



RESOLUTION 23.051

Urging the United States Congress to Amend the Oil Pollution Act of 1990 to Provide That Non-Participating Surface Owners and Royalty Interest Owners Not Be Considered Responsible Parties by the United States Coast Guard When Funds Are Expended from the Oil Spill Liability Trust Fund

WHEREAS, the Oil Pollution Act of 1990 (“OPA90”) established funding for the Oil Spill Liability Trust Fund (“OSLTF”), and the OSLTF balance is currently in excess of eight billion dollars; and

WHEREAS, the “Principal Fund” of the OSLTF is used to pay claims, fund appropriations by Congress, and support research and development; and

WHEREAS, the “Emergency Fund” consists of a recurring 50 million dollars available each year, which the President has authority to make available without congressional appropriation; and

WHEREAS, the funds expended from the “Emergency Fund” may be used anywhere to initiate natural resource damage assessments and to respond to discharges of oil, including by plugging a well, when there is a threat to “navigable waters of the United States” or adjoining shorelines; and

WHEREAS, the United States Coast Guard’s National Pollution Funds Center (NPFC) is currently responsible for administering the OSLTF, including oversight of cost recovery efforts and determinations of “responsible parties”; and

WHEREAS, many States have common law or express statutory provisions granting surface owners or royalty interest owners, who have not produced or participated in ownership of the well, claims to, interests in, or ownership of the well bore or related equipment left onsite by the last operator of record in an attempt to rectify circumstances where these parties were left with damages; and

WHEREAS, a finding that surface owners or royalty interest owners, when they never produced or participated in ownership of the wells, are “responsible parties” may cause a huge detriment and financial liability to these parties; and



WHEREAS, the practice of seeking cost recovery against surface owners or royalty interest owners, who have not produced or participated in ownership of the wells, causes many states to hesitate or even refuse to use otherwise available funds from the OSLTF as a matter of public policy for fear that the NPFC may seek cost recovery against those parties; and

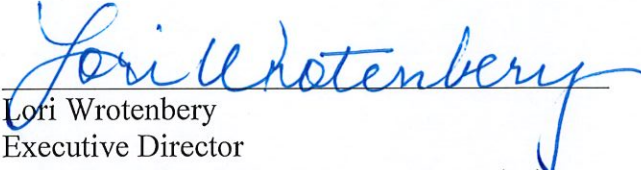
WHEREAS, surface owners or royalty interest owners, who have not produced or participated in ownership of the wells, should not be considered “responsible parties,” as the true responsible parties are those that abandoned the well bore and related equipment.

NOW THEREFORE, BE IT RESOLVED THAT, the Interstate Oil and Gas Compact Commission urges Congress by legislative action to amend the Oil Pollution Act of 1990 to specifically provide that surface owners and royalty interest owners, who have not produced or participated in ownership of wells, shall not be considered “responsible parties,” and therefore shall not be subjected to cost recovery efforts.

I certify that this is a true and correct copy of the resolution adopted by the Commission on May 24, 2023.

Voting yes: Alaska, Arizona, Arkansas, Colorado, Kansas, Michigan, Montana, Nebraska, Nevada, New Mexico, Ohio, Oklahoma, Texas, West Virginia, and Wyoming.

Voting no: Illinois and New York.


Lori Wrotenbery
Executive Director
Interstate Oil and Gas Compact Commission

