



## **New Mexico Sued Over Failure to Enforce Oil and Gas Well Cleanup**

### **Overview**

New Mexico is failing to enforce legal requirements under the Oil and Gas Act that ensure fossil fuel operators plug inactive wells and clean contaminated sites. As a result, tens of thousands of inactive or marginally producing wells threaten public health, safety, land, air and water.

The Center for Biological Diversity, San Juan Citizens Alliance and Tó Nizhóní Ání are suing the state of New Mexico in the First Judicial District in Santa Fe, seeking a court judgement that: (1) Declares the state is violating its duties under the Oil and Gas Act; and (2) Requires the state to enforce cleanup laws and hold polluters accountable.

### **The Problem**

New Mexico has tens of thousands of inactive or barely producing wells that harm health, land, air and water — hundreds of which have sat unplugged for a decade or more.

Instead of requiring operators to pay for cleanup or taking mandatory steps to hold operators to their legal obligations, the state uses taxpayer money to slowly plug wells. Taxpayers face potentially billions of dollars in cleanup costs, while communities bear ongoing health and environmental harm.

### **New Mexico's Legal Failures**

1. Failure to enforce cleanup requirements: About 60% of operators in New Mexico have wells that are out of compliance with cleanup obligations. The state has initiated enforcement action against only a small fraction of those operators. Even when enforcement begins, the state usually fails to ensure compliance.
2. Failure to require adequate financial assurance: Operators must provide financial assurance to cover cleanup costs. Inactive wells are riskier and require additional financial assurance. The state has secured the required additional financial assurance for less than half of the wells that require it.
3. Failure to seize financial assurance from noncompliant operators: The Oil and Gas Act requires the state to take financial assurance when operators fail to meet their cleanup obligations. The state has not forfeited any financial assurance from any operator since 2018.
4. Improper use of taxpayer funds: The Oil and Gas Reclamation Fund was created to pay for well plugging and remediation as a last resort, when the state was unable to force operators to pay for cleanup. However, the state uses the fund to plug wells without taking mandatory enforcement action against operators that would recoup some costs. Public resources should not replace industry accountability.