



OCTOBER 2020

Final Audit Response

Utah Division of Oil,
Gas and Mining

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FINAL AUDIT RESPONSE

The Utah Division of Oil, Gas and Mining appreciates the time and effort the Legislative Auditor's Office put into identifying opportunities for improvement within the Oil and Gas Program.

Our program is tasked with ensuring access to essential natural resources in an environmentally responsible manner. Consistent regulatory presence by our program benefits Utah's environment, economy and quality of life. We take these responsibilities seriously and recognize the audit's important role in helping us accomplish program objectives more effectively. Our official response outlines the program improvements to which we are holding ourselves accountable.



Chapter II

Oil and Gas Program Needs to Improve Its Regulatory Responsibilities

The Oil and Gas Program is preventing backlog of compliance issues

1. We recommend that the Oil and Gas Program continue to resolve all outstanding non-compliant issues.

Measurable Improvement of Regulatory Responsibilities

Appropriate actions have been taken on all 105 outstanding non-compliant issues identified in the audit. To prevent future backlogs, the Oil and Gas Program has implemented actions and policies to ensure outstanding non-compliance issues are reviewed and addressed by staff.

- A quarterly compliance report is generated and distributed to staff for review of noncompliant issues and appropriate follow up actions. These reports are valuable at helping detect backlogged issues.
- Updated our internal compliance standards of operations
- Hired additional field inspectors and technical staff
- Working on improvements to the database that will generate automatic compliance tracking reports
- Working closely with the Attorney General's Office and Board of Oil, Gas and Mining to implement fines and judgements when necessary

2. We recommend that the Oil and Gas Program review timelines for non-compliance and include appropriate steps toward achieving compliance resolution in program policy.

Data-Driven Prioritization Modules

Staff has worked with the Groundwater Protection Council (GWPC) to develop and implement a Field Inspection Prioritization Program designed to display in a spatial and report form which oil and gas sites should be inspected according to various inputs. All oil and gas wells are given a priority rating for compliance status and history.

Chapter II (continued)

Oil and Gas Program Needs to Improve Its Regulatory Responsibilities

The program has been operational since January 2020 and has already helped our inspectors increase their inspection focus. The field application being developed allows real time data collection that is automatically uploaded to the database saving inspectors time and reducing input errors. The program empowers inspectors to consistently make decisions leading to reduced risk and more effective regulation through timely inspections.

3. We recommend that the Oil and Gas Program require strict compliance to Administrative Rule.

- A quarterly compliance report is generated and distributed to staff for review of noncompliant issues and appropriate follow up actions. These reports are valuable at helping clean up backlogged issues.
- Updated our internal compliance standards of operations
- Hired additional field inspectors and technical staff
 - Three field based inspectors: two in Carbon County; one Uintah County
 - Three technical positions for reviewing proposals and compliance tracking
- Working on improvements to the database that will generate automatic compliance tracking reports
- Working closely with the Attorney General's Office and Board of Oil, Gas and Mining to implement fines and judgements when necessary

Chapter III

Prioritization and Oversight of Inspections Needs to Improve

1. We recommend that the Oil and Gas Program ensure that inspectors are following the Weighted Inspection Tracking Program as outlined in the program policy

The Weighted Inspection Tracking (WIT) Program identified in the audit is designed to measure inspector time and responsibilities. High priority WIT inspections may take considerable time or travel to complete, inspectors maximize efficiency of their efforts by conducting routine inspections in conjunction with high priority WIT inspections. The Inspection Prioritization Database is a more accurate and automatic tracking tool that will integrate WIT into the database.

- The program helps our inspectors increase their inspection efficiency.
- The field application allows real time data collection that is automatically uploaded to the database saving inspectors time and reducing input errors.
- The program empowers inspectors to consistently make decisions leading to reduced risk and more effective regulation through timely inspections.

