



# JOINT TRADE FINANCIAL ASSURANCE FORUM OUTPUT DOCUMENT

Issue Date December 2, 2016

## Disclaimer

The information contained within this document was captured from the Joint Trade Financial Assurance Forum held on November 17th, 2016.

The opinions and information expressed within do not represent any one organization's position, rather the results of open dialogue on the topic. This information should not be utilized out of context or without a clear understanding of the event and topics covered.

OFFSHORE OPERATORS COMMITTEE  
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## 1 Executive Summary

The Joint Trade Financial Assurance Forum participation included representatives of 63 organizations and the Bureau of Ocean Energy Management (BOEM).

### 1.1 Major Flaws Require Immediate Suspension of Program

The BOEM Financial Assurance Program is significantly flawed and incomplete. The following identified issues with the Program support immediate suspension to address gaps raised within this document.

#### 1.1.1 *The Decommissioning Liability Estimates BOEM Utilizes Are Incorrect*

A variety of non-owner entities that specialize in quantifying decommissioning liability estimates state that the BSEE / BOEM values are flawed.

- Oppertune states that the 64% increase in shelf liability estimates are opposite of market trends, thus incorrect.
- TSB Offshore states that BSEE model is not supported by actual project-based decommissioning costs.
- The bankruptcy courts do not recognize or use the BSEE liability estimates, rather they use normal ARO cost estimates prepared in accordance with standards set out by the Financial Accounting Standards Board requirements (FASB ASC 410-20).
- A vast majority of the leaseholders surveyed plan to dispute the liability estimates because they are incorrect.
- BOEM's liability estimates do not account for the current ownership scenarios on the OCS.

#### 1.1.2 *BOEM's Financial Strength Assessment is Flawed*

A variety of surety brokers and underwriters servicing the oil and gas business believe that the BOEM financial metrics and corresponding analysis is flawed. Their individual analysis is significantly different from the process outlined by BOEM. The BOEM analysis should be redeveloped to address the significant gaps before the program proceeds.

- One analysis process cannot be applied across the industry, several processes must be developed to fit different organization types.
- Cash flow metrics must be significantly considered in the analysis.
- The handling of parents and subsidiaries is undeveloped and improper.
- Fails to account for existing private security already in place for many of these properties.

#### 1.1.3 *BOEM's Program is Counter to Agency Mission*

BOEM's incomplete and error-ridden program produces impact that is counter to the mission of the agency. The following counter-mission issues were highlighted during the Forum.

- Additional cost of newly required financial assurance takes away from available cash to complete actual decommissioning work.
- BOEM's program has already significantly impacted Merger and Acquisition (M&A) activity on the OCS, having a negative impact on the overall progress of Gulf development.



## **1.2 Forum Participant Feedback to BOEM**

The participants of the Forum were asked their opinion after the day's discussion. Four statements were developed to represent different views expressed during the day and the statistics showing support of each statement are as follows:



## 2 Forum Details

The Joint Trade Financial Assurance Forum was held on November 17<sup>th</sup> 2016. The Offshore Operators Committee (OOC), The National Ocean Industries Association (NOIA) and the Louisiana Midcontinent Oil and Gas Association (LMOGA) hosted the Forum.

### 2.1 Forum Agenda

The joint trades and member organization representatives developed the following agenda.

#### **MORNING SESSION**

*The goals of this session will be to: 1) Identify information gaps in current information provided within the BOEM program, 2) Present challenges industry is facing with the new BOEM Program, 3) Identify information and gaps pertaining to financial instrument options, and 4) Update on progress of BOEM implementation.*

8:00 - 8:30 Registration & Breakfast

8:30 - 8:45 Safety Orientation, Anti-Trust Guidelines, & Ground Rules

8:45 - 9:30 Ownership Challenges

*Panelists: Keith Couvillion (Chevron), Gary Clifford (ENI), & Evan Zimmerman (OOC)*

- Progress on JOA updates
- Overview of ownership scenario challenges
- Q&A
- Capture gaps

9:30 - 9:45 Morning Break

9:45 - 11:00 Financial Assurance Instruments

*Panelists: Phil Bair (Wortham, LLC), Bruce Young (Aon), Aaron Ort (Evergreen Surety), Ed Frank & Russell Brown (Indemco), Sarah Heineman & Kjel Brothen (Argo Surety)*

- Perspective presentations
- Q&A
- Capture gaps

11:00 - 11:30 BOEM Perspective

*Speaker: Michele Daigle (BOEM)*

- Guidance update on third party guarantees
- Overview on how self-insurance is calculated

11:30 - 11:45 First Session Summary

*OOC, NOIA, LMOGA representatives*

11:45 - 12:45 LUNCH

#### **AFTERNOON SESSION**

*The goals of the afternoon session are for the industry participants to: 1) gain perspective on industry opinions from the pre-forum survey results, 2) greater understanding of decommissioning liability estimates, and 3) gather feedback on information needed and recommendations to move forward.*

12:45 - 1:00 Pre-Forum Survey Results

*Evan Zimmerman (OOC)*



- 1:00 - 1:30 Perspective on Decommissioning Estimates  
*Panelists: Josh Sherman (Opportune), Steve Spease (TSB Offshore), Julian Vulliez (HBW)*
- Evaluation of estimates
  - Perspective of BSEE model considerations
  - Q&A
- 1:30 - 2:00 Interactive Breakout 1  
*Participants will select a spokesperson and answer the following questions in small groups of 8 to 10 people.*
- What concerns do you have about the financial capacity (self insurance) metrics that are currently being utilized?
  - What financial capacity (self insurance) metrics do you recommend be utilized by BOEM?
- 2:00 - 2:20 Report Out  
*Small group spokespersons summarize their captured answers.*
- 2:20 - 3:00 Afternoon Break
- 3:00 - 3:30 Interactive Breakout 2  
*Participants will select a spokesperson and answer the following questions in small groups of 8 to 10 people.*
- What industry challenges remain unanswered and what information does industry need to address them?
  - What questions does industry need BOEM to answer in order to achieve financial assurance?
- 3:30 - 4:00 Report Out  
*Small group spokespersons summarize their captured answers.*
- 4:00 - 4:30 Path Forward Summary  
*OOC, NOIA, LMOGA representatives*
- 4:30 Adjourn



## 2.2 Forum Participants

The following individuals registered as participants of the Forum. The representatives from the Bureau of Ocean Energy Management (BOEM) were present for the morning session only.

### OOC/LMOGA/NOIA Financial Assurance Workshop November 17, 2016 // The Woodlands, Texas

<b>Company / Organization:</b>	<b>Last Name</b>	<b>First Name</b>	<b>Title (Position):</b>
Alliant Energy & Marine	Hollman	Lee	
Alliant Energy & Marine	Radcliffe	Justin	
Alliant Insurance Services	Payne	Craig	Vice President - Surety
Anadarko	Beck	Tara	Risk Management
Anadarko	Renfro	Kevin	Director - GoM Regulatory & SEMS
Anadarko Petroleum Corporation	Hathcock	Susan	Regulatory Affairs Manager
Anadarko Petroleum Corporation	Rayos	Magnus	
Aon	Young	Bruce	Director of Surety
Apache Corporation	Brett	Cupit	Assistant General Counsel
Apache Corporation	Chudy	Adam	
Apache Corporation	Jones	Adrienne	Manager, Insurance and Risk
Arena Energy	Godwin	Keith	Finance Director
Arena Offshore LP	Goers	Connie	Regulatory Manager
Argo Surety	Brothen	Kjel	
Argo Surety	Heineman	Sarah	National Underwriting Officer
Argo Surety	Killian	Hilary	
Argo Surety	Stanfield	Sarah	Senior Underwriter
Argo Surety	Stukey	Michelle	Senior Underwriter
Beveridge and Diamond PC	Auslander	Jamie	Principal
BOEM	Daigle	Michele	
BOEM	Turner	Eric	
BP	Aceves	Janet	Land Negotiator
BP America	Ung	Poh Boon	Director, Regulatory Affairs
BP Exploration & Production Inc.	Peterson	David	Land Manager - Gulf of Mexico
Byron Energy Inc.	Kallenberger	Prent	President
Cameron/SLB	Whitby	Mel	Director, Industry Affairs
Chevron	Aguilar	Luis	Finance Manager
Chevron	Bond	David	Sr. Counsel
Chevron	Couvillion	J. Keith	Deepwater Land Manager
Chevron	Donat	Mark	Sr. Analyst Treasury
Chevron	Fury	Sandi	GGOM Reg Affairs Mgr
Chevron	Kusinski	Greg	
Chevron	Rewerts	Carl	GOM Land Manager





