department of Energy and Natural Resources (DENR) - Office of Conservation's (OC) oversight of the Louisiana Oilfield Restoration Association (LORA) during calendar years 2020 through 2023. In November 2019, OC entered into a Cooperative Endeavor Agreement (CEA) with LORA to help address the state's orphaned oil and gas well population (orphaned wells) by helping operators to meet financial security requirements¹ and assisting the state's Oilfield Site Restoration (OSR)² program with plugging³ orphaned wells.

Orphaned wells are abandoned oil and gas wells for which no responsible operator can be located or such operator has failed to maintain the well site in accordance with state regulations. These wells deteriorate over time and become susceptible to releasing oil, gas, and saltwater, which can pose threats to public safety and the environment.

This is one of two reports on how the state is addressing the growing population of orphaned wells. Our other report⁴ assessed OC's progress toward addressing issues identified in our previous performance audits on OC's regulation of oil and gas wells and management of orphaned wells. It found that the number of orphaned wells continues to grow despite state efforts to address them. As shown in Exhibit 1, the number of orphaned wells in Louisiana increased 68.1% between July 2013 (our first audit) and April 2024.



Source: Prepared by legislative auditor's staff using SONRIS data provided by OC.

¹ Financial security is similar to insurance in that it provides the state with funds to plug secured wells if they are orphaned due to operator abandonment or noncompliance.

² The OSR program was created in 1993 to properly plug and abandon orphaned wells and to restore sites to approximate pre-wellsite conditions. OSR bids out plugging projects to oilfield contractors.

³ As used in this report, "plugging" encompasses all required oilfield site restoration activities, including plugging wells, pit closure, site remediation, and removal of oilfield equipment.

⁴ "Progress Report: State Efforts to Address Orphaned Oil Wells – Office of Conservation – Department of Energy and Natural Resources," October 2024.

This performance audit evaluates if OC could better oversee LORA to more effectively address orphaned wells and minimize financial risks to the state. This audit did not focus on specific instances of potential fraud or abuse, which is the subject of a separate ongoing legislative audit.

History of LORA. LORA is a for-profit company that was created in September 2019, 35 days before OC executed the CEA. The CEA requires LORA to: (1) provide affordable financial security to help more operators comply with state regulations, thereby preventing more wells from becoming orphaned,⁵ and (2) use a portion of financial security fees collected from operators to supplement OSR's efforts to plug orphaned wells. Exhibit 2 shows the number of orphaned wells plugged by LORA and DENR during calendar years 2022 and 2023, with DENR wells including those plugged through OC's OSR program and additional wells plugged using federal grants beginning in January 2023.⁶ OC developed the CEA to address multiple challenges related to orphaned wells. For example, OC updated its regulations in 2015 to require financial security for most operators.⁷ While our 2020 performance audit⁸ subsequently found this had resulted in more wells having financial security, according to OC, this also increased the orphaned well population, as many smaller operators could not afford to comply with the expanded requirements. In addition, House Concurrent Resolution (HCR) 72 of the 2016 regular legislative session urged OC to develop an alternative method for contracting plugging services to provide a less expensive and more efficient means of plugging orphaned wells.⁹

Exhibit 2
Orphaned Oil Wells
Plugged by LORA and
DENR (OSR and Federal Grants)
Calendar Years 2022 and 2023



Source: Prepared by legislative auditor's staff using data from OC.

⁵ OC can orphan all of an operator's wells if they abandon any of their wells or do not comply with regulations, including financial security requirements.

⁶ DENR used two federal grants received through the Infrastructure, Investment, and Jobs Act (IIJA) to plug large groups of land wells in North Louisiana. As a result, OSR prioritized plugging a smaller number of more expensive high-risk wells with its typical allocated funding beginning in 2023.

However, according to OC, many OSR staff were also involved in coordinating the federal projects.

⁷ OC did not require all operators to have financial security during a 2014 LLA performance audit ("[Regulation of Oil and Gas Wells and Management of Orphaned Wells: Office of Conservation – Department of Natural Resources](#)," May 2014) but removed exemptions for new and amended permits to drill and most inactive wells based on this audit's recommendation.

⁸ "[Progress Report: Regulation of Oil and Gas Wells and Management of Orphaned Wells: Office of Conservation – Department of Natural Resources](#)," March 2020.

⁹ At the time, OSR's costs for plugging orphaned wells were inflated due to statutory requirements for plugging contractors to be licensed and obtain a performance bond; however, Act 242 of the 2020 regular legislative session removed these requirements.

According to OC, since there is no incentive for any regulated financial institution to pay to plug orphaned wells, a new entity such as LORA had to be created to serve the dual functions in the CEA. Therefore, the prior OC commissioner in 2019 initiated LORA's creation by selecting an individual to run the association¹⁰ without a competitive bidding process. Exhibit 3 summarizes the key terms of OC's CEA with LORA.

Exhibit 3 Key Terms of OC's CEA with LORA

- LORA must offer operators financial security through **letters of credit** in exchange for an **annual fee** up to 3.5% of the secured amount.
- LORA must deposit at least 80% of annual fees collected in a reserve account until accruing a **minimum reserve balance of \$5 million**.
- After the minimum reserve balance is met, LORA must spend up to **64% of annual fees collected** on **plugging orphaned wells**, including all wells secured by LORA that are orphaned ("**secured orphaned wells**"), as well as some that were not secured by LORA ("**unsecured orphaned wells**"). LORA must prioritize plugging secured orphaned wells.
- If secured wells are orphaned, LORA has the **option to plug them** rather than paying OC the financial security amount. In addition, LORA can **transfer** still-viable secured orphaned wells to other operators.

Source: OC's CEA with LORA

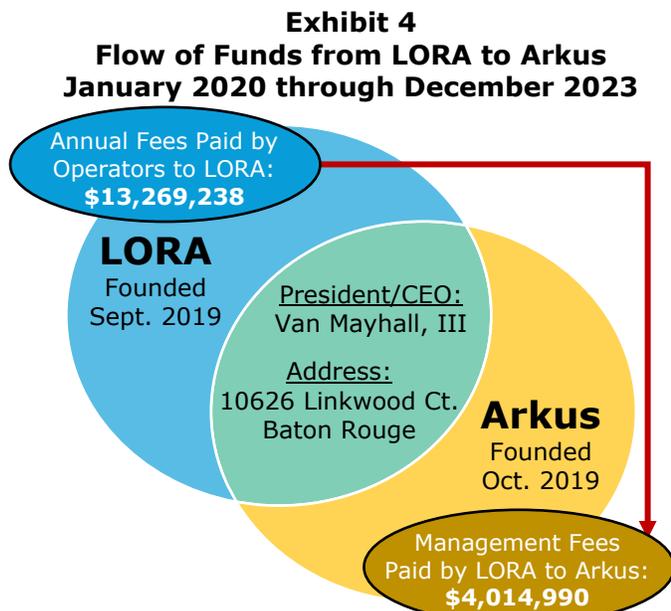
LORA's Operations. After OC executed the CEA,¹¹ LORA entered into a management agreement with Arkus Management Services (Arkus) to perform all of LORA's operations, including day-to-day administration and management, implementing policies and procedures, serving as officers, acting with power of attorney, overseeing financial operations and budgeting, and providing employees. According to LORA, it modeled this structure on similar arrangements that insurance companies use to shift employment, insurance, and other liabilities to a management company, thus reducing the risk of spending reserve funds for purposes other than fulfilling required obligations. LORA itself does not have any employees; however, the same person serves as the President/CEO of both LORA and Arkus, and both companies are owned by the same five individuals.

LORA's Revenues and Expenses. LORA does not receive any state funds, as its sole sources of revenues are annual financial security fees collected from operators and investment income earned on funds accrued. LORA's fees are divided

¹⁰ According to OC and LORA, this commissioner directed OC staff to compile a list of candidates to found the company based on industry recommendations. Of the 25 candidates, five expressed interest in running the program, OC interviewed three, and the commissioner selected one to execute the CEA.

¹¹ The CEA was signed November 4, 2019, and the LORA-Arkus management agreement was effective November 15, 2019.

between deposits to the reserve, costs to plug orphaned wells, financial security paid to OC, and additional amounts allowed by the CEA for LORA's "administrative and day-to-day operating expenses" (administrative expenses). The amount that LORA retains for administrative expenses is calculated as a set percentage of fees, regardless of actual expenses. LORA also retains all investment income earned from the fees it accrues, such as in the reserve account. However, LORA pays the total amount of administrative expenses and investment income directly to Arkus as management fees.¹² Exhibit 4 shows the connections between LORA and Arkus, as well as the amount of management fees paid by LORA to Arkus from January 2020 through December 2023. Appendix C shows the amount of annual fees that LORA collected and a breakdown of how they were used each year since its inception.



Source: Prepared by legislative auditor's staff based on information from Secretary of State and LORA's finances.

Financial Security Provided. As of October 2023, LORA provided \$157.3 million (45.5%) of the total \$346.1 million in financial security for Louisiana wells, a greater total amount than any other entity. In addition, 173 (31.2%) of the 555 operators with financial security in Louisiana had coverage through LORA for a total of 5,145 (13.5%) of the state's 38,007 wells.

To conduct this audit, we analyzed data from DNR's Strategic Online Natural Resources Information System (SONRIS) as well as other financial information provided by OC and LORA. We also analyzed data on wells plugged by LORA and OSR's and LORA's actual costs to plug orphaned wells provided by OC. The objective of this audit was:

To evaluate the Office of Conservation's oversight of the Louisiana Oilfield Restoration Association.

This audit examined OC's performance during calendar years 2020 through 2023. Our results are summarized on the next page and discussed in detail throughout the remainder of the report. Appendix A contains DENR's response, and Appendix B contains our scope and methodology. Appendix C shows LORA's annual

¹² In calendar years 2020 through 2023, management fees paid by LORA to Arkus were the sum of \$3,794,635 retained in administrative expenses (28.6% of annual fees collected) and \$222,308 in investment income, excluding \$1,953 spent on other expenses such as bank fees.

fees collected and a breakdown of how they were used in calendar years 2019 through 2023. Appendix D provides examples of monitoring and reporting requirements for two types of regulated financial institutions, and Appendix E shows a comparison of OSR and LORA total and administrative expenses 2020 through 2023.

Objective: To evaluate the Office of Conservation's oversight of the Louisiana Oilfield Restoration Association.

We found that OC does not conduct sufficient monitoring to ensure that LORA remains financially solvent and complies with the CEA requirements, such as prioritizing plugging wells for which it provided financial security that are orphaned. In addition, OC's CEA with LORA does not establish clear and comprehensive terms for LORA's operations, does not adequately protect the state from financial risks of LORA's insolvency, allows LORA significant flexibility on how to spend its funds, and provides no timelines for how long LORA has to fulfill its plugging obligations. Overall, we found the following:

- **OC has sole oversight of LORA, but it does not conduct sufficient monitoring to protect operators and the state from the risk of LORA failing to fulfill its financial obligations.** LORA is not subject to federal and/or state regulations that apply to financial institutions, so its operations and solvency are not monitored by the regulatory agencies that oversee other companies that provide financial security. OC should develop a process for monitoring LORA's solvency and CEA compliance and amend the CEA to include this process. This could include using a third-party expert to conduct a comprehensive evaluation of LORA's finances and operations and provide recommendations on developing a monitoring process.
- **Although LORA provided 45.5% of all financial security for Louisiana wells as of October 2023, OC does not have a contingency plan to address financial and safety risks to the state if the CEA is terminated or LORA cannot cover its obligations.** The CEA sets LORA's minimum reserve as a fixed amount of \$5 million, regardless of how much financial security it provides. In addition, OC has not evaluated whether the minimum reserve balance required in its CEA with LORA is sufficient to cover its financial obligations even though LORA's \$5 million reserve was only 3.2% of the \$157.3 million it secured as of October 2023.
- **Although OC has never exercised its authority to monitor LORA's actual administrative expenses to determine if the percent of fees allowed for this purpose is reasonable, OC allowed LORA to increase this percentage from 20% to 36% after the minimum reserve balance was met. As a result, LORA retained an additional \$1.1 million from June 2022 through December 2023 that could have been used to plug orphaned wells.** In addition, we found that in the three-month period after OC allowed LORA to begin retaining 36% of fees as administrative expenses, quarterly earnings from Arkus for the

- five individuals who own LORA and Arkus increased by an average of 151.5%. Because OC has not requested information to evaluate the actual administrative expenses Arkus paid to perform LORA functions, including Arkus profits and salaries, OC does not know if these wage increases resulted from significant changes to these individuals' job duties or hours after LORA began collecting the additional 16% in administrative expenses. It is important for OC to determine whether a greater percent of annual fees could be spent on plugging orphaned wells if OC would amend the CEA with LORA, seek another entity to perform this function, or if the law would authorize a state entity to serve this function directly.
- **OC did not include important provisions in its CEA with LORA to help ensure that LORA operates in the state's best interest. Specifically, the CEA does not address how LORA should spend investment income, does not establish measurable targets for evaluating LORA's performance, and does not contain an audit clause to allow the legislative auditor to access LORA's records.** For example, the CEA does not specify how investment income should be spent; however, OC allows LORA to retain investment income in addition to administrative expenses rather than using this income to plug wells, which may incentivize LORA to delay plugging wells to maximize time for investing funds.
 - **OC did not ensure that LORA prioritized plugging its secured wells that were orphaned, as required by the CEA. Of the 175 wells secured by LORA that were orphaned through December 2023, 130 (74.3%) remained unaddressed as of October 2024.** In addition, OC needs to provide additional guidance and monitoring for LORA's transfers of viable secured orphaned wells to new operators, which can also decrease the orphaned oil well population without incurring plugging costs..
 - **OC did not ensure that LORA operated cost-effectively to plug wells at lower costs than the OSR program, especially when factoring in the characteristics of wells plugged and administrative expenses.** Since allowing LORA to provide financial security poses financial risks to the state, it is important for OC to accurately evaluate the benefits that LORA provides compared to these risks, including all relevant factors that impact these calculations.