Staff has identified the following database additions to be made when funding is provided/available:

- Automatic reminders to management and staff when non-compliance items require follow-up
- Daily updates of outstanding non-compliance items built in.
- Integrate reminders into electronic forms so staff can review compliance status and address noncompliance items in one step

Chapter III (continued)

Prioritization and Oversight of Inspections Needs to Improve

The evidence-based Inspection Prioritization Program has improved program inspection focus.

2. We recommend that the Oil and Gas Program continue to develop an evidence-based approach for inspection timelines ensuring that inspections are occurring regularly.

Evidence-based Inspections

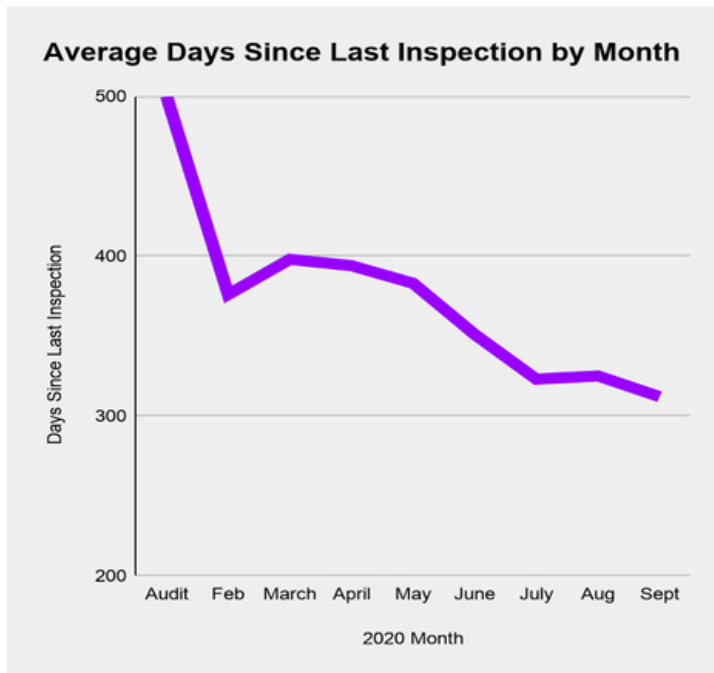
Staff has worked with the Groundwater Protection Council (GWPC) to develop and implement a Field Inspection Prioritization Program designed to display in a spatial and report form which oil and gas sites should be inspected according to various inputs.

All oil and gas wells are given a priority rating from one (highest priority) to three (low priority). Prioritization is based on operational factors such as compliance issues and history, age of the well and how long since the last inspection. Geographic factors include well proximity to surface water, groundwater, human population density and wildlife habitat.

The program has been operational since January 2020 and has already helped our inspectors increase their inspection focus. The field application allows real time data collection that is automatically uploaded to the database saving inspectors time and reducing input errors. The program empowers inspectors to consistently make decisions leading to reduced risk and more effective regulation through timely inspections.

Chapter III (continued)

Prioritization and Oversight of Inspections Needs to Improve



More Frequent Inspections

The Inspection Prioritization Module was designed to emphasize completing higher risk inspections on a more regular basis. Results gathered since the program was implemented six months ago shows the average number of days between inspections is 312 days versus 500 days reported in the audit.

3. We recommend that the Oil and Gas Program finalize and implement program policy addressing compliance management.

- Program policy for compliance management has been finalized and implemented.

Future action plans:

- Add compliance component to Prioritization Database to include:
 - Compliance history tracking
 - Compliance inspection follow up
 - Electronic Notice of Violation (NOV)
 - Automatic notification of past and upcoming compliance dates
- Penalty rulemaking as identified in Senate Bill 148 Legislative General Session 2020

Chapter III (continued)

Prioritization and Oversight of Inspections Needs to Improve

In-field tools are being utilized to streamline the inspection process improving accuracy of documentation.

4. We recommend that the Oil and Gas Program accurately document all observations for every inspection type in the program's database according to program policy.

Inspection Type Observation Documentation

In-Field Tools: Field inspectors with the assistance of the Utah Automated Geographic Reference Center (AGRC) implemented the use of computer tablets to streamline inspections for automatic updating of information to the database, eliminate the backlog of paperwork, and maintain consistent record keeping.