Chevron	Tierce	Amber	Sr. Advisor -- Regulatory
Cobalt International Energy	Hackedorn	Lynne	Vice President, Government & Public Affairs
Cobalt International Energy	Skidmore	Aaron	Treasurer
ConocoPhillips	Fitzgerald	Michael	Landman
ConocoPhillips	Harmon	Andy	
Deep Gulf Energy	Holt	Debra	
Deep Gulf Energy	Young	Tom	Vice President- Business Development
Ecopetrol America Inc.	Kelsey	Bob	Land Manager
Energy Transfer	Simmons	Stephen	Pipeline Specialist
Energy XXI	Larson	Dana	Production Engineering Advisor
Eni Petroleum	Bruton	Jeff	Drilling & Completion Engineering Manager
Eni Petroleum	Sepe	Raffaele	Risk Manager
Eni US Operating Co Inc	Clifford	Gary	Land and Business Development Director
Eni US Operating Co.	Mangiafico	Giancarlo	Project Coordination Manager
Eni US Operating Co. Inc.	Lloyd	Brian	Finance & Administration Manager
Eni US Operating Co. Inc.	Montalvo	Brenda	SEQ Regulatory Manager
Eni US Operating Co. Inc.	Wiese	Angie	Landman
EnVen Energy Ventures, LLC	Lauer	Tanya	Property Administration Manager
EnVen Energy Ventures, LLC	Powell	Cheryl	
Evergreen Surety	Ort	Aaron	
ExxonMobil	Rolland	Jarod	Regional Land Manager
ExxonMobil Production Co.	Chapman	Bryan	Sr. Regulatory Specialist
Fieldwood Energy LLC	Black	Richard	Sr. Vice President & General Counsel
Freeport-McMoRan Oil & Gas	McFarland	Keith	Senior Landman
Freeport-McMoRan Oil & Gas	Roberts	Lynne	Assistant Treasurer
Genesis Energy, L.P.	Pape	Karen	SVP & Controller
Genesis Energy, L.P.	Stark	Mike	Sr. Director, Offshore Pipelines & Facilities
GulfSlope Energy	Moore	Clint	VP - Chief Administrative Executive
Haynes and Boone, LLP	Conley	Ellen	
HBW Resources	Scott	Ryan	Senior Policy Director
HBW Resources, LLC	Looney	Paul	EVP-Government Affairs and Business Development
HBW Resources, LLC	Vulliez	Julian	Senior Advisor
Hess Corporation	Maestri	Marshall	Asst. Gen. Counsel
Hess Corporation	Schut	Laura	Senior Counsel
Indemco	Frank	Ed	



J. Connor Consulting, Inc.	Labiche	Lance	President
Javeler Marine Services LLC	Wingate	Eric	President
JX Nippon Oil Exploration	Fly	Steve	Vice President
JX Nippon Oil Exploration	Morita	Yuichi	CFO
JX Nippon Oil Exploration	O'Neal	Curtis	Accounting Manager
K. Camp Associates	Camp	Kathy	
Liskow & Lewis	Gordon	Collette	Shareholder
Liskow & Lewis	Grauberger	Jana	Shareholder
LMOGA	LeBlanc	Lori	Director, Offshore Committee
Looper Goodwine P.C.	Arvidson	Addie	Attorney
Lori LeBlanc LLC	Theriot	Troy	Government Relations
M&H Energy Services	Emanuel	Philip	Audit Manager
M&H Energy Services	Grossweiler	Philip	Principal Consultant
M&H Energy Services	Ory	Fritz	Project Director
Marathon Oil Corporation	Burwell	Steve	Sr. Financial Analyst
Marubeni Oil & Gas (USA) Inc	Canady	Katie	Landman
Marubeni Oil & Gas (USA) Inc.	Kuykendall	Kirk	General Manager - Land and Business Development
Marubeni Oil & Gas (USA) Inc.	Pursell	Deborah	Land Coordinator
McGriff, Seibels, and Williams	Osburn	Patti	SVP
McGriff, Seibels, and Williams	Varela	Ryan	
Murphy Oil	Meyer	Shane	Landman
Noble Energy, Inc.	Kirchoff	Wendy	Sr. Regulatory Policy Advisor
NOIA	Luthi	Randall	President
OOC	Barbara	Angie	Staff Support
OOC	Southworth	Greg	Associate Director
OOC	Wolfgang	Rebecca	Support Staff
OOC	Zimmerman	Evan	Executive Director
Opportune	Busch	Darren	Manager
Opportune	Sherman	Josh	Partner
Opportune	Steed	Phil	Managing Director
PetroQuest Energy	Buquet	Aubin	Production Manager
PetroQuest Energy	Taylor	Steve	Sr. Landman
Repsol	Gonzalez	Carlos	
Repsol	Webb	Christie	
Shell	McMillan	Owen	
Shell Oil Company	Crowl	Kent	Senior Legal Counsel
Shell Pipeline Company LP	McGuire	Denise	Sr. Land Agent, Offshore
Sierra Hamilton	Daab	Rick	VP of Operations
Slattery, Marino & Roberts	Assale	Nadege	Attorney
Slattery, Marino & Roberts	Marino	Tony	Attorney
SPLC	Davis	Joyce	Staff Engineer



Statoil	Singletary	Matthew	Controller
Statoil	Wade	Foster	Manager, Public & Regulatory Affairs
Statoil	Wannigman	Anthony	Sr. Performance Analyst
Talos Energy LLC	Bench	Nic	Sr. Land Analyst
Talos Energy LLC	Caldwell	Alicia	Landman
Talos Energy LLC	Chilukuri	Prasanth	Assistant Treasurer
Talos Energy LLC	Richardson	Dan	Chief Accounting Officer
Taylor Energy Company LLC	Pecue	Will	President
Taylor Energy Company LLC	Riviere	Dina	CFO
The Williams Companies, Inc.	Centrich	Sarah	Senior Attorney
TOTAL E&P USA, INC.	Houck	David	Assistant General Counsel
TSB Offshore, Inc.	Byrd	Bob	Sr. Consultant
TSB Offshore, Inc.	Spease	Steve	
Vinson & Elkins LLP	Pechacek	Larry	Counsel
W&T Offshore, Inc.	Armitage	John Marsh	Manager, Facilities and Construction
W&T Offshore, Inc.	Challburg	Scott	
W&T Offshore, Inc.	Grabois	Todd	Treasurer
W&T Offshore, LLC	Lea	Reid	VP
Wild Well Control, Inc.	Savoy	Joe	Director
Williams	Towle	Brandon	Offshore Regulatory
Wortham Insurance	Bair	Philip	Vice Chairman



### 3 Ownership Scenario Challenges

This session covered a review of many new issues the BOEM Financial Assurance NTL created that are not yet addressed by current Joint Operating Agreements (JOAs), as well as, several examples of ownership scenarios not currently addressed by the BOEM in their Financial Assurance Program.

#### 3.1 Offshore Operating Agreements – Financial Assurance Provisions

The OCS Advisory Board subcommittee is currently developing the standard Offshore Operating Agreement language as the new Financial Assurance Program evolves. Currently, the language is planned to be available to industry sometime in 2017.

The subcommittee was chartered to draft the following new Operating Agreement language:

- New Deepwater Offshore Operating Agreements
- New Shelf Offshore Operating Agreements
- Amend Existing Offshore Operating Agreements
- Used for stand alone Agreements

#### 3.2 New Article 21 – Insurance and Bonds

The following summaries represent the current updated outline.

##### 3.2.1 21.1 Insurance

No change.

##### 3.2.2 21.2 Financial Security

- Operator shall have option to provide all bonds and guarantees for the Joint Account
- Should the operator not provide any bond or guarantee each Party will be responsible for providing their Participating Interest Share of all financial security
- Failure to provide mandated security triggers:
  - Option for the Operator
  - Option for another Participating Party(ies)
  - Use of Self-Insurance
  - Joint Account Charge & Premium
- Non-Compliant Party Indemnity

##### 3.2.3 21.3 Rights-of-Ways & Rights of Use and Easements

- ROWs & RUEs are issued to one party (Operator)
- If agreeable by BOEM, Grant-holder will assign interest to Participating Parties in proportion to their participating interest in the operation benefiting from the ROW or RUE (currently BOEM does not allow partial assignments of ROWs or RUEs)
- All Participating Parties will be responsible for their share of financial security for ROWs & RUEs
- Operator will provide coverage and charge the Joint Account

##### 3.2.4 21.4 Decommissioning Expenditure Reporting

- Operator will have the obligation of submitting to BSEE actual decommissioning expenditures incurred in accordance with 30CFR250.1704 (h) and (i)



### 3.2.5 21.5 Decommissioning Cost Estimates

- BSEE will provide BOEM with all decommissioning cost estimates used in the Financial Assurance Program
- If a co-owner wishes to challenge BSEE's estimates, they will provide the Operator with the documentation justifying the challenge and the Operator will have the option to address the issue with BSEE

### 3.2.6 21.6 Decommissioning Security Agreement

- The Parties will have the right to create a Decommissioning Security Agreement ("DSA") attached to the Offshore Operating Agreement as Exhibit "\_?\_"
  - DSA will describe what decommissioning liability is covered
  - The Parties will decide when to create the DSA
  - The DSA will stipulate a total exposure amount
  - More than one DSA could be created associated with a lease, Unit or Field
- An Escrow Agreement will be attached as an Exhibit to the DSA

### 3.3 Ownership Scenario Example

There are several ownership scenarios not currently addressed adequately or at all within BOEM's Financial Assurance Program.

An example of MC 503 clearly illustrates a gap within the BOEM program with regard to different ownership scenarios. As shown in Figure 1, the hatched region represents the example operator's interest. Within this region exists no infrastructure, yet the infrastructure within the block outside of the example operator's interests is being assessed to them under BOEM's program.