Our findings and recommendations are discussed in more detail in the sections below.

OC has sole oversight of LORA, but it does not conduct sufficient monitoring to protect operators and the state from the risk of LORA failing to fulfill its financial obligations. LORA is not subject to federal and/or state regulations that apply to financial institutions, so its operations and solvency are not monitored by the regulatory agencies that oversee the other companies that provide financial security.

Regulated financial institutions¹³ undergo extensive monitoring to help ensure their legal compliance and solvency; however, OC does not conduct comparable monitoring of LORA, which increases the risk that LORA may violate the CEA, misrepresent its financial condition, or take on more obligations than it can pay long-term. Until its CEA with LORA, OC only accepted letters of credit provided through regulated financial institutions, such as banks overseen by the Louisiana Office of Financial Institutions (OFI) and/or the Federal Deposit Insurance Corporation (FDIC) (*see box at right*). Based on our review of relevant agency databases,¹⁴ LORA is not recognized or regulated as a financial institution by any regulatory agency with oversight of financial institutions. However, OC regulation¹⁵ only requires financial security to be provided by “a financial institution *acceptable to the OC commissioner.*” In order for LORA to provide financial security, the CEA specifies that OC recognizes LORA as an acceptable financial institution for the purpose of providing letters of credit. LORA appears to act as a self-funded surety for its member operators, which does not require licensure or other regulation.¹⁶

Regulated financial institutions include:

- State and national banks overseen by the FDIC and/or OFI
- Licensed insurance companies overseen by the Louisiana Department of Insurance (LDI)
- Credit unions overseen by the National Credit Union Administration and/or OFI

Regulated financial institutions are subject to multiple levels of oversight and monitoring that help ensure stability by examining financial, managerial, and compliance factors to identify undue risks and weak risk management practices. For example, OFI, the FDIC, and LDI perform periodic examinations of banks and insurance companies that include on-site visits and extensive review of supporting documentation using a nationally-standardized methodology. These regulatory

¹³ We use this term to refer to financial institutions that are regulated by federal and/or state agencies whose primary responsibility is to oversee institutions engaged in financial activities. Although OC has oversight of LORA, OC's primary oversight responsibilities are not related to financial services.

¹⁴ We searched the databases of the FDIC, LDI, National Association of Insurance Commissioners, Federal Financial Institutions Examination Council, and National Credit Union Administration.

¹⁵ LAC 43.XIX:104

¹⁶ Since LORA does not meet the definition of a financial institution, OC should have amended its regulations before entering into the CEA to include organizations such as LORA as an acceptable entity to issue letters of credit. However, OC has not updated its regulations as of October 2024.

agencies also have the authority to require companies to make changes if they are found to have unacceptable levels of risk. Appendix D provides examples of monitoring and reporting requirements for two types of financial institutions.

By contrast, OC conducts limited monitoring of LORA. According to OC, other than reviewing high-level annual financial reports required by the CEA,¹⁷ it does not review LORA's finances or operations for compliance with the CEA. Although the CEA allows OC to inspect LORA's records to verify the reports' accuracy, according to OC, it has never reviewed any supporting documentation. Verifying the reports' accuracy is important to ensure that OC has correct information to evaluate LORA's solvency and compliance, as well as whether the CEA should be amended or terminated due to unacceptable risk. For example, we found that LORA categorized funds on some annual reports in ways that could cause OC to misinterpret its financial position (*see box at right*). In addition, OC does not monitor whether LORA complies with CEA terms that impact its financial health, such as requirements to offer financial security to operators even if they are high-risk,¹⁸ and to report operators to OC who do not pay their annual fees.¹⁹

OC should consider using a third-party expert to conduct a comprehensive evaluation of LORA's finances and operations and provide recommendations on developing a monitoring process.

OC has never evaluated LORA's financial position to see whether LORA's unique structure, which was created by the CEA without any comparable organizations to use as a model, will remain viable based on its actual revenues and obligations to date. A third-party financial expert could develop standards for acceptable risk tolerances and recommendations for strengthening the CEA in order to balance LORA's responsibility of providing affordable, reliable financial security with its mission to plug orphaned wells. The

Examples of Discrepancies Identified in LORA's Annual Reports to OC

- LORA's 2022 and 2023 annual reports each categorized almost \$2 million as being part of the reserve balance but these amounts were actually the remainder of the plugging budget allocated to be spent for that year. Although the reserve balance was the minimum of \$5 million as of the end of both years, the balance exceeded the minimum on the reports, which could have caused OC to misjudge LORA's long-term ability to fulfill obligations.
- LORA's 2022 annual report categorized more than \$1.7 million in collateral that was collected in an exceptional circumstance as being "fees accrued or received." This could have caused OC to overestimate LORA's earning potential and to believe that LORA was justified in taking 20% of this amount as administrative expenses. The CEA does not address LORA collecting collateral from operators.

Source: Prepared by legislative auditor's staff based on LORA annual reports provided by OC, financial statements and annual fee payment documentation provided by LORA, and discussions with OC and LORA.

¹⁷ The CEA only requires LORA to provide OC with annual reports showing total fees collected, administrative expenses, plugging costs, and the reserve balance. According to OC, it compares the reports to SONRIS data to check if the amount of fees reported was "in the ballpark" of what should have been collected based on the amount of financial security provided.

¹⁸ The CEA states that LORA must offer to provide financial security to any operator with an operator code assigned by OC. According to LORA, it initially provided financial security to any operators who requested it; however, it has become more selective even though the CEA does not allow for denial.

¹⁹ Since OC can orphan operators' wells for non-payment of fees, LORA may withhold reporting these operators to avoid incurring additional obligations, leading to LORA carrying undisclosed liabilities.

expert could also provide recommendations for a process OC can use to monitor LORA's financial health and CEA compliance, including specific statistics and documentation that must be reviewed and appropriate timelines for performing different types of periodic reviews. However, even if OC does not hire a third-party expert, OC should develop a process for monitoring LORA's solvency and CEA compliance and amend the CEA to include this process.

Recommendation 1: DENR²⁰ should ensure evaluation occurs of LORA's financial performance to date in order to make informed decisions that will support LORA's financial health in a holistic way. This could include using a third-party financial expert to develop standards for acceptable risk tolerances, a detailed process for periodic monitoring of LORA's financial health and CEA compliance, and recommendations to strengthen the CEA to mitigate risks to the state.

Summary of Management's Response: DENR agreed with this recommendation and stated that the Natural Resources Trust Authority (recently created within the department) will serve as the entry point in assessing risk in authorized financial security entities, such as LORA, as it relates to financial wherewithal and serving as the additional layer of financial oversight. See Appendix A for DENR's full response.

Recommendation 2: DENR should develop a process to monitor LORA's solvency and CEA compliance that provides similar protections to the operators and the state that would be offered if LORA was regulated as a financial institution, and update the CEA as applicable.

Summary of Management's Response: DENR agreed with this recommendation and stated that the Natural Resources Trust Authority will monitor for financial solvency and risk in entities such as LORA and will help identify any additional oversight and monitoring to protect the state and operators. See Appendix A for DENR's full response.

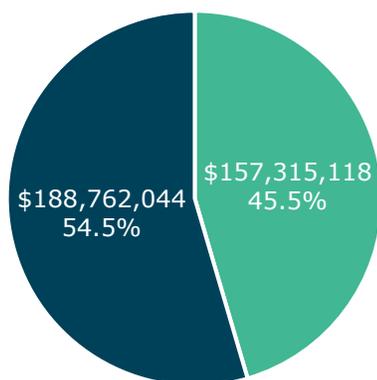
²⁰ We addressed our recommendations to DENR instead of OC because Act 727 of the 2024 regular legislative session and Executive Order JML 24-13 require reorganization of DENR, which could change OC's responsibilities.

Although LORA provided 45.5% of all financial security for Louisiana wells as of October 2023, OC does not have a contingency plan to address financial and safety risks to the state if the CEA is terminated or LORA cannot cover its obligations.

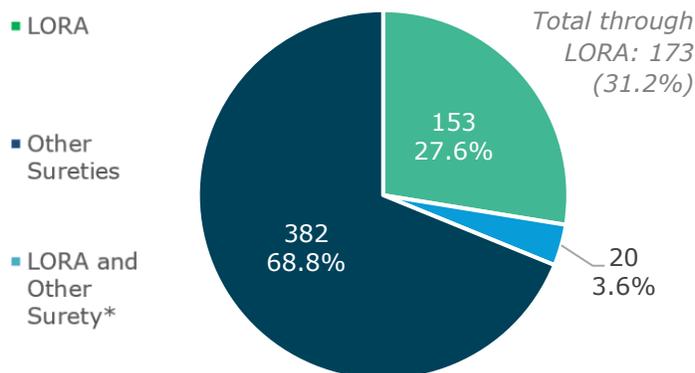
Although LORA did not begin operations until after the CEA was executed in November 2019, after just four years in operation, it provided financial security totaling approximately \$157.3 million – a greater total amount than any other entity that provided financial security. As of October 2023, 173 (31.2%) of the 555 operators with financial security had coverage through LORA for a total of 5,145 (13.5%) of the state’s 38,007 wells. Exhibit 5 shows the percent of operators and the amount secured by LORA.

Exhibit 5

Percent of Total Financial Security Amount Provided by LORA As of October 2023



Percent of Operators with Financial Security with Coverage through LORA As of October 2023



* Some operators have financial security through LORA and another surety at the same time.
Source: Prepared by legislative auditor’s staff using OC SONRIS data.

Although almost one in three operators with financial security as of October 2023 had it through LORA, OC does not have a plan for what would happen if the CEA is terminated or LORA ceases operation, which puts the state at risk. The CEA does not address terms for its termination,²¹ so either party could end the agreement at any time for any reason. Although this means OC could replace LORA or dissolve its function at will, this would be challenging since so many operators now rely on LORA’s coverage. By contrast, LORA could exit the CEA as soon as the costs outweigh the benefits. For example, if one large operator or several small operators’ wells were orphaned at the same time and LORA could not

²¹ The CEA does not have an end date, stating only that it “will continue until terminated in writing by the parties.”

fulfill its financial obligations, it may suddenly cease operations or declare bankruptcy. However, the CEA does not address what would happen in that circumstance, including whether LORA would face any consequences for walking away from its obligations.

Given that LORA secures a high percentage of the state's financial security for a large number of operators, abrupt termination of the CEA poses several financial and safety risks to the state (*as described in the box at right*). OC should mitigate these risks by developing a contingency plan and amending the CEA to address what would happen if the CEA was terminated for different reasons. For example, the CEA should specify how long LORA's obligation to plug secured wells continues after the CEA's termination, and whether the reserve balance and unspent plugging budget must be spent on plugging orphaned wells, paid to OC as financial security, or transferred to another party. By planning ahead, OC could also proactively identify ways to help operators remain compliant with financial security requirements if they suddenly lost their coverage through LORA. However, even with a contingency plan and clarified terms of termination in the CEA, risk still exists that, if LORA ceased to operate, OC may still have to orphan a large number of wells with no financial security to offset OSR's costs to plug them.

Risks to State Posed by LORA's Bankruptcy

- OSR would become responsible for plugging LORA's secured orphaned wells without having collected any financial security
- More wells would be orphaned if any of LORA's operators could not obtain other financial security within 30 days
- A sudden spike in orphaned wells and delays to completing LORA's ongoing plugging projects could cause safety hazards

Source: Conclusions based on discussions with OC and LORA.

OC has not evaluated whether the minimum reserve balance required in its CEA with LORA is sufficient to cover LORA's financial obligations, even though LORA's \$5 million reserve was only 3.2% of the

\$157.3 million it secured as of October 2023. The CEA sets LORA's minimum reserve balance as a fixed amount of \$5 million, regardless of how much financial security LORA provides. According to OC, the CEA purposefully set LORA's minimum reserve low so that more funds could be spent plugging orphaned wells,²² which benefits the state. However, this increases the risk that LORA will not have enough funds to fulfill its obligations. Although LORA has grown to provide almost half of financial security statewide, OC has never evaluated whether the CEA should be amended to increase the minimum reserve amount or change the minimum reserve to be based on a percentage of the amount secured.

LORA's low reserve amount also poses a risk to the state because OC approved LORA to provide Site-Specific Trust Accounts (SSTAs), which can have higher amounts than other financial security policies. State law²³ allows

²² According to the CEA, LORA's obligation to plug orphaned wells is suspended if the reserve balance falls below the minimum balance.

²³ R.S. 30:88

operators to establish SSTAs when they sell a well to another operator to ensure that funds will later be available for plugging the transferred well if it is orphaned.²⁴ Unlike other financial security, SSTAs are based on an estimate of actual costs to plug the secured wells, so their amounts can be much higher.²⁵ As a result, SSTAs generally offer greater protection to the state than other financial security; however, OC undermined this protection by approving LORA to provide SSTAs without having adequate assets to back them up.