Advanced Database Categorization: New compliance categories were added to the database to more accurately track the stage of each compliance matter. Categories created include ability to issue/document multiple compliance issues, track compliance history, and track fines.

Employee Metrics: Program staff compiled standard operating procedures to help achieve efficiency, quality output and uniformity of performance, while reducing miscommunication and failure to comply with program regulations.

Inspection Prioritization Expand Reporting: Automated tracking and reporting of key performance measures, such as WIT values, are added to the database to more accurately track program status.

Chapter IV

Lack of Enforcement Has Led to Increased Risk

New legislation helping program ensure compliance is achieved.

1. We recommend that the Oil and Gas Program use its statutory authority to ensure compliance with Utah Code and Administrative Rule.

- A quarterly compliance report is generated and distributed to staff for review of noncompliant issues and appropriate follow up actions.
- Working on improvements to the database that will generate automatic compliance tracking reports
- In the 2020 General Session, Senate Bill 148 was passed that modifies the process for imposing and collecting administrative penalties; creates the Oil and Gas Administrative Penalties Account; and makes technical and conforming changes. This bill allows the Division to collect administrative penalties from non-compliant operators and deposit them into an account used to offset risks the bonds do not cover.
- Penalty rulemaking as identified in Senate Bill 148
 - Rule has been compiled for formal rulemaking process
- Working closely with the Attorney General's Office and Board of Oil, Gas and Mining to implement fines and judgements when necessary
- Add compliance component to Prioritization Database to include:
 - Compliance history tracking
 - Compliance inspection follow up
 - Electronic Notice of Violations (NOV)
 - Automatic notification of past and upcoming compliance dates

Chapter V

Management Decisions Regarding Finances Have Led to Funding Reductions

Conservation restricted account revenues are not forecasted to meet program expenditures in future fiscal years.

1. We recommend that the Oil and Gas Program develop a sustainable plan for building up program reserves over time.

Fiscal Year 2021 Revenues Not Forecasted to Cover Program Expenditures

Figure 5.1 Overall Revenue Isn't Forecasted to Fund Oil and Gas Program in Fiscal Year 2021. Appropriated revenues generated by the conservation fee are forecast to become unstable.

Revenues	2018	2019	2020	2021*
Total Revenues	\$4,242,400	\$3,832,400	\$3,420,100	\$2,522,562
Total Expenditures	\$2,480,200	\$2,577,800	\$3,048,700	\$3,548,000
Unexpected Balance	\$1,762,200	\$1,254,600	\$ 371,400	-\$1,025,438

**Fiscal Year 2021 Total Revenues and Unexpended Balance in Figure 5.1 based on Oil and Gas Program forecast for conservation account revenue*

Figure 5.1 shows overall revenue is not forecasted to cover expenditures of the Oil and Gas Program in fiscal year 2021. The largest funding source for the program is the Oil and Gas Conservation Restricted Account (conservation account).