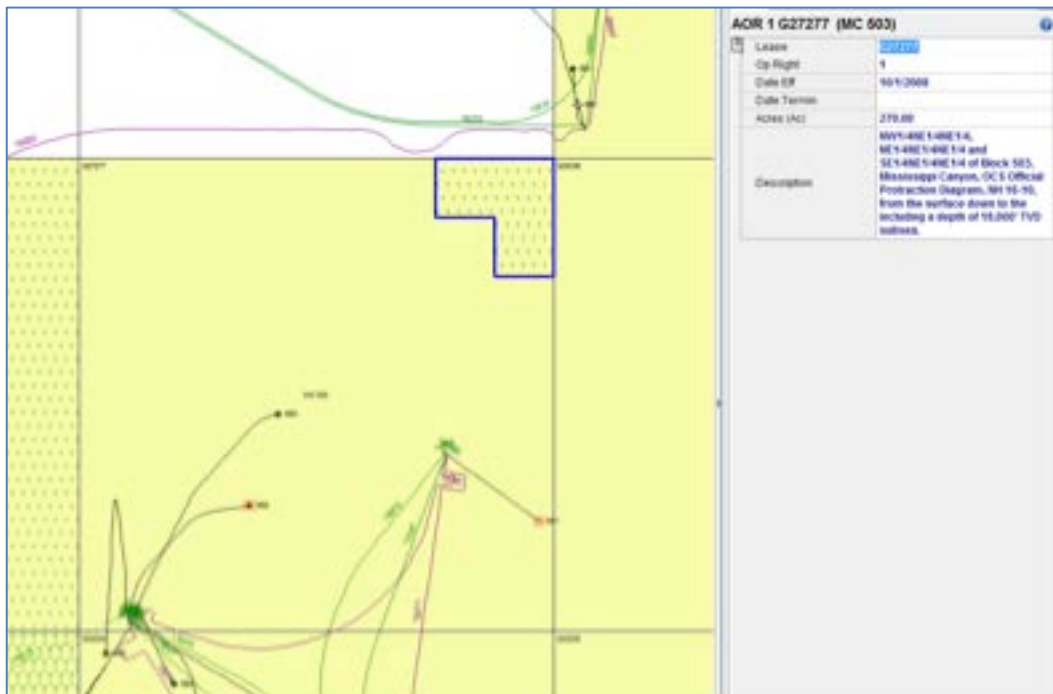


Figure 1 Example Operator's Interest in MC 503



### 3.4 Gaps and Issues Identified During Q&A

The following gaps or key issues were identified during the Q&A between the Forum participants and the presenting experts.

1. Current JOAs do not address the new requirements set out in the BOEM NTL. BOEM should have allowed for time to get JOAs updated reflecting the new program components.
2. Tailored plans are always changing so how will BOEM be able to give rolling approvals when so many tailored plans are intrinsically linked with each other.
3. An operator's tailored plans will expect that co-owners plan to be approved as well. BOEM needs to consider the relationships between co-owner tailored plans.
4. Tailored plans in some cases will most likely require well-by-well level resolution and at the minimum will require lease by lease delineation. This will take significant time to develop and maintain, while always changing. It will take significant time for both industry and BOEM to manage this resource intensive activity.
5. BOEM has to date only demonstrated willingness to pass decommissioning liability back the chain of title, and has not overlooked the option of passing operating rights back the chain of title, overlooking significant opportunity. This should be considered as it would give BOEM and previous owners more options to consider when addressing liabilities.



## 4 Financial Assurance Instruments

Representatives from several leading brokers and surety underwriters (Wortham, Aon, Evergreen Surety, Indemco and Argo Surety) provided a summary of surety bonds and the review process the industry utilizes to assess oil and gas companies. Within the overview, the following main topics were covered:

- Why credit ratings matter
- Oil and Gas industry credit trends
- Understanding Surety

### 4.1 Broker & Underwriter Insight

The underwriting experts explained that assessment is not purely credit based, and that asset-based underwriting is equally important. Within the surety submission, the following information should generally be provided:

- Audited Financial Statement
- Independent 3rd Party Reserve Report
- Management Information/Resumes
- Bank or investor PowerPoint presentation
- Asset Retirement Schedule

There is no longer an adverse risk selection process, as most E&P companies now require supplemental bonding. The substantial increase in supplemental bonding requirements by most Gulf Of Mexico (GOM) operators has attracted additional capacity participation in the surety industry. Members of the panel suggested that available surety capacity could be as high as \$3 billion, per risk, depending on the financial strength demonstrated.

### 4.2 Gaps and Issues Identified During Q&A

The following gaps or key issues were identified during the Q&A between the Forum participants and the presenting experts.

1. The Surety Industry did not create BOEM's assessment process and they utilize a very different approach. Surety companies look at the whole picture including assets, the balance sheet, reserves, management team, capabilities and cash flow.
2. Annual bond premiums can range from 0.5% to 3% depending on risk level.
3. The method that BOEM uses with industry averages does not make sense. The data appears to be incorrect and BOEM should disclose the data so that it can be validated.
4. The detailed surety review process includes individual company credit, history, longevity, whether the company has internal P&A group, cash flow, and asset package. Each analysis needs to be individual and cannot utilize a common formula. Cash flow is king and capital structure is important.
5. The surety is legally capped at the penal sum.
6. It is critical for industry and BOEM to avoid getting into a situation where you double bond.



## 5 BOEM Perspective

Representatives from BOEM were in attendance to present updates and answer questions. Highlights from their presentation include:

- BOEM recognizes challenges with program implementation, but is being directed to continue to move forward with program execution.
- BOEM recognizes issues with self-insurance model, but those are not to be addressed now rather with the next iteration expected sometime next year. They would appreciate continued feedback on issues.
- Model for 3rd party guarantee analysis not yet finalized; however expect that results will closely align with results of self-insurance analysis...which is not good.
- 3rd party model only considers US asset base. For companies with a global portfolio, this continues to create further problems, inequities and inconsistencies in the program execution which should be fixed.
- BOEM intends to evaluate two buckets of available funds that may be applied toward satisfaction of supplemental insurance: one bucket for self-insurance and another bucket for guarantees.
  - As a result, BOEM seems to recognize that a company should be able to satisfy supplemental assurance obligations of up to the aggregate of these two buckets by virtue of its financial condition.
  - However, because self-insurance cannot be applied to 3<sup>rd</sup> party obligation and guarantees cannot be applied to the company's own obligations, they have limited to application of this aggregate amount merely by the methodology that must be used in allocating the money in each bucket. (BOEM seemed to realize this for the first time at this meeting, but this could be a significant issue for certain companies.)





## 6 Pre-Forum Survey

A pre-forum survey was issued to all registered participants. The cross-section outlined below describes the entity types that responded to the survey. For questions concerning leaseholders, only leaseholders were considered in the results. The results of this survey, shown within this section, were presented at the forum.

- 24 Operating Companies
- 5 Service Companies
- 3 Non-Operating Lease Holders
- 1 Financial Institution
- 1 Legal Organization
- 6 Others

### 6.1 Survey Results

The following Figures outline the results from the pre-forum survey.