In June 2023, the previous OC commissioner issued a memo that blocked LORA from issuing additional SSTAs; however, OC allowed LORA's existing SSTAs to remain. As shown in Exhibit 6, \$120.4 million (76.5%) of the total \$157.3 million that LORA secured as of October 2023 was through SSTAs. LORA's \$5 million reserve may not be enough to cover plugging the wells it secures through SSTAs. For example, 10 of LORA's 37 SSTAs exceeded \$5 million, ranging from \$5.2 million to \$21.9 million. Although it is unlikely that all wells secured through LORA SSTAs would be orphaned at the same time, LORA could not afford to cover its obligation if any one of those SSTAs' wells were orphaned. As the difference grows between the amount secured and the reserve, the risk increases that LORA will not be able to meet its obligations to plug secured orphaned wells. OC should reevaluate the risk that SSTAs pose to LORA's financial sustainability, consider whether LORA's current reserve amount is sufficient to mitigate the risk, and consider whether operators with SSTAs through LORA should be required to find alternative funding through regulated financial institutions.

Recommendation 3: DENR should develop a plan to protect the state from financial risks if the CEA with LORA is terminated or LORA ceases operations and ensure the current CEA is amended with comprehensive terms of termination.

Exhibit 6 Financial Security Types Provided by LORA As of October 2023		
Type of Security	\$ Secured	# Wells
SSTAs	\$120,380,162	820
Other Financial Security	\$36,934,956	4,333
Total*	\$157,315,118	5,145
Percent through SSTAs	76.5%	15.9%

* The total is greater than the sum of wells for the two types of security because some wells are covered by both SSTAs and other financial security.
Source: Prepared by legislative auditor's staff using OC SONRIS data.

²⁴ Since state law (R.S. 30:93) authorizes DENR to recover costs from prior operators of orphaned wells when OSR plugging costs exceed \$250,000, SSTAs are usually established because the previous operators do not want to be held liable if the wells are abandoned by the operator who last purchased the well. Once an SSTA is established, OC cannot recover plugging costs from prior operators.

²⁵ The amount of other financial security policies is calculated based on wells' location and depth for individual policies, or by the location and number of wells for blanket policies. LAC 43.XIX:104 sets the maximum amount of blanket financial security policies at \$5 million, which matches the minimum reserve amount set by the CEA. Our 2014, 2020, and 2024 performance audits found that these required financial security amounts are insufficient to cover the actual cost of plugging orphaned wells.

Summary of Management's Response: DENR agreed with this recommendation and stated that the Natural Resources Trust Authority will develop a strategic plan with contingency measures to address financial and safety risks associated with the potential termination of agreements with entities like LORA. See Appendix A for DENR's full response.

Recommendation 4: DENR should consider whether LORA's current reserve amount is sufficient to mitigate the risk of insolvency, and if not, ensure the CEA is amended to increase the required minimum and/or set it based on a percentage of the amount secured instead of a fixed amount.

Summary of Management's Response: DENR agreed with this recommendation and stated that the Natural Resources Trust Authority will evaluate and adjust the minimum reserve requirements to ensure they are sufficient to cover financial responsibilities. See Appendix A for DENR's full response.

Recommendation 5: DENR should ensure the CEA is amended to update terms, as appropriate, to mitigate risks related with LORA providing SSTAs, and/or evaluate whether operators with SSTAs through LORA should find alternative funding through regulated financial institutions.

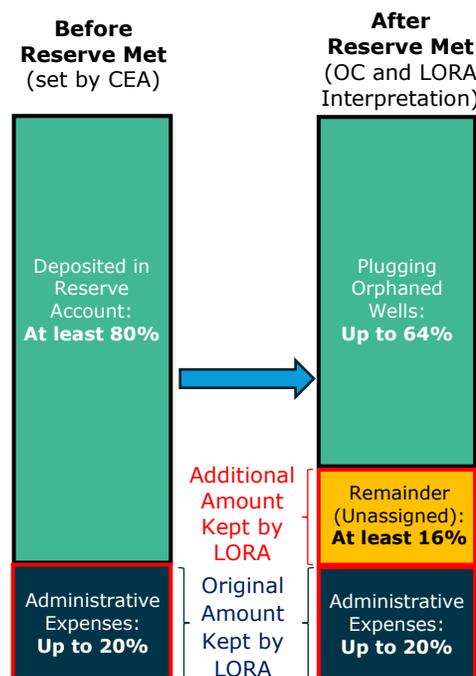
Summary of Management's Response: DENR agreed with this recommendation and stated that the Natural Resources Trust Authority will evaluate and determine whether operators with SSTAs through LORA should find alternative funding through regulated financial institutions. See Appendix A for DENR's full response.

Although OC has never exercised its authority to monitor LORA’s actual administrative expenses to determine if the percent of fees allowed for this purpose is reasonable, OC allowed LORA to increase this percentage from 20% to 36% after the minimum reserve balance was met. As a result, LORA retained an additional \$1.1 million from June 2022 through December 2023 that could have been used to plug orphaned wells.

The CEA states that, until the minimum reserve of \$5 million is met, LORA must deposit 80% of fees collected from operators in the reserve account, and LORA can only retain a maximum of 20% of fees for administrative expenses. The CEA states that after the minimum reserve is met, LORA must spend up to 64% of fees²⁶ collected on plugging orphaned wells, but is silent as to the percent of fees allowed for administrative expenses at that point. As shown in Exhibit 7, even if assuming that the 20% previously allowed for administrative expenses continues, the CEA does not specify what happens to the remaining 16% that was previously deposited in the reserve.

Although the CEA explicitly states that LORA can retain a maximum of 20% of annual fees as administrative expenses before the reserve is met, the CEA does not address what percent of fees LORA can retain for administrative expenses after the minimum reserve amount is met. According to OC and LORA, both parties intended for LORA to keep the 16% remainder as additional administrative expenses because when the reserve reaches \$5 million, LORA begins performing an additional function.²⁷ They stated that the initial 20% covers administration related to providing financial security, and the additional 16% covers administration related to plugging orphaned wells. However,

**Exhibit 7
Percent of LORA’s Annual Fees Kept for Administrative Expenses**



Source: Prepared by legislative auditor staff based on OC’s CEA with LORA and discussions with OC and LORA.

²⁶ According to OC and LORA, even though the CEA only requires LORA to spend “up to” 64% of annual fees on plugging orphaned wells, OC requires LORA to spend a minimum of 64% on plugging orphaned wells.

²⁷ According to OC and LORA, these percentages were negotiated before the CEA was executed.

the CEA does not include language to raise the administrative percentage after the minimum reserve is met.²⁸

Although OC has never exercised its authority to monitor LORA's actual administrative expenses to determine if the percent of fees allowed for this purpose is reasonable, OC allowed LORA to increase this percentage from 20% to 36% after the minimum reserve balance was met in June 2022. LORA's annual reports do not provide any detailed information showing how administrative amounts are spent each year, such as categories of expenses. The CEA authorizes OC to inspect LORA's records, and LORA's management agreement with Arkus states that all records related to LORA's administration shall be available for inspection by OC, even if they were created by Arkus. However, OC has never exercised this authority to review financial documentation in order to evaluate if the amounts LORA kept each year were necessary to cover its actual administrative expenses. As a result, even though OC did not know if the 20% provided more funds than needed to support efficient LORA operations once one-time startup costs were all paid and the annual fee amounts collected by LORA increased, OC allowed LORA to increase the percentage it retained for administrative expenses to 36% as soon as the reserve reached \$5 million.

If OC had maintained the original 20% limit after the reserve was met in June 2022, LORA could have spent an additional \$1.1 million on plugging orphaned wells. Overall, of the \$13.5 million

that LORA collected in financial security fees from November 2019 through December 2023, LORA kept \$3.8 million (28.5%) for administrative expenses.²⁹ At first, LORA kept 20%, which is the maximum amount that the CEA allows until the minimum reserve is met. However, immediately after the reserve reached \$5 million on June 28, 2022, LORA began retaining 36% of fees for administrative expenses. Of the total \$3.8 million kept by LORA for administrative expenses in November 2019 through December 2023, \$1.1 million (29.8%) was from the extra 16% that LORA collected in the 18 months after the reserve was met in June 2022. By contrast, LORA spent a total of \$2.8 million on plugging wells in this period, and had budgeted but not yet spent an additional \$1.8 million for plugging orphaned wells as of December 2023.

Even when fee collections increased significantly year to year, **LORA always kept the maximum percentage allowed** for administrative expenses in calendar years 2019 through 2023.

²⁸ Although OC issued an Act of Correction to the CEA in September 2022, just after LORA's minimum reserve was met, no language was added to clarify the administrative percentage allowed after the reserve was met.

²⁹ Appendix C shows a breakdown of how LORA used the fees collected each year.

LORA pays the entire allowed administrative amount to Arkus as management fees, and Arkus retains any remainder after expenses as profit. However, OC has never evaluated if Arkus or its employees received additional financial benefits from the increased administrative percentage without an increase in job duties or hours related to LORA functions.

Since administrative expenses are calculated as a percent of annual fees regardless of actual

expenses, LORA can retain any remainder left after expenses as profit. LORA stated that it functions as a non-profit, as there is no remainder after it pays 100% of administrative expenses to Arkus as management fees. However, LORA acknowledged that Arkus can retain a profit from the management fees. In addition, although LORA does not have any employees itself, according to LORA, LORA and Arkus are owned by the same five individuals, and these owners were all employees of Arkus during calendar years 2020 through 2023. We found in the Louisiana Workforce Commission wage data that in the three-month period after OC allowed LORA to begin retaining 36% of fees as administrative expenses, these individuals' quarterly earnings from Arkus increased by an average of 151.5%, as shown in Exhibit 8.

Exhibit 8			
Change in Arkus Employees' 3rd and 4th Quarterly Salaries after LORA Administrative Percentage Increased July to December 2022			
Arkus Employee	2022 Q3	2022 Q4	% Increase
Employee 1	\$14,000	\$43,240	208.9%
Employee 2	7,500	35,195	369.3%
Employee 3	7,500	9,896	31.9%
Employee 4	7,500	9,896	31.9%
Employee 5	6,000	8,658	44.3%
Total	\$42,500	\$106,885	151.5%
Source: Prepared by legislative auditor's staff using LWC wage data.			

Because OC has not requested information to evaluate the actual administrative expenses Arkus paid to perform LORA functions, including Arkus profits and salaries, OC does not know if these wage increases resulted from significant changes to these individuals' job duties or hours after LORA began collecting the additional 16% in administrative expenses. Reviewing Arkus employees' job responsibilities and hours could help OC to understand if the amount allowed for administrative expenses is excessive.

It is important for OC to determine whether a greater percentage of annual fees could be spent on plugging orphaned wells if OC would amend the CEA with LORA, seek another entity to perform this function, or if the law would authorize a state entity to serve this function directly. Compared to LORA's average administrative percentage of 28.6%, OSR's average administrative expenses were only 8.5% in fiscal years 2020 through 2023.³⁰ OSR provides the closest available comparison for assessing the reasonableness of LORA's administrative percentage. OC stated that the 20% in administrative

³⁰ For LORA, this percentage was calculated as the percent of total annual fees collected, as this is how the CEA calculates how much LORA can retain for administrative expenses. For OSR, this percentage was calculated as the percent of total expenses. Given that OSR's total revenues were \$54.2 million and its total expenses were \$43.6 million for fiscal years 2020 through 2023, OSR's administrative percentage would be lower if similarly calculated as a percentage of its revenue.

expenses allowed in the CEA for each of LORA's functions³¹ was based on OSR's administrative percentage of approximately 20% at the time,³² as LORA performs similar functions related to plugging orphaned wells as OSR. While LORA performs some activities that OSR does not, such as providing financial security,³³ OSR also has several responsibilities that LORA does not, such as overseeing all SSTAs in the state.³⁴

In addition, to account for the possibility that OSR's administrative costs alone do not adequately compare to LORA due to LORA's financial security activities, we also prepared a cost comparison scenario that included administrative expenses (specifically, salaries) paid for OC's Drilling Permit and Reservoir Section (Permit Section), which oversees financial security requirements for all wells in the state.³⁵ When we combined OSR's administrative expenses with the Permit Section salaries, the administrative percentage was an average of 9.9%, which was still significantly lower than LORA's average of 28.6% over the same four-year period. Overall, the large difference between the two entities in both scenarios shows the need for further evaluation of the administrative expenses LORA is allowed to retain. Exhibit 9 compares the annual administrative percentages of LORA and OSR (with and without the Permit Section included) in 2020 through 2023, and Appendix E provides a table with the amounts used to calculate these percentages.

Year*	Scenario 1 OSR	Scenario 2 OSR + Permit Section Salaries	LORA
2020	8.9%	9.8%	20.0%
2021	9.3%	10.7%	20.0%
2022	9.5%	11.5%	31.4%
2023	6.9%	8.2%	36.0%
Average	8.5%	9.9%	28.6%

* Due to different reporting cycles, OSR is shown by fiscal year, whereas LORA is by calendar year.
Source: Prepared by legislative auditor's staff based on financial information provided by OC and LORA.

LORA (and subsequently Arkus) currently has no incentive to retain less than the maximum amount allowed for administrative expenses. When OC and LORA

³¹ The additional 16% LORA retains for administrative expenses after the reserve is met is 20% of the 80% remaining after the initial 20% allowed for administrative expenses.

³² OSR's budget increased in the following years, but the statute did not change that limits OSR's administrative costs to \$950,000 per year. As a result, OSR's administrative percentage decreased after the CEA was executed.

³³ For example, according to LORA, it also evaluates potential operator clients and "markets" still-viable secured orphaned wells to be transferred to new operators.