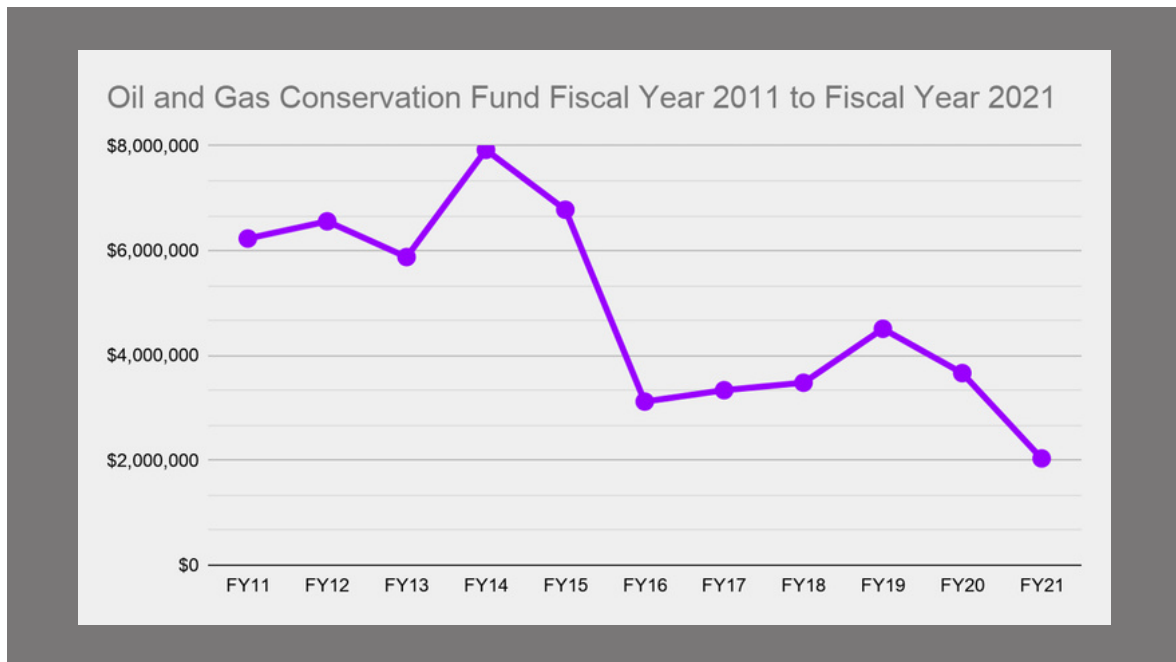
Revenue in this account is generated from the 0.002 fee levied on oil and gas production value at the well. As of September of 2020, the fiscal year 2021 the conservation account is forecasted to bring in \$2,035,562 in revenue, requiring the program to use reserve funds.

Chapter V (continued)

Management Decisions Regarding Finances Have Led to Funding Reductions

Figure 5.2 Oil and Gas Conservation Fund Revenue has Declined.

Revenues generated from the conservation fund are declining.



Fiscal year 2021 forecasted based on statewide production and commodity price trends.

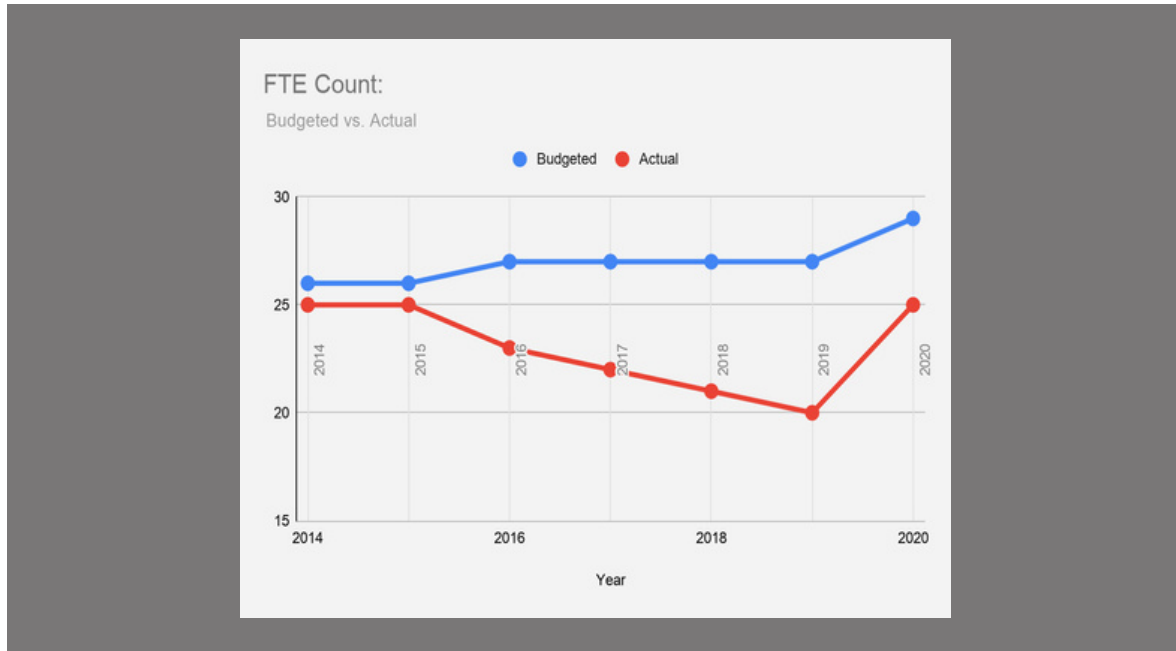
The Oil and Gas Program has strategically added staff in rural locations to ensure statute and Administrative Rule requirements are fulfilled.

