



As an international firm with presence in the U.S.A, Mexico and Colombia, we guide companies in the energy sector towards proper regulatory compliance and we advise governments to design and implement regulations that promote long-term sustainability in said industry.



Born from Canadian and Mexican leaders in the industry, we specialize in quantifying, controlling, and reducing CH4 emissions. As pioneers in Mexico in applying OGI technology, we support the journey towards sustainability of the O&G international industry.

ONE PAGER | JUNE 2021

ALTERNATIVES TO HALT OIL AND GAS ACTIVITIES

Some oil fields have such conditions that interrupting production may lead to damage fluid-rock reservoir properties, compromising future production. Exploration and Extraction Contracts provide that in case of relinquishment, termination or rescission, the Operator and the National Hydrocarbons Commission (CNH) shall give notice and go through the Final Transition Stage for that acreage.

However, there comes a time when government inaction may lead to uncertainty whether to continue production or shut it. Picture this, during COVID-19 pandemic, several Operators filed notice for triggering Force Majeure clauses with many of them being denied. Already belayed due to the COVID-19's impact on activities, some authorized terms were about to end, with no possibility of extension. In some cases, shutting down production from some fields could lead to reservoir damage, which would harm the recovery factor of the field leaving valuable barrels buried in the ground for good, contrary to the Nation's (the Mexican people) interests. On the other hand, if Operators continue production beyond the authorized term, they could be facing severe fines and penalties.

Alternatives

PLAN B

The CNH must have these fields identified and design a plan in case a sudden shut of production should happen. After all, they have the technical information even if not expressly stated by the Operator. Another option could be that CNH requests Operators from fields in this risk to confirm this situation and notify them with the applicable procedure should such a case ever happen.

ROUND ZERO BACKGROUND

During Round Zero, Petróleos Mexicanos (PEMEX) left some producing fields out of its request. Due to the risk of compromising reservoir productivity, by the end of 2014, the CNH awarded 95 temporary Entitlements where PEMEX should continue operations until CNH awarded them in a tender process, like the one of Round 1.3. This mechanism was supported by article 6 of Hydrocarbons Law, that allows SENER to exceptionally award Entitlements to PEMEX for protecting the State interest in terms of production and supply assurance.

LEGAL ALTERNATIVES

Normally, threat of such a harm could be avoided by filing for an injunction, however, since it is the Mexican State's property, the legal interest for requesting the injunction corresponds to the State or, to the Operator if it can be linked to its legal duties or potential rights.

We suggest considering the use of the *negotiorum gestio* figure (or "altruistic intermeddler") to prevent harm to the Nation's property. *Negotiorum gestio* is known since Roman law and is foreseen in the Mexican civil legislation. This figure allows a person to interfere in someone else's business to avoid a harm.

By using this figure, the current Operator could act as a gestor and continue with production until the CNH appoints a new Operator, even if temporary. During this time, the Operator, acting as a gestor, would need to deliver 100% of the production to the State.

According to the *negotiorum gestio* figure in Mexican law, the gestor is only entitled to the reimbursement of the incurred costs, plus legal interests. Pursuant to the Federal Civil Code, in case the *negotiorum gestio* is used to fulfill a public interest duty, the gestor is entitled to the reimbursement of all necessary costs. In this case, we believe avoiding waste of the State's natural resources qualifies as public interest.

CONCLUSION

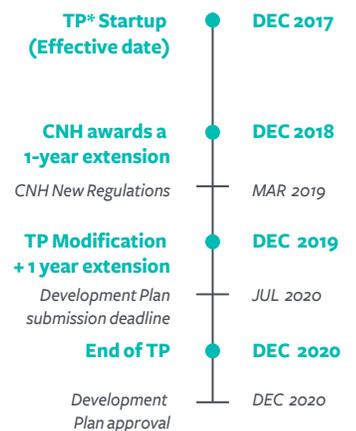
As Exploration and Extraction Contracts become more mature, cases like these are more likely to happen. When it comes to natural resources, it is in everybody's interest to avoid waste. These and other ideas should be further studied and developed to prevent an unfortunate situation.

Recommendations:

1. When facing the decision of shutting activities, make CNH acknowledgeable of the field's current status and its risk of reservoir damage from early communication.
2. Give CNH notice of urgent action at least 60 days in advance of the shut day and request for instructions.
3. Develop a legal mechanism for CNH, Operators and PEMEX on how to act in these cases.

An example: the case of Round 2.3

By the end of 2020, several Operators without an approved Development Plan faced the decision of shutting down activities or In case they decided to operate without an approved plan they could face an administrative rescission process.



*TP: Provisional or Transition Program

CONTACT

· Montes Urales 755, 11000, Mexico City.
 T. +52 (55) 8842 7744
 · 700 Milam St, 77002, Houston, Texas.
 T+1 (832) 314 4932
talanza.energy | eminent.energy
contacto@talanza.energy

Talanza and Eminent are part of the Talanza Group.