³⁴ For example, OSR must orchestrate competitive bidding to obtain plugging contractors, whereas LORA engages contractors without competitive bidding. In addition, OSR performs significant regulatory functions, such as tracking and disseminating information about all orphaned wells, assigning orphaned wells a risk-based priority score, monitoring all work performed to plug orphaned wells and verifying it is properly completed, and overseeing up to 40 projects a year stopping leaks on orphaned wells that cannot yet be plugged.

³⁵ The Permit section is not involved in plugging wells; it is responsible for well record management and processing applications for approval of financial security, drilling permits, and several other purposes.

agreed on these amounts, no comparable organizations existed to use as a model, and the CEA was executed without competitive bidding to elicit estimates of the lowest administrative amount needed for operations. However, because the CEA is now almost five years old, OC can now assess the actual expenses that Arkus spent to perform this function. OC should use this information to minimize administrative spending and maximize the amount spent on wells, whether by amending the CEA with LORA or finding another entity to serve this purpose. For example, although LORA was created as a solution to address orphaned wells that did not require legislation, OC stated that it would welcome the opportunity for the OSR Program or another state entity to perform LORA's function if the legislature would authorize it to collect fees for financial security.

Recommendation 6: DENR should ensure the CEA is amended to clarify what amount of fees LORA may retain for administrative expenses after the minimum reserve balance is met.

Summary of Management's Response: DENR agreed with this recommendation. See Appendix A for DENR's full response.

Recommendation 7: DENR should evaluate the actual amount of administrative expenses spent on LORA operations to determine if the amount allowed for this purpose is reasonable and, if necessary, ensure that the CEA with LORA is amended to change the allowable administrative amount or that another entity is identified to perform this function more efficiently.

Summary of Management's Response: DENR agreed with this recommendation and stated that the Natural Resources Trust Authority will implement requirements to monitor and control administrative expenses, determine reasonable limits, and adjust percentages as necessary. See Appendix A for DENR's full response.

Matter for Legislative Consideration 1: If DENR determines it is more cost-efficient and more wells could be plugged, the legislature may wish to consider authorizing DENR or another governmental entity to perform LORA's function in order to minimize administrative costs and maximize the number of orphaned wells plugged. This would include authorizing the entity to collect fees for financial security directly.

OC did not include important provisions in its CEA with LORA to help ensure that LORA operates in the state's best interest. Specifically, the CEA does not address how LORA should spend investment income, does not establish measurable targets for evaluating LORA's performance, and does not contain an audit clause to allow the legislative auditor to access LORA's records.

The CEA does not specify how investment income should be spent; however, OC allows LORA to retain these amounts in addition to administrative expenses rather than using this income to plug wells.

According to LORA, it transfers all investment income directly to Arkus as part of its management fees. Based on our review of LORA financial statements, LORA earned \$222,308 in investment income in calendar years 2020 through 2023. If the CEA required investment income to be added to the reserve account, compound interest earned on these amounts could generate additional funding for plugging wells and help ensure LORA can meet its obligations, especially since the minimum reserve balance is so low compared to the amount of financial security LORA provides.

In addition, allowing LORA to retain investment income could incentivize it to delay plugging wells in order to maximize time for investing funds. Since each year's plugging budget is based on 64% of fees collected from January to December of that year, LORA cannot spend the entire budget by year-end, as it must wait until all fees are collected to calculate and fund the plugging budget. For example, \$1.9 million of LORA's \$2.4 million plugging budget for 2022 remained unspent as of December 2022. Although LORA reported this remainder had been spent by September 2023, the CEA does not limit how long LORA can take to spend each year's plugging budget, so nothing prevents LORA from delaying this spending longer to extend opportunities to earn investment income on these funds. For example, LORA stated that \$309,534 of its \$2.1 million plugging budget for 2023 had not been spent as of September 2024.³⁶ Requiring investment income to remain in the reserve would also help remove incentive to delay plugging wells in order to gain additional investment income.

The CEA does not establish specific targets for evaluating LORA's performance or require OC to monitor and report on whether LORA has met expectations, even though the CEA was executed with no end date. The CEA refers to itself as a pilot program, and states that it was developed in response to House Concurrent Resolution (HCR) 72 of the 2016 regular legislative session to address issues with the high cost of plugging orphaned wells. However, while pilot programs typically involve an agency trying out innovative solutions within a

³⁶ According to LORA, it has also executed two plugging contracts that will spend at least \$207,095 in the next 30-60 days, and it projects spending at least \$74,570 on a third contract by December.

controlled environment before implementing the program at a larger scale,³⁷ OC allowed LORA to immediately begin providing financial security to all operators without restriction.

In addition, when HCR 72 proposed the pilot program referenced in the CEA, it specifically stated that the program would last three years, and OC would be required to report annually on its status to two legislative oversight committees. However, the CEA does not have an end date, and OC has never formally evaluated or reported on LORA's performance. In addition, the CEA does not establish any measurable targets that OC can monitor to evaluate LORA's performance, such as providing financial security to a certain number of high-risk operators, plugging a certain number of orphaned wells within a given time period, or spending its entire annual plugging budget within a specific time period after it is budgeted. It is important for OC to establish performance targets and formal processes to evaluate the actual results of the CEA in order to determine if it has benefited the state, especially since there is no end date for the CEA and allowing LORA to provide financial security can create financial and environmental risks.

According to the U.S. Government Accountability Office, effective pilot design requires **measurable objectives** and a **strong monitoring framework** in order to ensure that agency assessments produce information needed to make effective program and policy decisions, and to help ensure that time and resources are used effectively.

OC has not amended the CEA to allow the legislative auditor to access LORA's records. In February 2020, the legislative auditor's legal counsel sent a memorandum to OC that noted that, although not required, it would be in OC's benefit to include an audit clause in the CEA. In addition, Act 242 of the 2020 regular legislative session added a statutory requirement that CEAs related to LORA's function must allow full access to operations and financial records of the CEA party for the purpose of any audit conducted by the legislative auditor.³⁸ In addition, the previous OC Commissioner and current DENR Secretary jointly sent a CEA amendment to LORA for signature in February 2024 that would have added the audit clause to the CEA; however, LORA had not signed this document as of September 2024.

Recommendation 8: DENR should ensure the CEA is amended to clarify what should happen to the investment income earned from the fees that LORA collects, such as whether these amounts should go into the reserve fund for the purpose of plugging orphaned wells.

³⁷ U.S. Government Accountability Office, "[Section 5 Pilot Design Issues Need to Be Addressed to Meet Goal of Reducing Recipient Reporting Burden](#)," 2016.

³⁸ It appears that the changes to R.S. 30:4 do not apply retroactively. Since OC's CEA with LORA was executed in 2019 before the changes were implemented, the CEA is not required to include the audit clause.

Summary of Management's Response: DENR agreed with this recommendation and stated that the Natural Resources Trust Authority will specify how LORA's investment income should be utilized. See Appendix A for DENR's full response.

Recommendation 9: DENR should ensure the CEA is amended to establish specific, measurable performance targets that can be monitored to evaluate LORA's performance, such as providing financial security to a certain number of high-risk operators, plugging a certain number of orphaned wells within a given time period, and spending its entire annual plugging budget within a specific time period after it is budgeted.

Summary of Management's Response: DENR agreed with this recommendation and stated that the Natural Resources Trust Authority will help establish clear performance targets for financial security entities. See Appendix A for DENR's full response.

Recommendation 10: DENR should ensure the CEA is amended to allow full access to LORA's operations and financial records for the purpose of any audit conducted by the legislative auditor.

Summary of Management's Response: DENR agreed with this recommendation and stated that including audit clauses and performance metrics will ensure thorough monitoring and compliance with agreements, thereby aligning LORA's operations with the state's best interests. See Appendix A for DENR's full response.

OC did not ensure that LORA prioritized plugging its secured wells that were orphaned, as required by the CEA. Of the 175 wells secured by LORA that were orphaned through December 2023, 130 (74.3%) remained unaddressed as of October 2024. In addition, OC needs to provide additional guidance and monitoring for LORA's transfers of viable secured orphaned wells to new operators, which can also decrease the orphaned oil well population without incurring plugging costs.

After the minimum reserve balance is met, the CEA requires LORA to spend up to 64% of fees collected on plugging orphaned wells. The CEA allows LORA to fulfill this requirement by plugging orphaned wells that it secured (LORA-secured orphaned wells) or other wells from OSR's orphaned well list that it did not secure (state orphaned wells), but the CEA requires LORA to prioritize plugging those that it secured (*see box at right*). When a well secured by LORA is orphaned, LORA has the option to plug the well, pay OC the amount of financial security for the well,³⁹ or transfer still-viable orphaned wells to a different operator in order to fulfill its obligation. Plugging wells is usually more expensive than paying OC the financial security amount. For example, we found that for two LORA letters of credit⁴⁰ totaling \$85,368, LORA paid \$227,643 to plug their 19 secured wells that were orphaned.

LORA-Secured Orphaned Wells:

Wells with financial security through LORA that were orphaned by OC, meaning LORA has the legal obligation to plug the wells or pay OC the amount secured.

State (Unsecured) Orphaned

Wells: Wells from OSR's orphaned well list that LORA did not secure. The CEA allows LORA to plug these wells after prioritizing plugging secured orphaned wells.

OC has not enforced the CEA requirement for LORA to prioritize plugging orphaned wells it secured as required by the CEA, resulting in 130 secured wells that were orphaned through December 2023 remaining unaddressed while LORA opted to plug state (unsecured) orphaned wells.

An Act of Correction in 2022 changed the CEA to state that after the minimum reserve balance is met, LORA must use up to 64% of annual fees collected to plug any orphaned wells, regardless of whether LORA secured them. However, the CEA still requires LORA to address its secured wells as a priority, specifically stating that LORA should only plug state orphaned wells when it is viable to do so without "endangering or impairing LORA's obligations for secured wells."

³⁹ LORA only opted to pay instead of plugging on one occasion involving five wells secured for \$50,000. According to LORA, this was only because OC denied LORA's request for an extension to finish evaluating the wells before deciding to plug.

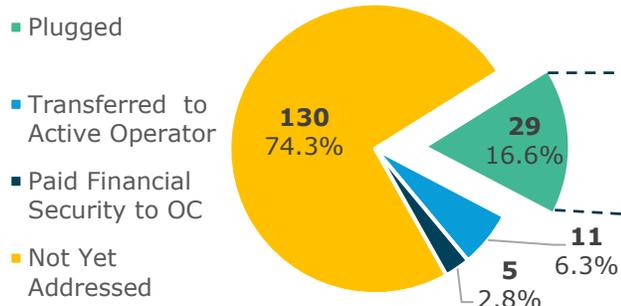
⁴⁰ Of LORA's 12 total letters of credit whose secured wells were orphaned through December 2023, these were the only two for which LORA had plugged all orphaned wells as of October 2024.

Of the 175 wells secured by LORA that were orphaned from December 2021 through December 2023, LORA had not plugged, paid the financial security, or transferred 130 (74.3%) of them as of October 2024.⁴¹ However, of the 109 total wells that LORA plugged in calendar years 2022 and 2023, 82 (75.2%) were State orphaned wells that LORA did not secure, as shown in Exhibit 10.

Exhibit 10

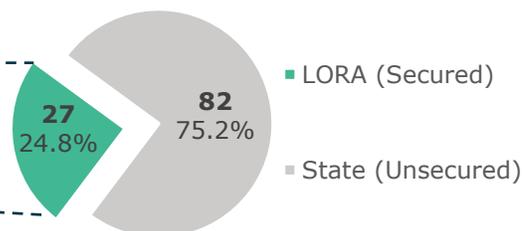
Outcomes of LORA’s Secured Wells that were Orphaned through December 2023*

Total LORA Secured Wells that Were Orphaned: 175



Total State and LORA-Secured Orphaned Wells Plugged by LORA Calendar Years 2022 to 2023

Total Orphaned Wells Plugged by LORA: 109**



* Outcomes as of October 2024.

** The number of secured orphaned wells plugged by LORA differs in the two charts because the chart of all plugged wells only includes wells plugged in calendar years 2022 and 2023, whereas the chart showing outcomes for secured orphaned wells as of October 2024 includes two that were plugged after December 2023.

Source: Prepared by legislative auditor’s staff using LORA plugging cost data and SONRIS data provided by OC.

Enforcing the requirement to prioritize secured orphaned wells is important to ensure that LORA can fulfill its obligations in the long term.

Although plugging state orphaned wells helps to decrease Louisiana’s orphaned well population overall, it also reduces the amount of funding LORA has available to fulfill its outstanding obligations to plug the orphaned wells it secured. Allowing LORA to plug state orphaned wells therefore delays LORA’s outstanding secured orphaned wells from being addressed. LORA’s risk of insolvency increases as more wells it secures are orphaned and LORA’s outstanding obligations grow larger than its available funds. LORA’s 175 secured wells that were orphaned through December 2023 were covered by letters of credit totaling \$10.7 million, which was more than the combined total of LORA’s \$5 million reserve and its \$4.6 million plugging budget for calendar years 2022 and 2023.⁴² Of the total \$2.8 million that LORA spent on plugging orphaned wells through December 2023, only \$1.8 million (65.6%) was spent on plugging 27 of the orphaned wells it actually secured, as

⁴¹ Of these 130 wells, 103 were from five letters of credit for a single operator whose wells were orphaned in October 2023. Since this accounted for 79.2% of LORA’s unaddressed secured orphaned wells, we extended our analysis to include outcomes through October 2024 to more fairly represent LORA’s efforts to address its secured orphaned wells; however, LORA had not plugged, paid the financial security, or transferred any of these wells even after one year.