#### 6.1.1 Types of Leaseholder Companies Surveyed

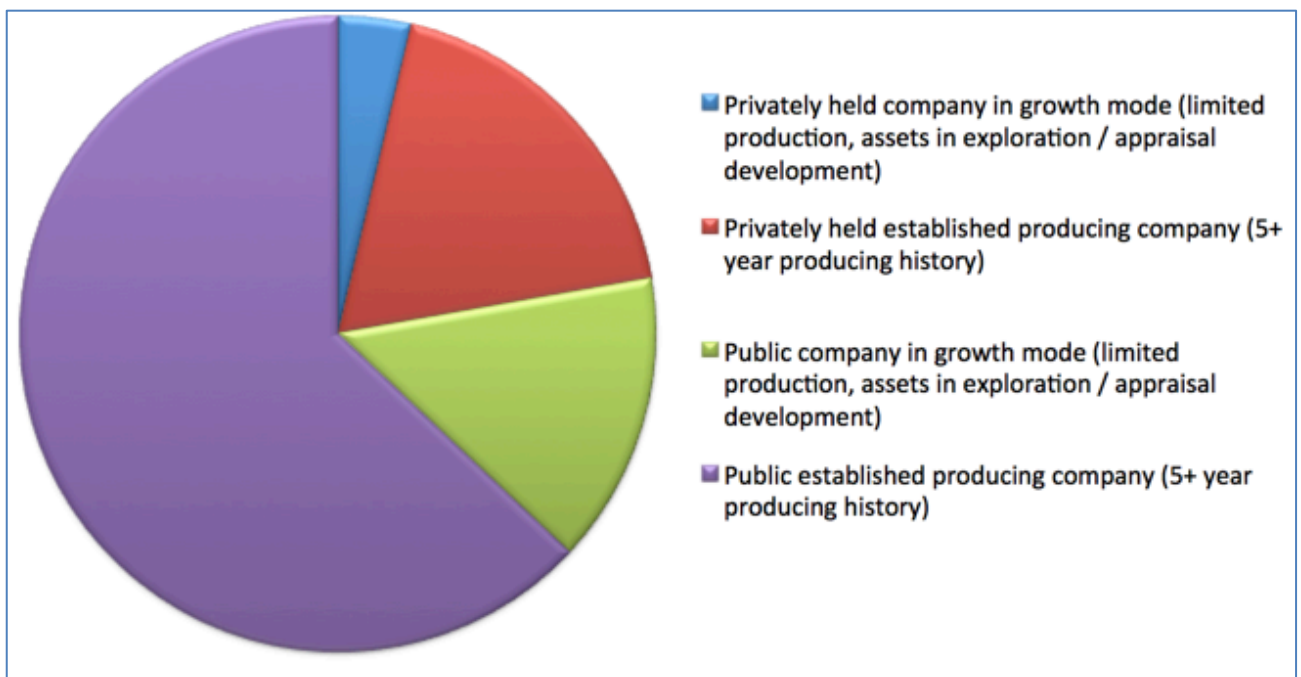


Figure 2 Type of Leaseholder Company



### 6.1.2 Prioritization of Issues with BOEM's Program

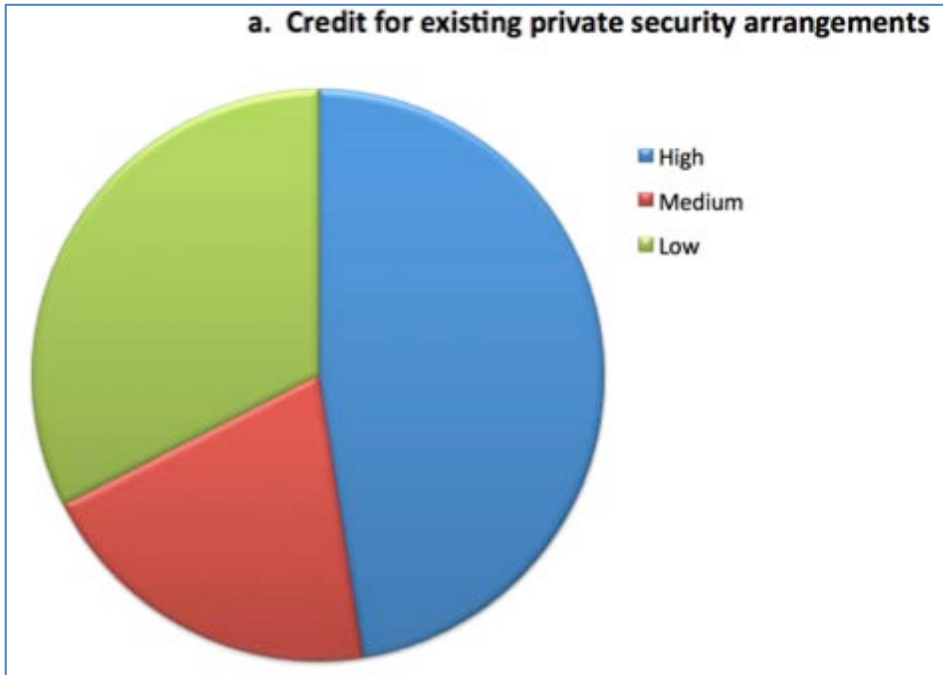


Figure 3 Priority Item A

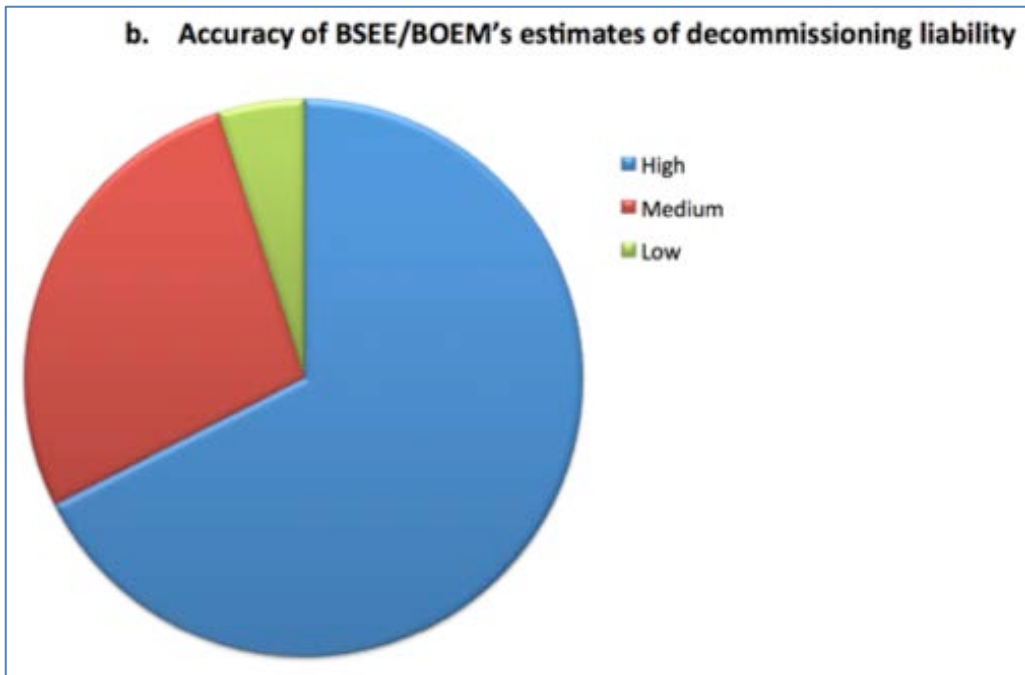


Figure 4 Priority Item B

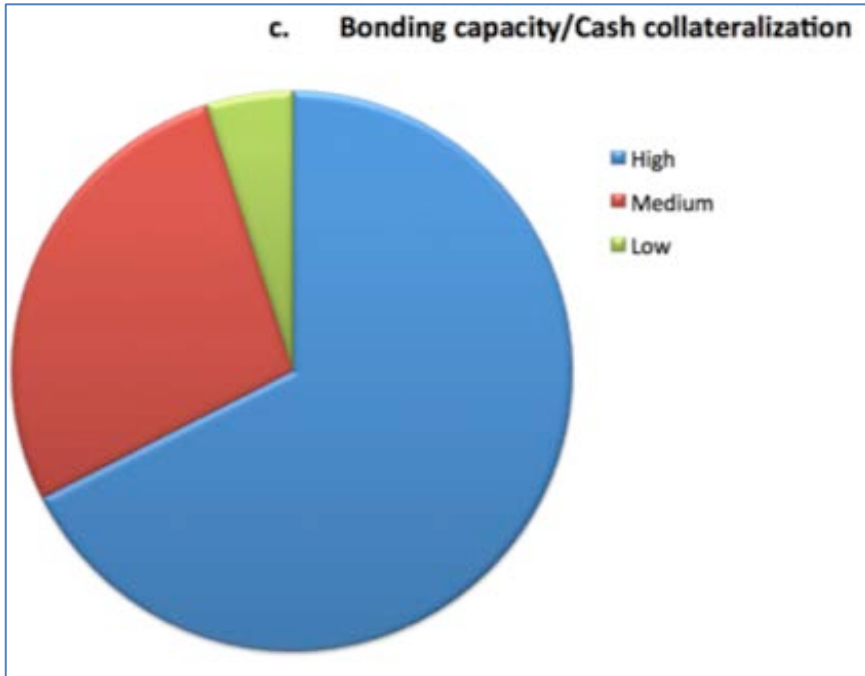


Figure 5 Priority Item C

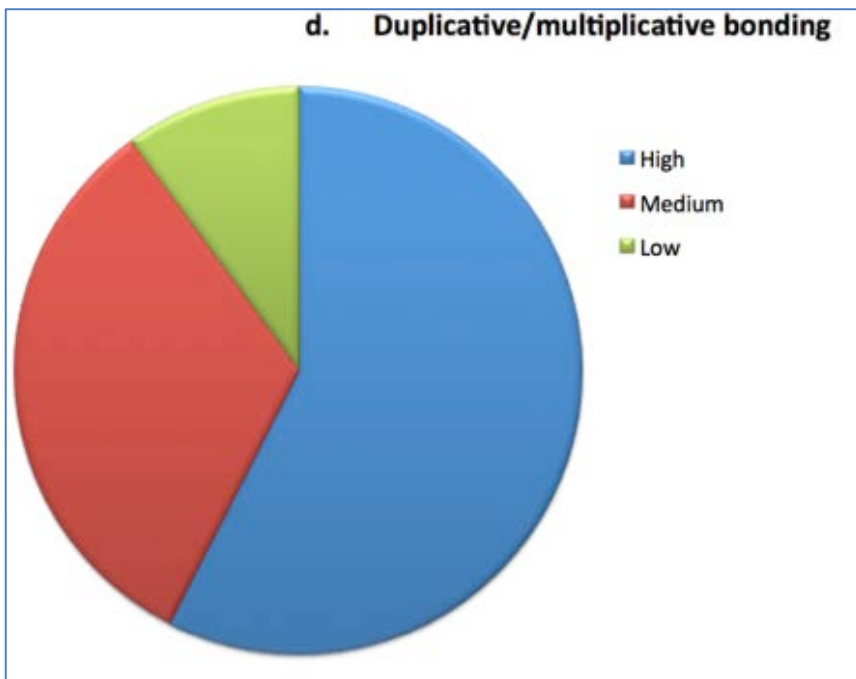


Figure 6 Priority Item D

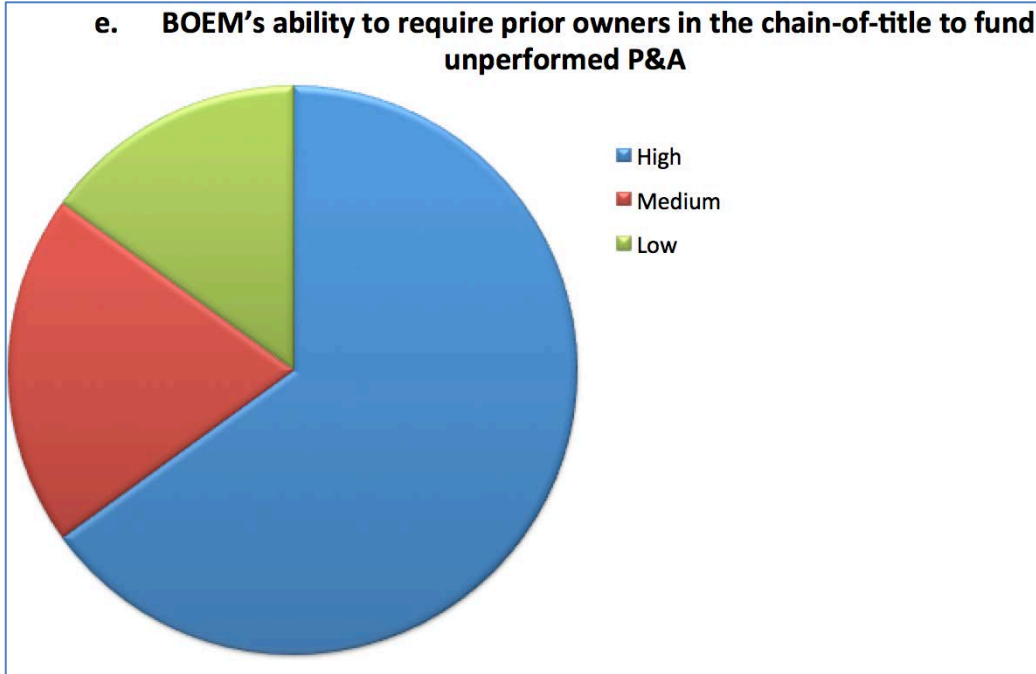