2. We recommend that the Oil and Gas Program management prioritize statute and Administrative Rule requirements over savings and ensure that all program requirements are fulfilled.

Chapter V (continued)

Management Decisions Regarding Finances Have Led to Funding Reductions

Figure 5.3 FTE Count is Increasing to Ensure Program Requirements are Fulfilled.



- Strategically added six staff members
 - Three field based inspectors: two in Carbon County; one Uintah County
 - Three technical positions for reviewing proposals and compliance tracking
- Identified need for additional staff members
 - Environmental Manager
 - Environmental Scientist
- Secured five year contract with the Groundwater Protection Council (GWPC) for technological upgrades to the Inspection Prioritization Database and development of Data Decision-Making Module
 - Future database needs include interface dashboard for shut-in wells; automated compliance process including fine tracking; bonding prioritization module; electronic NOV forms

Chapter VI

Program and Employee Performance Improvements

The overall average length of time between inspections has improved from 500 days to 312 days.

1. We recommend that the Division of Oil, Gas, and Mining create and implement adequate performance metrics for the Oil and Gas Program.

Performance Metrics: Oil and Gas Program staff have identified performance metrics to measure progress. Concurrently the program is developing a Data Decision-Making Module. Fully implemented, this user interface will display real time metrics, allowing review of how the program is functioning.

Figure 6.1 Average Length of Time Between Inspections has Improved.

Well Status	Average Length of Time Between Inspections (Days) Audit Report	Average Length of Time Between Inspections (Days) September 2020
Drilling	246	172
Producing	403	318
Drilling Operations Suspended	476	107
Shut-In	539	300
Temporarily Abandoned	835	185
Overall	500	312

Inspection Prioritization Database has improved program performance. Management firmly believes implementation of the Data Decision-Making Module will further refine the program process through automation of key performance metrics in real time. A scope of work has been prepared, but adequate funding is lacking.

Chapter VI (continued)

Program and Employee Performance Improvements

Endorsement of these improvements by the Governor's Office of Management and Budget as well as funding from the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee are required for the program to achieve an ambitious target of real-time performance tracking.

2. We recommend that all divisions within the Department of Natural Resources create annual employee action plans and conduct annual employee evaluations to comply with Administrative Rule R477-10-1.

The overall average length of time between inspections has improved from 500 days to 312 days.

Annual employee evaluations completed for all employees within the Oil and Gas Program for fiscal year (FY) 2020. Each employee has an active action plan for FY 2021 in accordance with Administrative Rule R477-10-1.

Chapter VII

Bonding Rule Review

1. We recommend that the Oil and Gas Program review and update Administrative Rule's current bonding requirements.

Program staff completed a review of Administrative Rule bonding requirements and presented results to the Utah Board of Oil, Gas and Mining at the February 26, 2020 Board hearing.

A task force completed a draft bonding rule in July 2020. However, due to COVID-19 and oil/gas industry strains, rulemaking has been suspended until July 1, 2021 in accordance with Senate Bill 6004: passed during the Sixth Special Session of the Legislature in August 2020.

2. We recommend that the Oil and Gas program consider implementing a regular bond review schedule.

- A user interface is being planned that will prioritize bond review in accordance with the model implemented for the Inspection Prioritization Database.
- Bond review will be completed by staff according to prioritization outputs.
- The division has committed to reviewing bonds at a minimum of every five years, user interface will ensure high priority bonds are reviewed.