⁴² Since only three of those letters were SSTAs, the actual amounts to plug the remaining wells will likely be higher than the secured amount.

LORA spent the remainder on plugging State orphaned wells for which it bore no legal obligation.

LORA may delay plugging its secured wells that are orphaned because they generally cost more to plug (*see box at right*).

However, these delays increase the risk that LORA will not be able to meet its obligations, in which case OSR would ultimately have to pay higher amounts to plug LORA's outstanding orphaned wells than LORA paid to plug the state orphaned wells. Based on our analysis of LORA's plugging costs per secured orphaned well in calendar years 2022 through 2023, we estimated that it would cost between \$3.2 million (based on median cost) and \$8.9 million (based on average cost) to plug LORA's 130 secured orphaned wells that were still unaddressed as of October 2024.

In calendar years 2022 and 2023, LORA's median cost to plug State orphaned wells was \$9,000, compared to \$24,333 for LORA's secured orphaned wells. The difference in average cost was greater, at \$11,774 for State wells and \$68,163 for LORA's secured orphaned wells.

Source: Prepared by legislative auditor's staff using plugging data from OC.

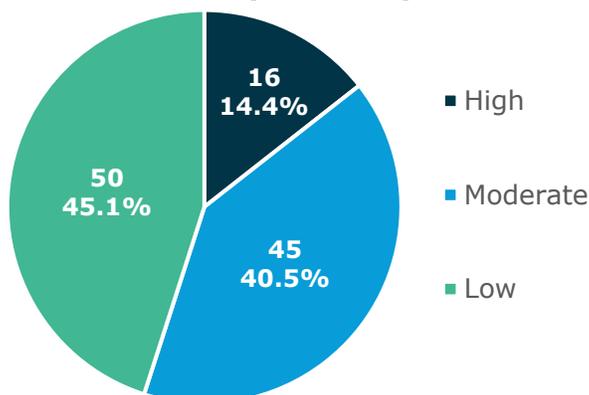
According to LORA, it committed to plugging most of the State orphaned wells in 2022, the first year it began plugging operations, when only a small number of LORA secured wells had been orphaned. However, LORA continued following through with these plans even as the number of secured wells that were orphaned increased.

Since the CEA does not require LORA to prioritize plugging high-risk wells, it is also important for OC to ensure that LORA prioritizes plugging orphaned wells it secured to prevent LORA from choosing to plug less expensive low-risk State orphaned wells, as 73 (89.0%) of the 82 State wells that it plugged were not high-risk. Other than requiring LORA to prioritize plugging its secured wells that are orphaned, the CEA does not specify that LORA must plug high-risk wells before low-risk wells. By contrast, OSR determines which orphaned wells to plug first using a priority system that ranks wells from high to low priority based on various risk factors.⁴³ Orphaned wells with higher priority ratings usually have higher plugging costs due to the same factors that make them a greater risk to the environment. Without clear guidance in the CEA, LORA may delay plugging high-risk LORA secured orphaned wells that OSR would normally prioritize. LORA has mostly plugged lower-risk wells it secured and state orphaned wells, resulting in a large number of high-risk secured orphaned wells remaining unaddressed. As shown in Exhibit 11, 14.4% of the wells plugged by LORA in calendar years 2022 and 2023 had a high-priority rating, compared to 67.7% of the secured orphaned wells that had not yet been addressed as of October 2024.

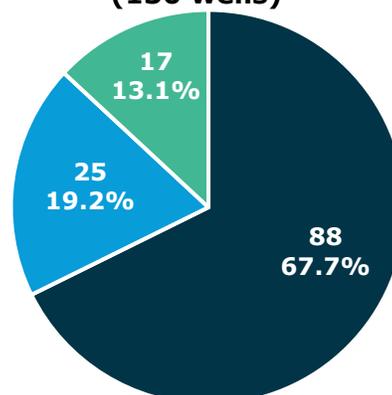
⁴³ Risk factors include whether the well is leaking, is a navigational hazard, and is within a certain distance of a public water supply.

Exhibit 11
Comparison of Priority Ratings for LORA's Plugged Wells
and LORA's Outstanding Secured Orphaned Wells

State and LORA Orphaned Wells Plugged by LORA through December 2023* (111 wells)



LORA's Secured Wells Orphaned through December 2023 that were Unaddressed as of October 2024 (130 wells)



* This chart also includes LORA's two secured wells that were orphaned as of December 2023 but which had been plugged by October 2024.

Source: Prepared by legislative auditor's staff using LORA plugging cost data and SONRIS data provided by OC.

OC should develop processes to enforce LORA's prioritization of plugging orphaned wells it secured. For example, rather than allowing LORA to choose which plugging projects to pursue, OC could require LORA to obtain approval before plugging State orphaned wells, and deny these requests if LORA has not adequately addressed secured orphaned wells. In addition, OC could implement a process for monitoring LORA's timeliness in addressing secured orphaned wells to prevent them from remaining unaddressed indefinitely. For example, for the secured wells that LORA plugged, LORA took an average of seven-and-a-half months to plug them after they were orphaned, ranging from less than two months to more than two years. LORA's 130 unaddressed secured orphaned wells had all been orphaned for more than one year as of October 2024, including six of the first secured wells that had been orphaned almost three years earlier. Establishing this process would help to incentivize timely plugging and provide checkpoints for OC to monitor wells whose plugging is delayed beyond reasonable expectations.

OC needs to provide additional guidance and monitoring for LORA's transfers of viable secured orphaned wells to new operators, as according to LORA, one of the main reasons that 130 of its secured wells have not been addressed is that it is still assessing their viability for transfer or actively attempting to "market" them for transfer. The CEA allows a valid operator to take over one or multiple LORA-secured orphaned wells, but only if all of the orphaned operator's other wells are also transferred or plugged by LORA. Transferring these wells presents a valuable opportunity to return orphaned wells to

production, which generates revenue for operators and the state. It also decreases the orphaned well population without incurring plugging costs, meaning LORA's obligations can be addressed without decreasing its budget for plugging other secured orphaned wells. However, LORA only transferred 11 (6.3%) of its 175 secured wells that were orphaned through December 2023 to new operators. In addition, the CEA does not include any guidance on specific processes for transferring wells, such as how to determine viability, requirements to ensure LORA advertises viable wells effectively and equitably, or a timeline for how long plugging can be delayed to pursue potential transfers. OC should work with LORA to amend the CEA to establish criteria and ensure that LORA maximizes this option for addressing orphaned wells, especially since this option is not available to the OSR program. The CEA should also be updated to include a process for monitoring LORA's viability determinations and unnecessary delays to plugging unviable wells.

In addition, the 2022 Act of Correction amended the CEA to suspend LORA's obligation to plug any orphaned wells if the reserve falls below \$5 million, which could result in further delays of LORA plugging secured orphaned wells. Conflicting OC guidance about spending reserve funds already resulted in delays when LORA's first secured wells were orphaned. The CEA states that before the minimum reserve balance is met, 80% of fees must be deposited in the reserve *except* for amounts necessary to plug LORA secured orphaned wells. LORA's first secured wells were orphaned in December 2021, before the minimum reserve balance was met. According to LORA, it did not immediately plug these wells because OC directed LORA to only spend reserve funds in worst-case scenarios. However, OC did allow LORA did use reserve funds to plug 10 unsecured State orphaned wells in January 2021. LORA did not plug any of the first secured orphaned wells until February 2023, and had not finished plugging all of them as of October 2024.

Although the Act of Correction suspends LORA's obligation to plug if the reserve drops below \$5 million, it does not prohibit LORA from plugging in this circumstance. OC should reevaluate the relative benefits of spending or not spending reserve funds to ensure that guidance it provides in this circumstance will protect LORA's ability to fulfill long-term obligations, but also prevent unnecessary delays to plugging secured orphaned wells.

Recommendation 11: DENR should enforce the CEA requirement that LORA prioritize plugging its secured wells that are orphaned, for example by amending the CEA to establish a timeframe in which LORA must plug these wells and/or an approval process for LORA to plug unsecured orphaned wells. This would help ensure that LORA remains solvent long-term so that the state does not ultimately have to pay to plug LORA's secured orphaned wells.

Summary of Management's Response: DENR agreed with this recommendation and stated that the Natural Resources Trust Authority will establish a strategic plan including measures for ensuring that financial security entities like LORA prioritize and efficiently plug the orphaned wells they secure. See Appendix A for DENR's full response.

Recommendation 12: DENR should ensure the CEA is amended to include criteria and processes related to determining secured orphaned wells' viability and facilitating their transfer to new operators, including requirements to monitor the accuracy of viability determinations and unnecessary delays to plugging unviable wells.

Summary of Management's Response: DENR agreed with this recommendation. See Appendix A for DENR's full response.

Recommendation 13: DENR should proactively reevaluate the relative benefits of spending or not spending reserve funds to plug orphaned wells when the reserve fund falls below \$5 million in order to prepare guidance for LORA that will protect its ability to fulfill long-term obligations but also prevent unnecessary delays to plugging secured orphaned wells.

Summary of Management's Response: DENR agreed with this recommendation and stated that the Natural Resources Trust Authority will evaluate the benefits of spending LORA's reserve funds and prepare guidance to protect its ability to fulfill long-term obligations and prevent unnecessary delays in plugging orphaned wells that LORA secures. See Appendix A for DENR's full response.

OC did not ensure that LORA operated cost-effectively to plug wells at lower costs than the OSR program, especially when factoring in the characteristics of wells plugged and administrative expenses.

LORA does save the state money when it plugs orphaned wells since the state would otherwise have to pay for plugging costs not covered by financial security. However, LORA plugged fewer wells with high-cost characteristics compared to OSR, and LORA's high administrative expenses may prevent LORA from increasing the number of wells it plugs.

LORA's plugging costs were comparable to those of OSR when accounting for the depth, location, and priority ratings of the wells that they plugged. To determine whether LORA met the CEA's goal of developing a less expensive and more efficient means of plugging wells,⁴⁴ we compared LORA and OSR's actual costs to plug orphaned wells in calendar years 2022 and 2023.

⁴⁴ During our previous audits, in order to bid on OSR's plugging contracts, state law required that contractors be licensed and obtain a performance bond worth 100% of the amount of the bid package, which inflated OSR's plugging costs. According to OC and LORA, the CEA aimed to plug wells at lower costs because LORA's plugging contractors would not have to meet these requirements. However, Act 242 of the 2020 regular legislative session removed the statutory requirements for OSR's bidders, which negated the premise for LORA's lower plugging costs.

Overall, LORA's \$9,400 median cost per well was lower than OSR's median cost of \$17,675; however, this was primarily because LORA mostly plugged land wells with shallower depths and lower priority ratings than those plugged by OSR.⁴⁵ When comparing median costs per foot, which more precisely reflect the amount of work performed than median costs per well, LORA's median cost was actually higher than OSR's. In addition, LORA's median plugging costs per foot were comparable when comparing wells with the same characteristics. Exhibit 12 shows LORA and OSR costs per foot overall, and for the top two combinations of priority ratings, location (land, inland water, or offshore), and depth range that had the most wells plugged.

Exhibit 12				
LORA and OSR Median Cost per Foot* Overall and by Well Characteristics				
Calendar Years 2022 and 2023				
Well Characteristics	Number/Percent of Wells Plugged		Median Cost per Foot	
	LORA	OSR	LORA	OSR
Overall				
All Wells Plugged	109	168	\$7.50	\$9.06
Examples: Top Combinations of Well Characteristics with Most Wells Plugged				
1. Low-Priority Land Wells 1-3,000 Ft. Deep	44 (40.4%)	28 (16.7%)	\$6.62	\$5.74
2. Moderate-Priority Land Wells 1-3,000 Ft. Deep	41 (37.6%)	80 (47.6%)	\$7.85	\$7.85
* This was calculated as the median of each well's cost per foot.				
Source: Prepared by legislative auditor's staff using LORA and OSR plugging cost data and SONRIS data provided by OC.				

When administrative expenses are included, LORA's costs per well and per foot were higher than OSR's. Although OC does track how LORA's plugging costs per well compare to those of OSR, it does not include administrative expenses in this calculation. However, including administrative expenses is necessary to see how the administrative percentage that LORA is allowed to retain impacts its ability to meet its goal of plugging wells at a lower cost than OSR, particularly because OC could propose amending the CEA in order to decrease these expenses. In addition, since allowing LORA to provide financial security poses financial risks to the state, it is also important for OC to accurately evaluate the benefits that LORA provides compared to these risks, including all relevant factors that impact these calculations. Exhibit 13 summarizes LORA and OSR's average administrative expenses per well and per foot for wells plugged during calendar years 2022 and 2023.

⁴⁵ Wells plugged by LORA in calendar years 2022 and 2023 had a median depth of 1,350 feet, approximately half the median depth of 2,269 feet for wells plugged by OSR. In addition, 41.3% of wells plugged by LORA had moderate and 14.7% had high-priority ratings, compared to 53.0% with moderate and 25.0% with high priority ratings for OSR.