Figure 7 Priority Item E

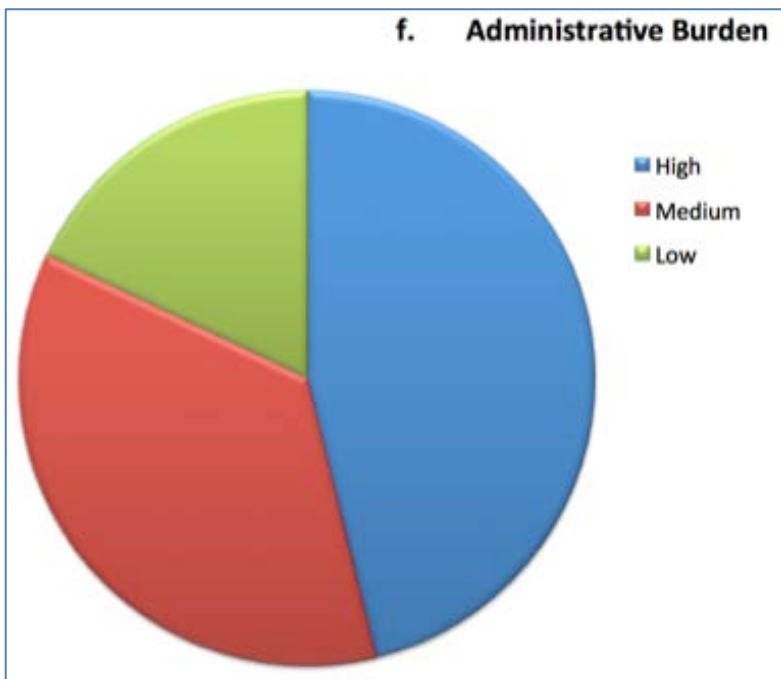


Figure 8 Priority Item F

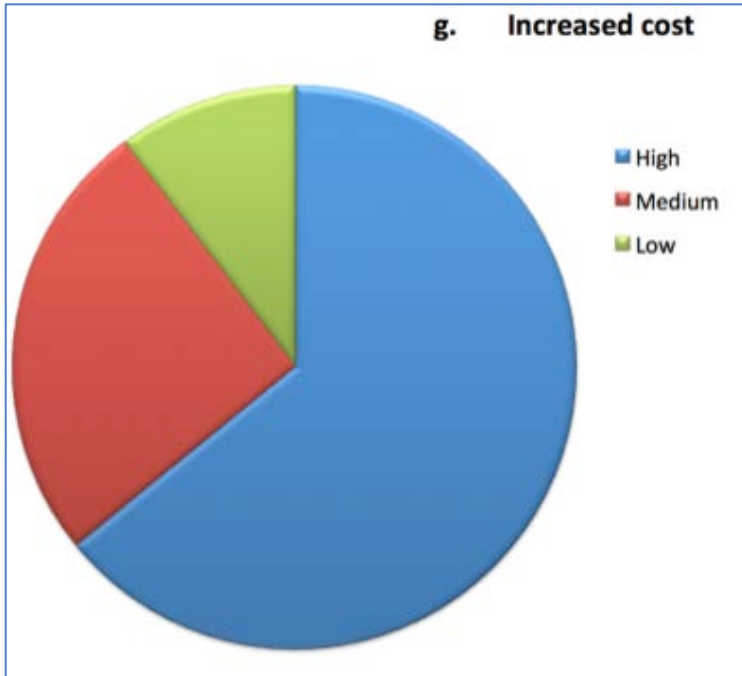


Figure 9 Priority Item G

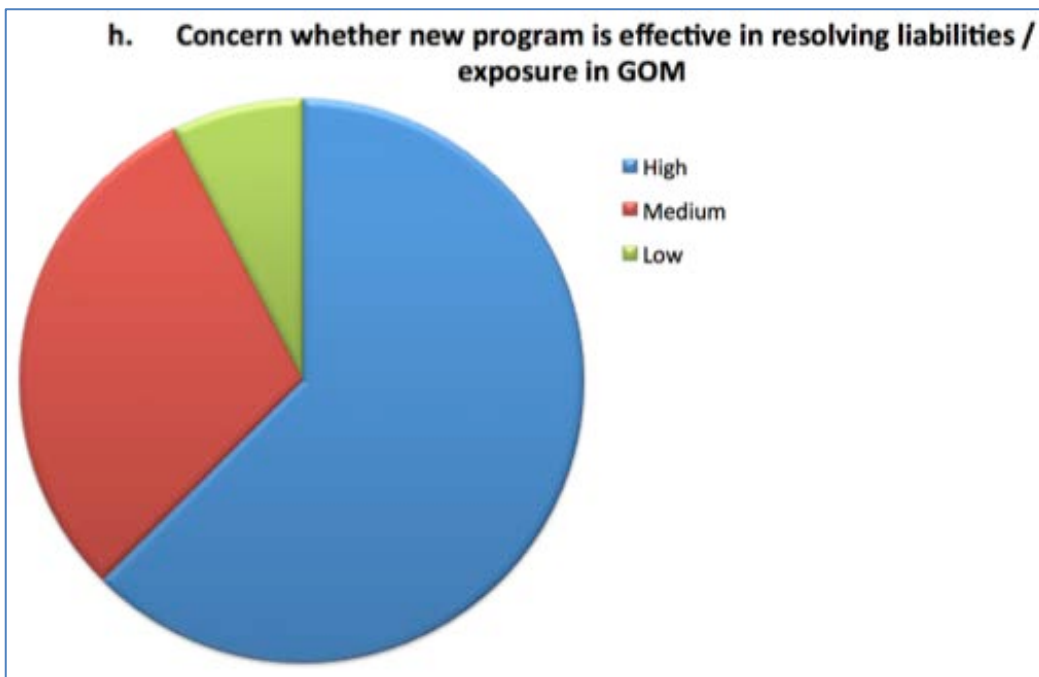


Figure 10 Priority Item H

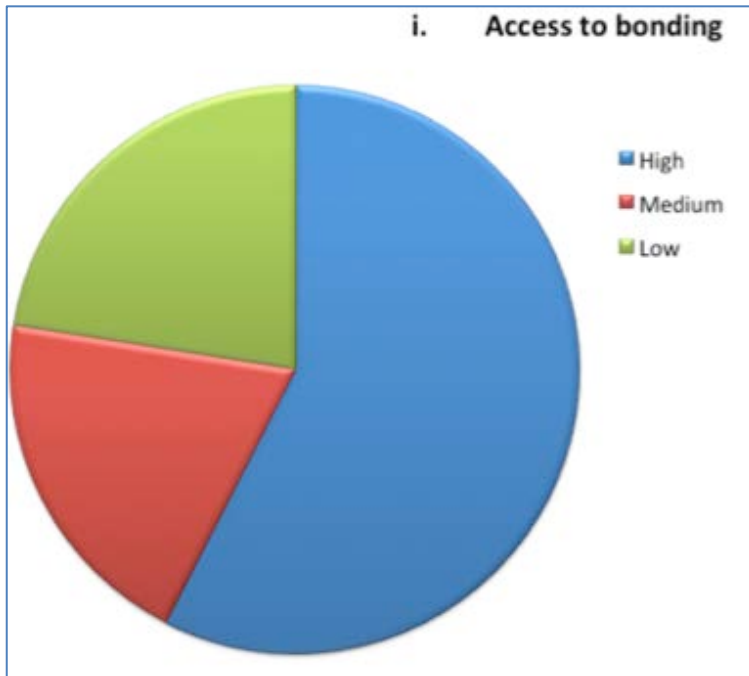


Figure 11 Priority Item I

### 6.1.3 Recommendations on Metrics for BOEM to Consider

The following metrics / comments were provided for BOEM to consider in their assessment of self insurance by those surveyed.

