

December 14, 2015

The Honorable Michael Bennet
United States Senate
261 Russell Senate Office Building
Washington, D.C. 20510-0609



Re: Federal Venting and Flaring Rulemaking

Dear Senator Bennet:

Taxpayers for Common Sense is urging the Bureau of Land Management (BLM) to update its rules for how much natural gas may be wasted from drilling on public lands. The existing rules are 35 years old. Last year, Colorado adopted new rules for gas released into the atmosphere from oil and gas development. These are the strongest in the nation and are a good model for the federal government. We are writing to request that you contact Interior Secretary Jewell and BLM Director Kornze directly and urge them to immediately release a proposed rule that uses Colorado's new standards as a model to help ensure taxpayers are getting a fair return for publicly owned resources.

Colorado's experience and leadership on this issue has shown that it makes good economic sense to manage these energy resources in a responsible way. Of Colorado's 66.5 million surface acres, BLM has responsibility for roughly 29 million acres of federal mineral rights. In February 2014, Colorado became the first state in the country to directly address methane emissions from oil and natural gas operations. Many of the provisions in the Colorado rules, such as a 'no venting' standard for storage tanks and leak monitoring requirements, are being considered by BLM for rules that will apply to oil and gas development on all federal lands.

BLM is in the process of proposing a draft rule for: "Onshore Oil and Gas Order 9: Waste Prevention and Use of Produced Oil and Gas for Beneficial Purposes," which will establish new standards for determining royalty payments on lost gas. According to the Federal Register: "This new order would establish standards to limit the waste of vented and flared gas and to define the appropriate use of oil and gas for beneficial purposes. This order would, among other things, delineate which activities qualify for beneficial purposes, minimize the amount of venting and flaring that takes place on oil and gas production facilities on Federal and Indian lands, and establish standards for determining avoidable versus unavoidable losses."

It is imperative that BLM hear from elected officials in the states where this rule will have the most impact. Colorado is especially important because of the success in that state of addressing the waste of natural resources.

Sincerely,

A handwritten signature in black ink, appearing to read "A. Ry Alexander", is written over a horizontal line.

Ryan Alexander
President

Venting and Flaring on Federal Leases in Colorado



December 2015

Under the existing rules, oil and gas companies may release unlimited amounts of natural gas from federal leases through venting or flaring. Most gas that is lost through venting and flaring is approved by BLM, known as “unavoidably lost” gas, and is not subject to a royalty payment. Operators on federal leases are also allowed to consume natural gas from the well to operate their equipment on the lease site, free of charge, known as “beneficial purpose” gas. Some proportion of this gas used to power pneumatic devices and other machinery is unintentionally leaked into the atmosphere as well.

According to Office of Natural Resource Revenue (ONRR) data, oil and gas operators on federal lands in Colorado vented and flared 6.8 billion cubic feet (BCF) of natural gas into the atmosphere over the last nine years, 2006-2014. All of it was approved for venting or flaring, and therefore no royalty was paid on this gas. During the same period, operators consumed 105 BCF of natural gas, of which some proportion was unintentionally released into the atmosphere as well. No royalties were paid on any of this gas. If federal lessees in Colorado paid royalties on this gas, it would have totaled roughly \$57 million, half of which would have gone to the state.

Leak Detection and Repair or LDAR is an important part of Colorado’s air quality rules that apply to venting and flaring of natural gas. Beneficial use gas that is unintentionally released into the atmosphere from leaks is waste. ONRR has stated the goal of updating the rule is to “establish standards to limit the waste of vented and flared gas and to define the appropriate use of oil and gas for beneficial purposes.” This applies equally to gas that is vented intentionally or unintentionally. LDAR is an effective way to identify and prevent unintentionally wasted gas.

More than a year and a half after the Colorado Air Quality Control Commission’s requirements took effect, wasted gas in Colorado has decreased even as oil and gas production has increased, according to data from the Colorado Oil and Gas Conservation Commission. Oil production in 2014 was 45 percent higher than 2013, while gas production increased by 5 percent, and the volume of natural gas vented and flared in Colorado decreased from 7.7 BCF in 2013, to 5.4 BCF in 2014, and 2.6 BCF through July 2015.

With the advent of hydraulic fracturing, or “fracking,” oil and gas production from federal lands has increased steadily. So too has the amount of gas, mostly methane, that is escaping from federal lands into the atmosphere. The existing rules predate fracking, and BLM needs to update these rules to reflect the current conditions and to fulfill its fiduciary responsibility to manage these public resources. Nationwide, venting and flaring from federal lands has almost tripled in recent years, from 22.7 billion cubic feet in 2006 to 66.8 billion cubic feet in 2014 – enough to meet the needs of approximately 734,000 American homes, or roughly the number of households in the state of New Mexico for one year.

BLM’s outdated rules are problematic for several reasons:

- Numerous studies, both inside and outside of government, have indicated that the true amount of gases being released into the atmosphere as a result of waste is far greater than the data collected by the ONRR within the Interior Department reflects. The current system for reporting of beneficial purpose gas does not include any data about gas unintentionally vented, known as “fugitive emissions,” into the environment. ONRR does not have any way of knowing how much gas is being lost.
- Outdated rules for venting, flaring, and beneficial purpose gas create no incentives for oil and gas companies to minimize waste and replace leaky equipment in order to reduce loss of public resource.
- Federal and state taxpayers are losing millions in royalty revenue because BLM has not kept pace with developments in the market that have led to increases in production from federal lands.

Recommendations

BLM is required by statute to ensure taxpayers receive a fair return for public resources and to prevent waste.

- **BLM should create a methane rule that fulfills its fiduciary responsibility to federal taxpayers and prevents waste of federal resources.**

BLM has authority and responsibility to take “all reasonable precautions to prevent waste of oil and gas”ⁱ and “to promote the orderly and efficient exploration, development, and production of oil and gas.”ⁱⁱ

- **BLM should utilize its existing planning and management responsibilities to prevent methane waste.**

In 2012 GAO reported: “Data from EPA, supported by information obtained from technology vendors and GAO analysis, suggest that around 40 percent of natural gas estimated to be vented and flared on onshore federal leases could be economically captured with currently available control technologies.” More recent reports have drawn similar conclusions.ⁱⁱⁱ

- **BLM should require oil and gas operators to adopt the use of existing technologies to prevent waste of methane.**

There are no disincentives in existing rules to discourage operators from venting gas instead of flaring it, even though venting methane directly into the atmosphere is significantly more damaging to the environment with greater long-term liabilities for taxpayers than flaring or burning it.

- **BLM should prohibit intentional venting of methane.**

ⁱ 30 U.S. Code § 225 - Condition of lease, forfeiture for violation

ⁱⁱ 43 CFR 3160.0-4 - Objectives

ⁱⁱⁱ “Opportunities Exist to Capture Vented and Flared Natural Gas, Which Would Increase Royalty Payments and Reduce Greenhouse Gases.” GAO-11-34: Published: Oct 29, 2010. Publicly Released: Nov 29, 2010.