Exhibit 13		
LORA and OSR Administrative Expenses and Median Plugging Costs per Well and per Foot Calendar Years 2022 and 2023		
Type of Cost	LORA	OSR*
Total Admin. Expenses	\$2,874,130	\$2,305,483
Admin. per Well	\$26,368	\$13,723
Median Cost per Well plus Admin.	\$35,768	\$31,398
Admin. per Foot	\$11.93	\$3.95
Median Cost per Foot plus Admin.	\$19.42	\$13.01
<p>* OSR's total administrative expenses were calculated based on the maximum of \$950,000 per year that state law allows OSR to spend on administrative expenses, plus salaries for OC's Permit Section in fiscal years 2022 and 2023. We included the Permit Section salaries to account for the possibility that OSR's administrative costs alone do not adequately compare to LORA due to LORA's financial security activities.</p> <p>Source: Prepared by legislative auditor's staff using LORA and OSR plugging cost data and SONRIS data from OC, financial reports provided by LORA, and Louisiana state law.</p>		

Recommendation 14: OC should monitor how LORA's costs to plug wells compare to those of OSR, including the characteristics of wells plugged and administrative expenses, in order to evaluate whether LORA's benefit to the state justifies the risks posed by LORA providing financial security.

Summary of Management's Response: DENR agreed with this recommendation. See Appendix A for DENR's full response.

APPENDIX A: MANAGEMENT'S RESPONSE

TYLER PATRICK GRAY
SECRETARY

DUSTIN H. DAVIDSON
DEPUTY SECRETARY



MARK NORMAND, JR.
UNDERSECRETARY

MANNY ACOSTA
OIL SPILL COORDINATOR

KEITH O. LOVELL
ASSISTANT SECRETARY
COASTAL MANAGEMENT

AMANDA McCLINTON
ASSISTANT SECRETARY
ENERGY

ANDREW B. YOUNG
ASSISTANT SECRETARY
MINERAL RESOURCES

BENJAMIN C. BIENVENU
COMMISSIONER
CONSERVATION

DEPARTMENT OF ENERGY AND NATURAL RESOURCES

October 21, 2024

The Honorable Mike Waguespack
Louisiana Legislative Auditor
P.O. Box 94397
Baton Rouge, LA 70804-9397
C/O Gina V. Brown,
Performance Audit Manager
(Sent by Email: GBrown@lla.la.gov)

Re: Response to Performance Audit Reports

Dear Mr. Waguespack,

This response focuses directly on the Performance Audit Reports¹ associated with addressing orphaned oil and gas wells, yet it also expands to outline the challenges and proposed solutions regarding the management of orphaned wells in Louisiana. These are the third and fourth performance reports on orphaned wells since the initial report in 2014. The legislature and department have attempted to address this issue within their means over that same time frame. During the 2024 Regular Session, Rep. Bret Geymann proposed House Bill 810, now Act 727, creating the Natural Resources Trust Authority ("Trust Authority") within the department. One of the primary purposes of that entity is to address the exact issues raised in your office's reports.

While the Office of Conservation is responsible for the specific functions of regulating oil and gas operations and requiring related financial security, its undertaking of these functions in isolation has proven unsuccessful as outlined in your reports. This highlights, precisely why a more cohesive department is needed to adequately manage the proper plugging and abandonment of oil and gas wells. Proper funding is also needed to do so, which is a role the Trust Authority can, in part, fulfill with oversight from the existing Mineral and Energy Board that is already charged with marketing the state's resources and is thus equipped to engage on the issues in a public and transparent manner.

The Trust Authority is part of the larger DRIVE² initiative, which is designed to address the challenges currently faced by state government in managing its resources effectively. This includes the management of orphaned wells. The Trust Authority, created under Act 727, aims to

¹ Specifically, 2 reports: 1) Progress Report: State Efforts to Address Orphaned Oil and Gas Wells, and 2) Oversight of the Louisiana Oilfield Restoration Association (LORA) Efforts to Address Orphaned Oil and Gas Wells.

² On February 2, 2024, Governor Jeff Landry issued Executive Order JML 24-13, directing Department of Energy and Natural Resources to investigate consolidation and reorganization of the State's natural resources management regime. DENR pursued legislation during the 2024 regular session to prepare the groundwork for reorganization. This project is named the, "Departmental Review for Innovation and Visionary Enhancement."

develop a strategic approach to address the financial risk analysis related to energy and natural resources projects, including the risks associated with plugging and abandoning oil and gas wells in a manner that decreases the number of orphaned wells. The Mineral and Energy Board adopted a resolution at its October 9, 2024 meeting establishing an executive committee for the Trust Authority, supporting the department in its efforts to appoint a director for the Trust Authority, and requesting updates on Trust Authority's build out. DENR is currently interviewing for the Trust Authority director position and working the Trust Authority into next year's budget.

CHALLENGES AND RESPONSES

Challenge: *Lack of Funding for Plugging and Abandonment*

Response: To address this, after the Office of Conservation ("Conservation") sets appropriate financial obligations for operators, the Trust Authority, operating in conjunction with the State Bond Commission ("Bond Commission") and the Louisiana Department of Treasury ("Treasury") has the capability to secure and manage the funding, ensuring that the financial security amounts are adequate. By regulating substitutions and transfers necessary for meeting these obligations, the Trust Authority will create a more robust financial safety net. Moreover, by relying more heavily on financial security options that provide the department with direct custody of the funding, the Trust Authority will reduce the reliance on third parties. This direct management of funds will ensure that the available cash is more capable of meeting plugging obligations even as external factors such as inflation come into play.

Challenge: *Bureaucratic Hurdles and Fragmented Management*

Response: The restructuring under DRIVE will consolidate functions within DENR and enhance coordination among agencies. This will streamline the permitting, enforcement, and regulatory processes, thereby reducing bureaucratic hurdles and ensuring a more efficient approach to managing plugging risks and orphaned wells.

Challenge: *Inefficiencies in Current Management Practices*

Response: The establishment of the Natural Resources Trust Authority allows for the development of specific rules and regulations under the Administrative Procedure Act, as well as the adoption of standard operating procedures and internal policies. These rules and internal procedures will set clear guidelines for financial obligations, and policies for plugging and abandonment, ensuring consistency and efficiency in management practices.

Challenge: *Inadequate Emergency Response and Risk Management*

Response: The DRIVE initiative includes the establishment of an Emergency Response Section within DENR. This section will focus on preparedness and risk management, ensuring a swift and effective response to emergencies related to orphaned wells.

Challenge: *Overlapping Programs and Redundant Efforts*

Response: Overall, the enactment of Act 727 and the establishment of the Natural Resources Trust Authority mark significant steps toward addressing the challenges associated with the management of orphaned wells in Louisiana. Through enhanced coordination, strategic planning, and dedicated funding, the state aims to achieve a more efficient and effective approach to managing its natural resources. The DRIVE initiative further supports these efforts by streamlining processes and fostering collaboration among relevant agencies. By integrating the Louisiana Oil Spill Coordinator's Office into the Department, Act 727 aims to eliminate duplicative programs and allocate resources more effectively. This consolidation will allow for a holistic approach to well management, maximizing the physical reduction of abandoned wells and reducing overhead costs.

Responses to each Report and Result

REPORT 1 **PROGRESS REPORT: STATE EFFORTS TO ADDRESS ORPHANED OIL WELLS**

Objective: To evaluate OC's progress toward addressing orphaned wells.

Finding 1 *Although more wells are covered by financial security since OC removed most exemptions, financial security amounts are still not sufficient to cover the actual cost of plugging wells.*

Recommendation 1: DENR should establish set time periods for review of the individual and blanket financial security amounts required by regulation to provide updated information on the discrepancy in costs and encourage increases to the required amounts at minimum to cover inflation

Response

To expand the capability of the department to review financial security amounts with proper oversight, the Trust Authority under the oversight of the State Mineral and Energy Board, operating in conjunction with the Bond Commission and the Treasury will support Conservation by scrutinizing the amounts and financial obligations and by managing the resulting funding in the event a well becomes orphaned, all with the ultimate goal of ensuring that the financial security amounts are adequate. It is expected that review of financial security amounts and other

requirements will be continuous, with the added option of discussing such reviews at the regularly scheduled monthly public meetings of the State Mineral and Energy Board.

It is envisioned that by regulating substitutions and transfers necessary for meeting these obligations, the Trust Authority will create a more robust financial safety net. Moreover, relying more heavily on financial security options that provide the department with direct custody of the funding, the Trust Authority will reduce the reliance on third parties. Additionally, by working with existing governance structures better equipped to manage the State's interest, expanding its authority to engage in financial markets and capitalize on the tremendous value having custody of cash, under proper oversight, of the financial security instrument this direct management will ensure that the available cash is capable of meeting plugging obligations even as external factors such as inflation come into play.

Finding 2 *OSR and LORA plugged 976 orphaned wells in fiscal years 2020 through 2023, including 396 wells that were plugged using grants from the federal government. However, despite increased plugging efforts, the number of orphaned wells continues to grow.*

Response

The Trust Authority will serve as a counterbalance to Conservation's regulatory oversight of operations by properly assessing risk of the financial instruments required, which will help better manage the influx of new orphaned wells and ensuring that operators are financially responsible for plugging their wells. In addition, the subject matter expertise of financial markets, including custody of such funds at the Department of Treasury, reduces risk of loss or an inability to collect due to fraud or other unforeseen consequences. While developing a strategic plan to address financial challenges and goals is a top priority, a tactical approach to manage this immediate issue will be prioritized. Nonetheless, a process in which to establish a strategic plan is critical for effective management of inactive wells ensuring proper controls are in place to manage the regulatory obligations set forth by Conservation and that the funding will be available to execute. Lastly, through Executive Order JML 24-13, the department, and the Natural Resources Steering Commission, is exploring ways to integrate processes, procedures, and funding following the integration of Louisiana Oil Spill Coordinator's Office into the department per Act 727. The goal being a holistic approach to well management by integrating existing fees, eliminating duplicative programs, overlap, and mission creep to efficiently allocate funds maximizing the impact of each dollar and reducing the number of unfunded abandoned wells.

Finding 3 *Funding limitations prevent OC from expanding the OSR Program's efforts to plug more orphaned wells.*

Response

The Trust Authority will have the capability to solicit, accept, and expend grants, thus expanding the sources of funding available. Establishing new fees and other financial provisions through rules and regulations will create a sustainable model for plugging orphaned wells. Operating with oversight by the Mineral and Energy Board, the Trust Authority will address the issue in a public

and transparent manner with proper oversight, ensuring a consistent and reliable flow of funds for these efforts.

Finding 4 *The number of inactive wells, which have a higher risk of being orphaned, increased 21.7% from 17,775 in August 2019 to 21,629 in April 2024. Although OC recently updated regulations to increase the annual inactive well fee based on the time each well has been inactive, OC does not place as many restrictions on inactive wells as some other states.*

Recommendation 2: DENR should implement a consistent policy for granting exceptions for inactive well fees, including reasons that exceptions can be granted and the amount that fees will be reduced for each reason.

Response

By regulating financial instruments and ensuring better management of inactive wells, the Trust Authority will reduce the risk of these wells becoming orphaned and better cover costs if they do become orphaned. The strategic plan will include measures specifically designed to address the financial challenges associated with inactive wells. Furthermore, by reallocating funds efficiently and eliminating duplicate programs, the department aims to reduce overhead costs and focus resources on physically reducing the number of abandoned wells.

Recommendation 3: DENR should consider implementing additional restrictions on inactive wells to prevent them from remaining inactive indefinitely, such as a maximum amount of time that wells with no future utility may remain inactive, requiring review and approval of wells' classification as having future utility, requiring additional risk-based financial security for inactive wells, monitoring inactive wells' mechanical integrity, or limiting the number or percent of inactive wells that an operator can have at the same time.

Response

The department is looking at innovative ways to address the orphan well population currently and, in the future, including potential risk-based protocols, new requirements, and through increased funding to address those wells that do become orphaned. Due to the many complexities surrounding current and future value of existing wells, including those surrounding the confidential nature of certain economic and reserve data, the department will look towards identifying appropriate forms of risk analysis to better direct its efforts in regulating inactive wells and plugging obligations.

Report 2 Oversight of the Louisiana Oilfield Restoration Association's (LORA) Efforts to Address Orphaned Oil and Gas Wells

Objective: To evaluate the Office of Conservation's oversight of LORA.

Finding 1 *OC has sole oversight of LORA, but it does not conduct sufficient monitoring to protect operators and the state from the risk of LORA failing to fulfill its financial obligations. LORA is not subject to federal and/or state regulations that apply to financial institutions, so its operations and solvency are not monitored by the regulatory agencies that oversee other companies that provide financial security.*

Recommendation 1: DENR should ensure evaluation occurs of LORA's financial performance to date in order to make informed decisions that will support LORA's financial health in a holistic way. This could include using a third-party financial expert to develop standards for accepting risk tolerances, a detailed process for periodic monitoring of LORA's financial health and CEA compliance, and recommendations to strengthen the CEA to mitigate risks to the state.

Recommendation 2: DENR should develop a process to monitor LORA's solvency and CEA compliance that provides similar protections to the operators and the state that would be offered if LORA was regulated as a financial institution, and update the CEA as applicable.

Response

The Trust Authority will serve as the entry point in assessing risk in authorized financial security entities, such as LORA, as it relates to financial wherewithal and serving as the additional layer of financial oversight. Further, the Trust Authority is authorized to execute necessary contracts and instruments and enter into agreements for deductions and payments, enhancing oversight of financial security entities like LORA. It will also adopt rules to establish procedures and standards for evaluating the worthiness of applications and ensuring the compliance of financial security entities. This comprehensive oversight will align with the functions of the Mineral & Energy Board, providing a higher level of scrutiny and accountability. The Trust Authority will serve as the primary monitor for financial solvency and risk in authorizing entities, such as LORA, and will help identify any additional oversight and monitoring to protect the state and operators. Finally, the department will work towards identifying and requiring necessary updates to the CEA.