1. Financial strength
2. Financial capacity
3. Audited financials
4. Address growth mode companies
5. Back to Exempt formulas
6. Net worth
7. Self-insurance should be 25% of tangible net worth
8. Tangible net worth relative to total liability
9. Production volumes reflecting revenue stream
10. Type of operations (i.e. midstream vs. E&P)
11. Credit ratings
12. History of P&A performance
13. Operating history
14. Address companies with no or only internal debt
15. Corporate balance sheet / debt rating
16. Net debt instead of total debt
17. Ratios should not be pass / fail
18. Total assets
19. Adequate chain-of-title parties in leases
20. Severity of INCs rather than just number of INCs
21. Compliance performance
22. Trade references should be worth more than 2%
23. Organizational capability
24. Sufficient private or BOEM security only for sole liabilities



### 6.1.4 Self Insurance

Of those surveyed, BOEM has awarded the following levels of self-insurance.

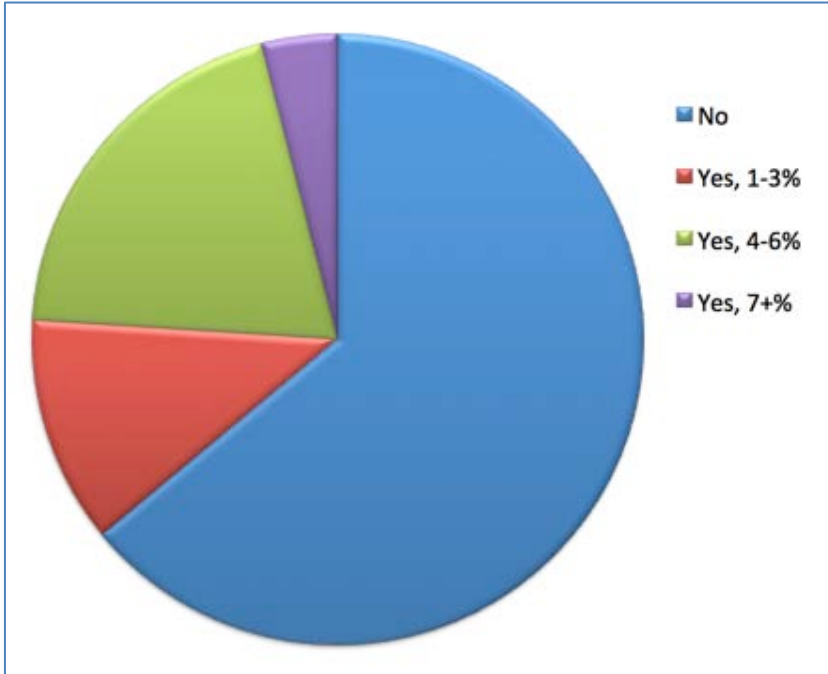


Figure 12 BOEM Awarded Self-Insurance Levels

### 6.1.5 Planned Disputes of Liability Estimates

Of those surveyed, the following amount said that they planned to dispute the liability estimates referenced by BOEM.

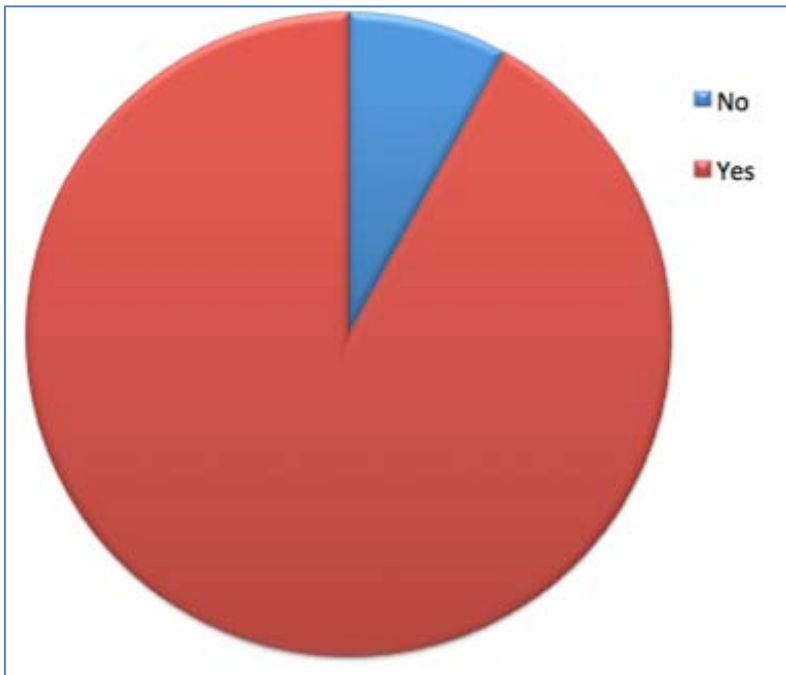


Figure 13 Liability Estimate Disputes of Those Surveyed



### 6.1.6 Ability to Provide Accurate Estimates Within Provided 30-days

When asked if their organization can adequately provide a detailed dispute of BOEM's estimates within the BOEM-prescribed 30 day period, those surveyed said:

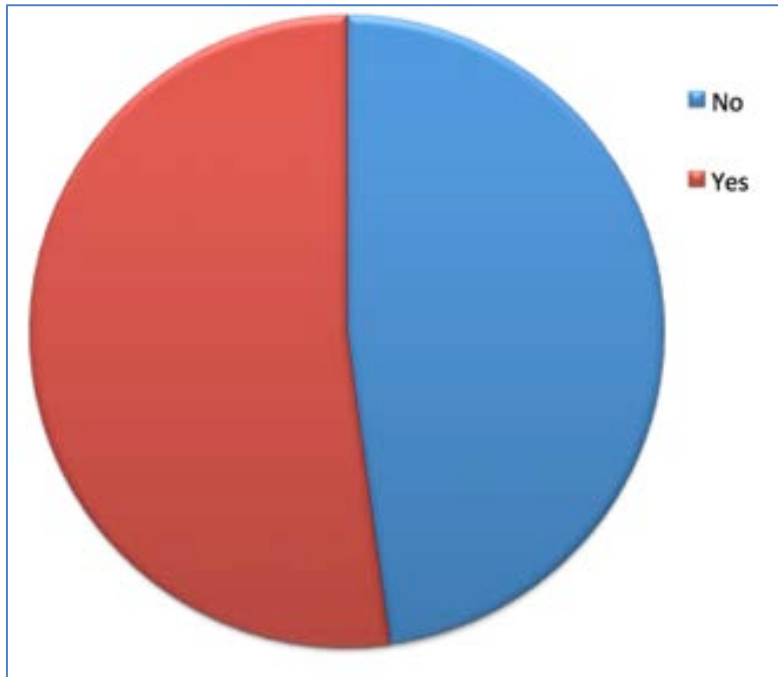


Figure 14 Ability to Provide Liability Dispute Information Within 30-days

Of those that said no, the following reasons were offered:

1. Just not enough time to put together a compelling case in addition to every day operations.
2. Lack of transparency from BOEM
3. Too much information to coordinate
4. We have been working on the liability differences for 6+ months already
5. We will be able to respond, but find the ability to comb the appropriate level of details very challenging this first year.