Finding 2 *Although LORA provides 45.3% of all financial security for Louisiana wells as of October of 2023, OC does not have a contingency plan to address financial and safety risks to the state if the CEA is terminated or LORA cannot cover its obligations.*

Recommendation 3: DENR should develop a plan to protect the state from financial risks if the CEA with LORA is terminated or LORA ceases

operations and ensure the current CEA is amended with comprehensive terms of termination.

Recommendation 4: DENR should consider whether LORA's current reserve amount is sufficient to mitigate the risk insolvency, and if not, ensure the CEA is amended to increase the required minimum and/or set it based on a percentage of the amount secured instead of a fixed amount.

Recommendation 5: DENR should ensure the CEA is amended to update terms, as appropriate, to mitigate risks related with LORA providing SSTAs, and/or evaluate whether operators with SSTAs through LORA should find alternative funding through regulated financial institutions.

Response

The strategic plan developed by the Trust Authority will include contingency measures to address financial and safety risks associated with the potential termination of agreements with entities like LORA. The authority will evaluate and adjust the minimum reserve requirements to ensure they are sufficient to cover financial responsibilities, thus mitigating risks and ensuring stability. Similarly the Trust Authority will evaluate and determine whether operators with SSTAs through LORA should find alternative funding through regulated financial institutions.

Finding 3 *Although OC has never exercised its authority to monitor LORA's actual administrative expenses to determine if the percent of fees allowed for this purpose is reasonable, OC allowed LORA to increase this percentage from 20% to 36% after the minimum reserve balance was met. As a result, LORA retained an additional \$1.1 million from June 2022, through December 2023 that could have been used to plug orphaned wells.*

Recommendation 6: DENR should ensure the CEA is amended to clarify what amount of fees LORA may retain for administrative expenses after the minimum reserve balance is met.

Recommendation 7: DENR should evaluate the actual amount of administrative expenses spent on LORA operations to determine if the amount allowed for this purpose is reasonable and, if necessary, ensure that the CEA with LORA is amended to change the allowable administrative amount or that another entity is identified to perform this function more efficiently.

Response

The Trust Authority will implement requirements to monitor and control administrative expenses, ensuring that funds are effectively utilized for plugging wells. By determining reasonable limits for administrative expenses and adjusting percentages as necessary, the Trust Authority will ensure

that more funds are directed toward the primary goal of reducing orphaned wells. This regulation will prevent financial mismanagement and ensure that administrative costs are kept in check.

Finding 4

OC did not include important provisions in its CEA with LORA to help ensure that LORA operates in the state's best interest. Specifically, the CEA does not address how LORA should spend investment income, does not establish measurable targets for evaluating LORA's performance, and does not contain an audit clause. Currently, OC allows LORA to keep all investment income from the reserve account or other funds accrued, which may incentivize it to delay plugging wells to increase interest earned.ⁱⁱⁱ

Recommendation 8: DENR should ensure that the CEA is amended to clarify what should happen to the investment income earned from the fees that LORA collects, such as whether these amounts should go into the reserve fund for the purpose of plugging orphaned wells.

Recommendation 9: DENR should ensure the CEA is amended to establish specific, measurable performance targets that can be monitored to evaluate LORA's performance, such as providing financial security to a certain number of high-risk operators, plugging a certain number of orphaned wells within a given time period, and spending its entire annual plugging budget within a specified time period after it is budgeted.

Recommendation 10: DENR should ensure the CEA is amended to allow full access to LORA's operations and financial records for the purpose of any audit conducted by the legislative auditor.

Response

The Trust Authority will specify how investment income should be utilized and help establish clear performance targets for financial security entities. Including audit clauses and performance metrics will ensure thorough monitoring and compliance with agreements, thereby aligning LORA's operations with the state's best interests.

Finding 5

OC did not ensure that LORA prioritized plugging its secured wells that were orphaned, as required in the CEA. Of the 175 wells secured by LORA that were orphaned through December 2023, 130 (74.3%) remained unaddressed as of October 2024. In addition, OC has not provided sufficient guidance to ensure LORA effectively used the option to transfer still-viable orphaned wells to new operators, which can also reduce the orphaned oil well population.

Recommendation 11: DENR should enforce the CEA requirement that LORA prioritize plugging its secured wells that are orphaned, for example by amending the CEA to establish a timeframe in which LORA must plug these wells and/or an approval process for LORA to plug unsecured orphaned wells. This would help ensure that LORA remains solvent long-term so that the state does not ultimately have to pay to plug LORA's secured orphaned wells.

Recommendation 12: DENR should ensure the CEA is amended to include criteria and processes related to determining secured orphaned wells' viability and facilitating their transfer to new operators, including requirements to monitor the accuracy of viability determinations and unnecessary delays to plugging unviable wells.

Recommendation 13: DENR should proactively reevaluate the relative benefits of spending or not spending reserve funds to plug orphaned wells when the reserve fund falls below \$5 million in order to prepare guidance for LORA that will protect its ability to fulfill long-term obligations but also prevent unnecessary delays to plugging secured orphaned wells.

Response

The Department, coordinating between its offices and the Trust Authority, will set clear timeframes and performance targets for plugging orphaned wells, ensuring timely and cost-effective actions. The strategic plan will include measures for ensuring that financial security entities like LORA prioritize and efficiently plug the orphaned wells they secure. Further the Trust Authority will evaluate the benefits of spending LORA's reserve funds and prepare guidance to protect its ability to fulfill long-term obligations and prevent unnecessary delays in plugging orphaned wells that LORA secures. By enforcing these requirements, the department will be able to better ensure that orphaned wells are addressed promptly and effectively.

Sincerely,



Tyler Patrick Gray, Secretary
Department of Energy
and Natural Resources



Benjamin Bienvenu,
Commissioner
Office of Conservation

Agency: Office of Conservation – Department of Energy and Natural Resources

Audit Title: Oversight of the Louisiana Oilfield Restoration Association (LORA) Efforts to Address Orphaned Oil and Gas Wells

Audit Report Number: 40230018

Instructions to Audited Agency: Please fill in the information below for each recommendation. A summary of your response for each recommendation will be included in the body of the report. The entire text of your response will be included as an appendix to the audit report.

<p>Finding 1: OC has sole oversight of LORA, but it does not conduct sufficient monitoring to protect operators and the state from the risk of LORA failing to fulfill its financial obligations. LORA is not subject to federal and/or state regulations that apply to financial institutions, so its operations and solvency are not monitored by the regulatory agencies that oversee other companies that provide financial security.</p>	
<p><i>Recommendation 1: DENR should ensure evaluation occurs of LORA’s financial performance to date in order to make informed decisions that will support LORA’s financial health in a holistic way. This could include using a third-party financial expert to develop standards for acceptable risk tolerances, a detailed process for periodic monitoring of LORA’s financial health and CEA compliance, and recommendations to strengthen the CEA to mitigate risks to the state.</i></p>	
Does Agency Agree with Recommendation?	<input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree
Agency Contact Responsible for Recommendation:	
<i>Name/Title: Ha Louis/ Internal Auditor</i>	
<i>Address: 617 North Third Street</i>	
<i>City, State, Zip: Baton Rouge, LA 70802</i>	
<i>Phone Number: (225) 342-6768</i>	
<i>Email: ha.louis@la.gov</i>	
<p><i>Recommendation 2: DENR should develop a process to monitor LORA’s solvency and CEA compliance that provides similar protections to the operators and the state that would be offered if LORA was regulated as a financial institution, and update the CEA as applicable.</i></p>	
Does Agency Agree with Recommendation?	<input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree
Agency Contact Responsible for Recommendation:	
<i>Name/Title: Ha Louis/ Internal Auditor</i>	
<i>Address: 617 North Third Street</i>	
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<i>Phone Number: (225) 342-6768</i>	
<i>Email: ha.louis@la.gov</i>	

Finding 2: Although LORA provided 45.5% of all financial security for Louisiana wells as of October 2023, OC does not have a contingency plan to address financial and safety risks to the state if the CEA is terminated or LORA cannot cover its obligations.	
<i>Recommendation 3: DENR should develop a plan to protect the state from financial risks if the CEA with LORA is terminated or LORA ceases operations and ensure the current CEA is amended with comprehensive terms of termination.</i>	
Does Agency Agree with Recommendation?	<input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree
Agency Contact Responsible for Recommendation:	
<i>Name/Title: Ha Louis/ Internal Auditor</i>	
<i>Address: 617 North Third Street</i>	
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<i>Phone Number:(225) 342-6768</i>	
<i>Email: ha.louis@la.gov</i>	
<i>Recommendation 4: DENR should consider whether LORA's current reserve amount is sufficient to mitigate the risk of insolvency, and if not, ensure the CEA is amended to increase the required minimum and/or set it based on a percentage of the amount secured instead of a fixed amount.</i>	
Does Agency Agree with Recommendation?	<input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree
Agency Contact Responsible for Recommendation:	
<i>Name/Title: Ha Louis/ Internal Auditor</i>	
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<i>Phone Number:(225) 342-6768</i>	
<i>Email: ha.louis@la.gov</i>	
<i>Recommendation 5: DENR should ensure the CEA is amended to update terms, as appropriate, to mitigate risks related with LORA providing SSTAs, and/or evaluate whether operators with SSTAs through LORA should find alternative funding through regulated financial institutions.</i>	
Does Agency Agree with Recommendation?	<input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree
Agency Contact Responsible for Recommendation:	
<i>Name/Title: Ha Louis/ Internal Auditor</i>	
<i>Address: 617 North Third Street</i>	
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<i>Phone Number:(225) 342-6768</i>	
<i>Email: ha.louis@la.gov</i>	

Finding 3: Although OC has never exercised its authority to monitor LORA’s actual administrative expenses to determine if the percent of fees allowed for this purpose is reasonable, OC allowed LORA to increase this percentage from 20% to 36% after the minimum reserve balance was met. As a result, LORA retained an additional \$1.1 million from June 2022 through December 2023 that could have been used to plug orphaned wells.

Recommendation 6: DENR should ensure the CEA is amended to clarify what amount of fees LORA may retain for administrative expenses after the minimum reserve balance is met.

Does Agency Agree with Recommendation? Agree Disagree

Agency Contact Responsible for Recommendation:

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Recommendation 7: DENR should evaluate the actual amount of administrative expenses spent on LORA operations to determine if the amount allowed for this purpose is reasonable and, if necessary, ensure that the CEA with LORA is amended to change the allowable administrative amount or that another entity is identified to perform this function more efficiently.

Does Agency Agree with Recommendation? Agree Disagree

Agency Contact Responsible for Recommendation:

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Finding 4: OC did not include important provisions in its CEA with LORA to help ensure that LORA operates in the state’s best interest. Specifically, the CEA does not address how LORA should spend investment income, does not establish measurable targets for evaluating LORA’s performance, and does not contain an audit clause.

Recommendation 8: DENR should ensure the CEA is amended to clarify what should happen to the investment income earned from the fees that LORA collects, such as whether these amounts should go into the reserve fund for the purpose of plugging orphaned wells.

Does Agency Agree with Recommendation? Agree Disagree

Agency Contact Responsible for Recommendation:

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<i>Recommendation 9: DENR should ensure the CEA is amended to establish specific, measurable performance targets that can be monitored to evaluate LORA's performance, such as providing financial security to a certain number of high-risk operators, plugging a certain number of orphaned wells within a given time period, and spending its entire annual plugging budget within a specific time period after it is budgeted.</i>	
Does Agency Agree with Recommendation?	<input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree
Agency Contact Responsible for Recommendation:	
<i>Name/Title: Ha Louis/ Internal Auditor</i>	
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<i>Phone Number: (225) 342-6768</i>	
<i>Email: ha.louis@la.gov</i>	
<i>Recommendation 10: DENR should ensure the CEA is amended to allow full access to LORA's operations and financial records for the purpose of any audit conducted by the legislative auditor.</i>	
Does Agency Agree with Recommendation?	<input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree
Agency Contact Responsible for Recommendation:	
<i>Name/Title: Ha Louis/ Internal Auditor</i>	
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Finding 5: OC did not ensure that LORA prioritized plugging its secured wells that were orphaned, as required by the CEA. Of the 175 wells secured by LORA that were orphaned through December 2023, 130 (74.3%) remained unaddressed as of October 2024. In addition, OC has not provided sufficient guidance to ensure LORA effectively used the option to transfer still-viable orphaned wells to new operators, which can also reduce the orphaned oil well population.	
<i>Recommendation 11: DENR should enforce the CEA requirement that LORA prioritize plugging its secured wells that are orphaned, for example by amending the CEA to establish a timeframe in which LORA must plug these wells and/or an approval process for LORA to plug unsecured orphaned wells. This would help ensure that LORA remains solvent long-term so that the state does not ultimately have to pay to plug LORA's secured orphaned wells.</i>	
Does Agency Agree with Recommendation?	<input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree
Agency Contact Responsible for Recommendation:	
<i>Name/Title: Ha Louis/ Internal Auditor</i>	
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<i>Email: ha.louis@la.gov</i>	

<i>Recommendation 12: DENR should ensure the CEA is amended to include criteria and processes related to determining secured orphaned wells' viability and facilitating their transfer to new operators, including requirements to monitor the accuracy of viability determinations and unnecessary delays to plugging unviable wells.</i>	
Does Agency Agree with Recommendation?	<input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree
Agency Contact Responsible for Recommendation:	
<i>Name/Title: Ha Louis/ Internal Auditor</i>	
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<i>Phone Number: (225) 342-6768</i>	
<i>Email: ha.louis@la.gov</i>	
<i>Recommendation 13: DENR should proactively reevaluate the relative benefits of spending or not spending reserve funds to plug orphaned wells when the reserve fund falls below \$5 million in order to prepare guidance for LORA that will protect its ability to fulfill long-term obligations but also prevent unnecessary delays to plugging secured orphaned wells.</i>	
Does Agency Agree with Recommendation?	<input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree
Agency Contact Responsible for Recommendation:	
<i>Name/Title: Ha Louis/ Internal Auditor</i>	
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<i>Phone Number: (225) 342-6768</i>	
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Finding 6: OC did not ensure that LORA operated cost-effectively to plug wells at lower costs than the OSR program, especially when factoring in the characteristics of wells plugged and administrative expenses.	
<i>Recommendation 14: OC should monitor how LORA's costs to plug wells compare to those of OSR, including the characteristics of wells plugged and administrative expenses, in order to evaluate whether LORA's benefit to the state justifies the risks posed by LORA providing financial security.</i>	
Does Agency Agree with Recommendation?	<input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree
Agency Contact Responsible for Recommendation:	
<i>Name/Title: Ha Louis/ Internal Auditor</i>	
<i>Address: 617 North Third Street</i>	
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APPENDIX B: SCOPE AND METHODOLOGY

This report provides the results of our performance audit of the Department of Energy and Natural Resources (DENR) - Office of Conservation's (OC) oversight of the Louisiana Oilfield Restoration Association (LORA). We conducted this performance audit under the provisions of Title 24 of the Louisiana Revised Statutes of 1950, as amended. This audit generally covered calendar years 2019 through 2023, except as noted throughout the report. Our audit objective was:

To evaluate the Office of Conservation's oversight of the Louisiana Oilfield Restoration Association.

We conducted this performance audit in accordance with generally-accepted *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

We obtained an understanding of internal control that is significant to the audit objective and assessed the design and implementation of such internal control to the extent necessary to address our audit objective. We also obtained an understanding of legal provisions that are significant within the context of the audit objective, and we assessed the risk that illegal acts, including fraud, and violations of applicable contract, grant agreement, or other legal provisions could occur. Based on that risk assessment, we designed and performed procedures to provide reasonable assurance of detecting instances of noncompliance significant to those provisions.

To answer our objective, we performed the following audit steps:

- Reviewed the findings and recommendations of the 2014 Louisiana Legislative Auditor (LLA) performance audit of OC's management of orphaned oil and gas wells and the 2020 LLA performance audit that evaluated OC's progress toward addressing issues identified by the 2014 audit.
- Researched any updates to relevant state laws, regulations, and policies and procedures related to OC's legal authority, role in the regulation of oil/gas and orphaned wells, and oversight of LORA.
- Met with OC leadership and staff to gain an understanding of its current policies, procedures, and practices related to OC's responsibilities for plugging orphaned wells through its Oilfield Site Restoration (OSR) program and OC's oversight of LORA, as well as

LORA's history, how LORA contributes to addressing the orphaned well population in Louisiana, and OC's interpretation of the various Cooperative Endeavor Agreement (CEA) components.

- Met with LORA staff to gain an understanding of LORA's history, LORA's organizational and financial structure, LORA's operations related to its two functions (providing financial security and plugging orphaned wells), LORA's interpretation of the various CEA components, and LORA's policies and procedures related to fulfilling CEA responsibilities and requirements.
- Obtained and reviewed OC's CEA with LORA effective November 4, 2019 and the Act of Correction dated September 7, 2022.
- Obtained previous opinions issued by the legislative auditor's legal counsel about LORA and obtained an additional legal opinion regarding the percentage of annual financial security fees collected from operators that the CEA allows LORA to retain for administrative expenses.
- Obtained and reviewed OC's "Report on Oil and Gas Wells and Management of Orphaned Wells" submitted to the governor in July 2018, which described challenges related to addressing orphaned wells and proposed the creation of a non-governmental organization to address several of those challenges simultaneously, which led to LORA's creation the following year.
- Obtained and reviewed information from the Secretary of State on LORA and any related companies.
- Obtained and reviewed data from the Louisiana Workforce Commission showing wages paid to employees by LORA and its management company, Arkus Management Services.
- Researched relevant federal and state laws, regulations, and guidance manuals and met with the Louisiana Office of Financial Institutions to understand monitoring and reporting requirements for regulated financial institutions (such as banks and insurance companies).
- Obtained and analyzed reports from OC and LORA showing LORA's revenue and how it was spent to determine if LORA met CEA requirements related to the reserve account, administrative expenses, and plugging orphaned wells. These reports were (1) LORA annual reports submitted to OC for calendar years 2020 through 2023, (2) LORA financial statements for calendar years 2020 through 2023, and (3) LORA itemized reports of operators' annual fee payments for calendar years 2019 through 2023. Although we compared these reports to each other to test their reliability, we did not review supporting documentation to verify their accuracy.

- Obtained and analyzed reports showing OSR revenues and expenses and administrative expenses for OC's Financial Services Section to create benchmarks to evaluate the reasonableness of LORA's administrative expenses.
- Obtained and analyzed data from DENR's Strategic Online Natural Resources Information System to evaluate the percent of the state's total financial security provided by LORA, the types of financial security that LORA provided, the outcomes of wells secured by LORA that were orphaned, and characteristics (depth, location, and priority rating) of wells plugged by OSR and LORA.
- Obtained and analyzed information tracked by OC on OSR and LORA actual costs to plug orphaned wells in order to compare OSR and LORA's plugging costs.
- Conducted data reliability on data received from OC and LORA and found the information to be sufficiently reliable for the purposes of this audit.
- Provided our results to DENR and LORA management to review the report for accuracy and reasonableness and incorporated edits throughout the report as needed.

APPENDIX C: LORA ANNUAL FEES COLLECTED AND BREAKDOWN OF USES CALENDAR YEARS 2019 THROUGH 2023

Category	2019	2020	2021	2022	2023	Total
AMOUNT OF ANNUAL FEES						
Fees Accrued or Received	\$198,645	\$1,472,462	\$3,129,573	\$5,345,638	\$3,321,564	\$13,467,882
DISTRIBUTION OF FEES*						
Administrative Expenses	\$39,729	\$294,492	\$626,013	\$1,678,367	\$1,195,763	\$3,834,364
<i>Percent of Fees Spent for Administrative Expenses</i>	<i>20.0%</i>	<i>20.0%</i>	<i>20.0%</i>	<i>31.4%</i>	<i>36.0%</i>	<i>28.5%</i>
Allocated to Reserve	\$158,916	\$1,177,970	\$2,503,560	\$1,230,314	\$0	\$5,070,760
<i>Percent of Fees Allocated to Reserve</i>	<i>80.0%</i>	<i>80.0%</i>	<i>80.0%</i>	<i>23.0%</i>	<i>0.0%</i>	<i>37.7%</i>
Plugging Costs: Paid from Reserve	\$0	\$0	\$0	\$70,760	\$0	\$70,760
Reserve Balance at Year End	\$158,916	\$1,336,886	\$3,840,446	\$5,000,000	\$5,000,000	
Total Plugging Budget (from Current Year Fees)	\$0	\$0	\$0	\$2,436,957	\$2,125,801	\$4,562,758
<i>Percent of Fees Allocated to Plugging Budget</i>	<i>0.0%</i>	<i>0.0%</i>	<i>0.0%</i>	<i>45.6%</i>	<i>64.0%</i>	<i>33.9%</i>
Called Financial Security Paid to OC	\$0	\$0	\$0	\$0	\$50,000	\$50,000
Plugging Costs: Paid from Prior Year Plugging Budget	\$0	\$0	\$0	\$0	\$1,948,487	\$1,948,487
Plugging Costs: Paid from Current Year Plugging Budget	\$0	\$0	\$0	\$488,470	\$297,799	\$786,269
Remaining Plugging Budget at Year End	\$0	\$0	\$0	\$1,948,487	\$1,778,003	
Total Amount Spent on Plugging Wells (Reserve and Plugging Budget)	\$0	\$0	\$0	\$559,230	\$2,246,286	\$2,805,516

* LORA's annual fees are distributed between administrative expenses, allocations to the reserve account, and the plugging budget (which covers both costs to plug orphaned wells and financial security amounts paid to OC). Under each of these three categories, the percent of fees it was allocated each year is shown in italics. For the reserve account and plugging budget, since the full allocated amounts were not spent in the year they were allocated, the following rows show amounts spent from these sources, as wells as the balance of the reserve and plugging budget at the end of each calendar year. The last row shows the total amount spent on plugging wells from either the reserve or the plugging budget.

Source: Prepared by legislative auditor's staff based on LORA annual reports provided by OC, and financial statements and annual fee payment documentation provided by LORA.

APPENDIX D: EXAMPLES OF MONITORING AND REPORTING REQUIREMENTS FOR REGULATED FINANCIAL INSTITUTIONS

Requirement	Banks	Insurance Companies
Oversight Agency	Louisiana Office of Financial Institutions (OFI) and/or Federal Deposit Insurance Corporation (FDIC)*	Louisiana Department of Insurance**
Periodic Monitoring and Reporting	Annual*** bank examinations reflect a comprehensive and coordinated effort between risk management and specialty examiners to assess an institution’s overall risk profile. Examinations include on-site visits, extensive review of financial data and supporting documentation, and use a nationally-standardized ratings system. Federal law also requires all financial institutions to submit quarterly Reports of Condition and Income (“Call Reports”) that include data used to monitor the condition, performance, and risk profile of the individual institution and the industry as a whole, among many other purposes.	The LDI Office of Financial Solvency provides continuous regulatory oversight including financial analysis to monitor the health and solvency of every insurer. At least once every five years***, LDI performs on-site examinations of the financial, corporate, and marketing practices of insurers domiciled in the state to confirm legal compliance. LDI also analyzes annual and quarterly financial statements filed throughout the year. This work is critical for early detection of financial trouble among insurers to ensure they will remain solvent enough to pay claims, especially during catastrophes.
Standardized Rating System	The Uniform Financial Institutions Rating System (UFIRS) evaluates banks based on six components: capital adequacy, asset quality, management, earnings, liquidity, and sensitivity to market risk. This system was recommended by the Federal Reserve and other banking agencies. UFIRS serves as a tool for uniformly evaluating the soundness of financial institutions and for identifying those institutions requiring special attention or concern.	The National Association of Insurance Commissioners (NAIC) Accreditation Program defines baseline standards deemed essential for effective solvency regulation in each state. It is designed to ensure state insurance departments perform adequate and timely financial analysis and examinations, maintain appropriate organizational and personnel practices, and have sufficient resources and statutory authority to carry out their duties. Accreditation is granted to states in line with the Standards, including Louisiana.
Published Monitoring Guide	FDIC Risk Management Manual of Examination Policies	NAIC Financial Analysis Handbook
<p>* The entity that performs examinations depends on factors such as whether the bank has a state or national charter.</p> <p>** Insurance companies are regulated at the state level, but the National Association of Insurance Commissioners provides best practices for insurance regulation.</p> <p>*** Examinations are scheduled to occur more or less often based on whether the regulatory agency identified issues in the past.</p> <p>Source: Prepared by legislative auditor's staff based on state law and regulation, the 2023 LDI Annual Report, FDIC and NAIC guidance manuals, and discussion with OFI.</p>		

APPENDIX E: LORA AND OSR COMPARISON OF ADMINISTRATIVE EXPENSES 2020 THROUGH 2023*

Program	Category	2020	2021	2022	2023	Total
Louisiana Oilfield Restoration Association (LORA)	Total Fees Collected**	\$1,472,462	\$3,129,573	\$5,345,638	\$3,321,564	\$13,269,237
	Administrative Expenses	\$294,492	\$626,013	\$1,678,367	\$1,195,763	\$3,794,635
	Percent Administrative	20.0%	20.0%	31.4%	36.0%	28.6%
OPTION 1: Oilfield Site Restoration Program (OSR)	Total OSR Expenses	\$10,488,402	\$10,013,946	\$9,515,548	\$13,542,022	\$43,559,918
	Administrative Expenses	\$928,462	\$935,959	\$907,672	\$938,042	\$3,710,135
	Percent Administrative	8.9%	9.3%	9.5%	6.9%	8.5%
OPTION 2: OSR + OC Permit and Reservoir (Permit) Section Salaries***	Total OSR Expenses + Permit Section Salaries	\$10,603,315	\$10,168,101	\$9,731,796	\$13,731,257	\$44,234,469
	OSR Administrative Expenses + Permit Section Salaries	\$1,043,376	\$1,090,114	\$1,123,920	\$1,127,277	\$4,384,687
	Percent Administrative	9.8%	10.7%	11.5%	8.2%	9.9%

* Due to different reporting cycles, LORA totals are by calendar year, whereas OSR totals are shown by fiscal year.

** This table shows LORA's administrative expenses as a percentage of the total annual fees that LORA collected from operators in a given year, as this is how the Cooperative Endeavor Agreement between LORA and OC calculates the amount LORA is allowed to retain for administrative expenses. By contrast, we calculated OSR's administrative percentage as a percent of its total expenses. Given that OSR's total revenues were \$54.2 million for fiscal years 2020 through 2023, whereas its total expenses were \$43.6 million in this period, OSR's administrative percentage would be even lower if similarly calculated as a percentage of its revenue.

*** We included the Permit Section salaries to account for the possibility that OSR's administrative costs alone do not adequately compare to LORA due to LORA's financial security activities.

Source: Prepared by legislative auditor's staff based on OC financial reports and LORA annual reports provided by OC, and financial statements and annual fee payment documentation provided by LORA.