### 6.1.7 Participation Interest for a Cooperative Trust Organization

When asked if their organization has interest in participating within a potential cooperative trust organization as an option to cover portions of financial assurance, those surveyed said:

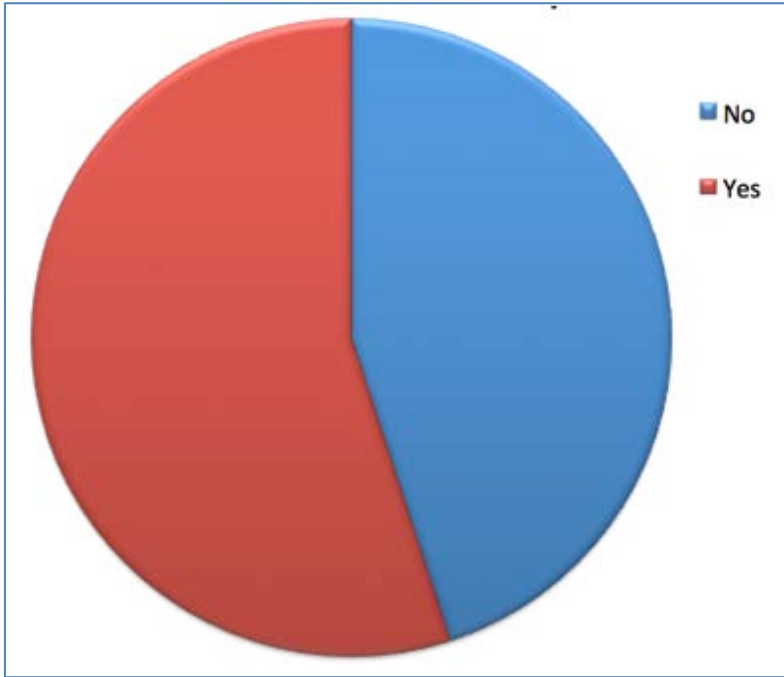


Figure 15 Interest Level in Cooperative Trust Participation

### 6.1.8 BOEM Accuracy of Decommissioning Liabilities

When asked if their organization's decommissioning liability estimates were accurately assessed, those surveyed said:

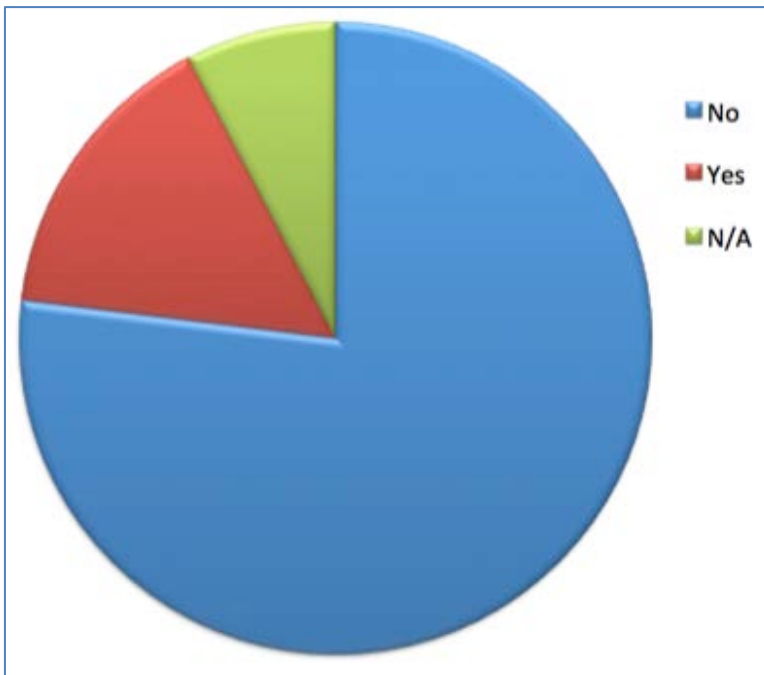


Figure 16 Did BOEM Accurately Assess Liabilities?



### 6.1.9 Ability to Secure Needed Financial Instruments

When asked about their organization's ability to secure needed financial instruments, those surveyed said:

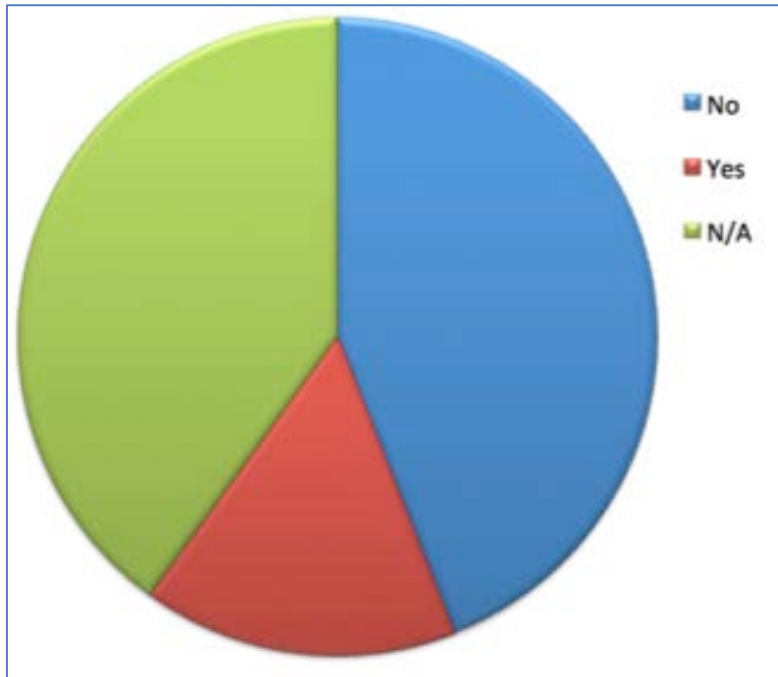


Figure 17 Ability to Secure Needed Financial Instruments

For those that said no, they offered the following notes:

1. Has not been necessary yet.
2. We have made arrangements to secure the required additional financial assurances to meeting the current requirements. Concern for future liabilities.
3. We have not approached the market yet, so not sure what they will require in regards to price and collateral



### 6.1.10 Number of Organizations Planning to File Tailored Plans

When asked if their organization plans to file a tailored plan, those surveyed said:

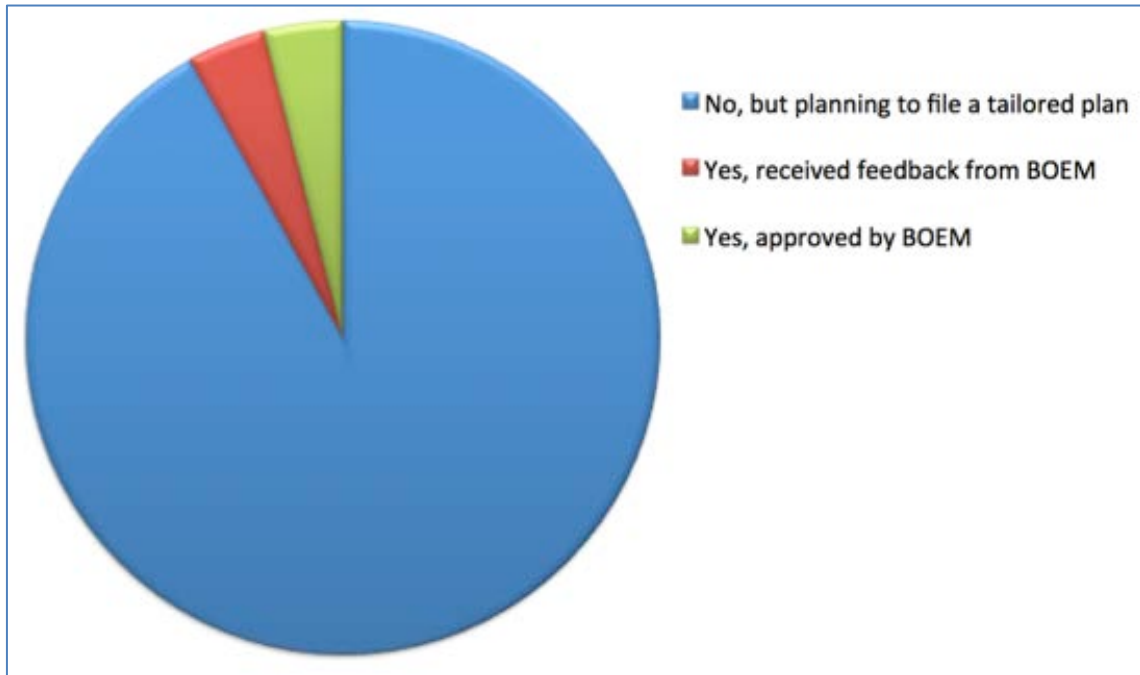


Figure 18 Organizations Planning to File Tailored Plans



## 7 Perspectives on Decommissioning Estimates

A panel of experts in decommissioning estimates provided their perspectives on the current Bureau of Safety and Environmental Enforcement's (BSEE) decommissioning liability estimates.

### 7.1 Independent Decommissioning Valuation

Opportune, A firm specializing in calculating decommissioning costs for financial reporting, presented their analysis of BSEE's decommissioning liability estimates. The firm provides such valuations for more than 50 companies and more than 100,000 wells worldwide. Their values are audited by the big four accounting firms and include coverage in every basin, shelf and deepwater.

One major complication in the Gulf of Mexico is that the asset type population is widely variable. A report compiled on July 22<sup>nd</sup>, 2016 provided information on how to better apply proper valuation techniques by BSEE / BOEM. Most problematic is that the current BSEE valuations for the shelf represent a ~64% increase over the well established and audited valuations by the firm.

Cost trends have shifted greatly since Q4 2014, driven by a significant reduction in rig and support vessel costs. However, at the same time the BSEE valuations have increased on the shelf significantly.

The firm asks:

1. Why aren't the audited cost estimates being used by BOEM?
2. Do algorithms add unnecessary complexity to cost and timing estimates audited / certified by CPA and reserve engineering firms?
3. Did a big four firm assist the BOEM in reviewing cost estimates and algorithms?
  - a. If so, is the industry at risk for significant restatements?
  - b. Is the big four firm still independent to audit the related companies' decommissioning costs for financial statement purposes?

### 7.2 Former BSEE Contractor Perspective

TSB Offshore, an engineering firm that specializes in decommissioning valuations and formerly conducted turnkey decommissioning services, provided their perspective. While this firm has been a contractor for the Minerals Management Service (MMS) and BOEM on several other projects, such as 2014 projects for the Pacific OCS region and Gulf of Mexico deepwater decommissioning costs estimates.

The firm explained that the BSEE valuations were based generally on a P90 level cost and by estimated each facility, pipeline ROW, etc. independently and not on a project based approach. The BSEE approach is different than normal ARO cost estimate standards set out by the Financial Accounting Standards Board requirements (FASB ASC 410-20).



### 7.3 Gaps and Issues Identified During Q&A

The following gaps or key issues were identified during the Q&A between the Forum participants and the presenting experts.

1. Why should companies that have updated their liability values with BSEE / BOEM not get timely reflection of the updates? Is it the company's responsibility for BSEE / BOEM's lack of adequate resources? Examples include liability updates provided to BSEE / BOEM 45-days in advance and as long as 5-years ago and BOEM has not yet accurately updated the liabilities at the time of the 30-day letter.
2. BSEE's decommissioning liability estimates for pipelines are significantly off.
3. In 2008 a group of operators formed a decommissioning group to talk about decommissioning database to use for accurate decommissioning numbers and MMS was asked to participate, which they declined.
4. Industry has informed BSEE that their decommissioning liability estimates were flawed for years.
5. Industry and BSEE / BOEM should work together to standardize decommissioning cost reporting and develop a tool to do so. OOC has offered to coordinate this effort since early 2016.



## 8 Breakout Sessions

As part of an interactive portion of the Forum, questions were asked of the participants to provide input on. The participants were divided into smaller groups to debate their perspectives and summarize their resulting input.

### 8.1 What concerns do you have about the financial capacity (self insurance) metrics that are currently being utilized?

The groups provided the following input to the question posed:

1. It doesn't matter. If you can't get the full 10%, this is not even relevant to a lot of other operations.
2. AAA-credit rating is almost impossible, and if you have it, most likely it will be at the parent level.
3. Treatment of parent and subsidiary / affiliate is inconsistent.
4. Not looking at cash flow.
5. Can't self-insure sole liability property.
6. Industry view is that ROWs are not sole liability (in reality).
7. Total debt should be used over total liabilities, which include ARO and other liabilities that would not mature and cause a bankruptcy even. Sureties and banks do not use total liabilities.
8. ROA and ROE are not relevant metrics for upstream companies.
9. If a company has no interest expense to cover, then EBITDA / interest coverage should not be included or it should be marked pass even if the EBITDA is negative.
10. Split ratings for credit ratings are being penalized if 1 of the 3 ratings are not investment grade.
11. The analysts need to read the notes to see if exceptions should be made for varying depreciation (accelerated) and accounting procedures that are being used in EBITDA calculations.
12. We don't know what other credit ratings would be used when a company is not publicly rated. This unjustly penalizes companies that do not have publicly related debt.
13. Not using standard ratios, and no consistency in calculating ratios.
14. Example: using total liability instead of debt (long-term).
15. Debt / total debt has different meaning in their definitions.
16. The nine ratios that don't truly work in today's environment.
17. Small independents will never qualify.
18. There are 650+ lessees. How many are small independents? How can they exceed the benchmarks?
19. P&A is double counted if not backed out of liquidity/equity and ratios.
20. They may require a credit rating while many companies are subsidiaries without ratings.
21. Completely objective measurement with no judgment involved.
22. It's like a margin call, everything turns down and they start doing financial metrics.
23. The calculations are wrong.
24. Reluctance to proactively do something now.
25. Unclear definitions of the financial ratios.
26. The timeline is not realistic.
27. Who are the people doing the job (calculating those ratios) for BOEM? Do they have the knowledge to do it correctly?
28. BOEM has acknowledged that NTL and implementation have gaps and they have learned a lot but cannot slow down the process because the Administration wants orders sent out before they have corrected known errors, or utilized feedback to improve the NTL or rules.



29. The pool of companies making up the 154 companies is a concern.
30. Why only public companies? BOEM should approach more than just public companies to ask for their financials to include in the pool.
31. The BOEM model forces half the companies to fail (not based on absolute measure).
32. Strength of parent with regards to affiliates and inability to self-insure.
33. Using parent's financial strength is not properly accounted for.
34. The On / Off switch of the 5 of 9 considerations.
35. Program treats all companies the same and it shouldn't. Program should set a minimum threshold to qualify.
36. Do not use a 5-year average vs. current year.
37. BOEM calculations are incorrect.
38. Use of only the leaseholder entity instead of the consolidated entity.
39. Non-cash charges should be excluded.
40. ROA and ROE performance metrics not ability to performance.
41. The model doesn't consider substance over form.

## 8.2 What financial capacity (self insurance) metrics do you recommend be utilized by BOEM?

The groups provided the following input to the question posed:

1. Use metrics grounded in actual market fundamentals.
2. Need to look at overall strengths of the company and not just the subsidiary.
3. Need to consider longevity of the operator.
4. BOEM's approach seems shortsighted from a Gulf of Mexico development standpoint.
5. EBITDA should be able to be adjusted for certain line items.
6. Total debt should be used in place of total liabilities.
7. BOEM should purchase an internal rating tool form from Moody's and S&P to rate companies without publicly rated debt.
8. A number should be assigned to each rating agency rating and then the three ratings should be divided / averaged to get the rating used.
9. Read the financial notes during the analysis.
10. Debt-to-EBITDA < > 4x
11. PVIO > P&A Cost (@ PV)
12. Percentage P&A cost of Operating Cost per BOE < > 7-10%
13. Collateralize the remaining reserves.
14. Allow subsidiaries to be self-insured under the parent.
15. Utilize cash-flow metrics.
16. More diversified (more than just 9) especially when the companies have different financial profiles.
17. Do not only look at US assets.
18. Unaudited financials should be considered and give BOEM / BSEE flexibility to audit them.
19. Consider underlying insurance in the analysis.

## 8.3 What industry challenges remain unanswered and what information does industry need to address them?

1. Has BOEM considered how many E&P companies will go bankrupt as a result of the impact of this NTL?
2. All of the above (everything discussed today).
3. Where will it end? What's next? The Program is incomplete yet being implemented.



4. Need a fully developed plan for a rule or new NTL before going forward.
5. For many unanswered questions industry is left to sort it out.
6. Single event that caused this result was ATP, will this prevent another repeat event?
7. The BOEM resource constraints to address / facilitate tailored plans is inadequate.
8. Fed explains what is currently there to be able to cover “low hanging fruit”.
9. Apply program to lease owner, not the operator.
10. Release bonds when necessary, not hold for years.
11. How will they approve one tailored plan without understanding all plans submitted?
12. How will amendments come in vs. time expectation?
13. We do not have the guidelines for the third party guarantees yet.
14. We do not have the guidelines or acceptable options for the tailored plans. Industry needs more specifics or a sample.
15. Allocation of decommissioning cost for record title vs. operating rights / aliquots, creates duplicative assessments.
16. ROW / RUE sole liability issue needs to be resolved.
17. Meeting the imposed deadline of the NTL.
18. How does (or can) industry contest a BOEM assertion of unrealistic high decommissioning liability?
19. Industry needs better clarity on how to comply with a BOEM determination.
20. How to get BOEM to impose their determinations regarding P&A based on realistic cost / benefit analysis.

#### 8.4 What questions does industry need BOEM to answer in order to achieve financial assurance?

1. Consider offering group consolidated plans.
2. Consider a Gulf wide Co-op to cover any unforeseen financially inadequate sites / wells / platforms.
3. Many questions have been developed from these sessions that need to be answered.
4. What is the historical / current exposure to the US Taxpayer? What is that exposure vs. benefit of the new Program?
5. Industry needs a copy of the “white paper” that explains self-insurance evaluation process.
6. Program should be risk-based and reformed to cover < 100% of the total liability.
7. Why is a bond necessary at time of drilling?
8. BOEM should be willing to suspend until all problems are adequately resolved.
9. Need to publish draft rules for financial assurance and allow for expert review.
10. Will operators be able to get their permits approved if their tailored plan is pending approval?
11. How will BOEM handle the overlap of 2015 financials vs. 2016 financials when your tailored plan is in the queue for review? (example: March – submittal due date; and April – 2016 financials become available)
12. How often do we have to update our tailored plans considering it will be evergreen and involve continuous changes?
13. What is a realistic cost estimate?
14. Why can't BOEM base their decommissioning costs on a realistic estimate?
15. On an aggregate industry basis, why can't BOEM consider aggregated royalties as a backstop against any individual failure to cover decommissioning costs?
16. Why can't the accumulating oil spill fund be also used as a backstop to cover a failure to pay decommissioning costs?