November 16, 2021

The Honorable Joe Manchin
Chairman
US Senate Committee on
Energy and Natural Resources
304 Dirksen Senate Building
Washington, DC 20510

The Honorable John Barrasso
Ranking Member
US Senate Committee on
Energy and Natural Resources
304 Dirksen Senate Building
Washington, DC 20510

Dear Chairman Manchin, Ranking Member Barrasso:

Thank you for holding a full Committee hearing today on domestic and international energy price trends. I am submitting this letter today on behalf of the American Exploration and Production Council (AXPC), representing the largest independent oil and natural gas exploration and production companies in the United States. We lead the world in the cleanest and safest onshore production of oil and gas, while supporting over 3.2 million jobs across the country, including over 39,000 in West Virginia and 37,000 in Wyoming.

Data from IHS Markit shows that US independents combine to produce about 83 percent of the nation's oil production and 90 percent of its natural gas and natural gas liquids (NGL) production.[1]

The oil and natural gas industry is one of the most thoroughly regulated industries in the US and we recognize the importance of regulations that balance the essential value of American oil and natural gas production with the global challenge of addressing climate change. As an industry, we have an irreplaceable role in developing and employing the technologies and innovative solutions that further our global climate goals, secure our longer-term energy future, and support our national security.

Today's hearing is timely, as much of the world is struggling with rising energy prices. Here at home, the Energy Information Administration (EIA) recently warned Americans that they should expect to pay more to heat their homes this winter—saying that households that use natural gas for heating and will see their bills jump by 30 percent, and those that use propane or heating oil will see increases of 43 percent and 54 percent, respectively. Gasoline prices are 42 percent higher than they were a year ago, and signs of inflation are seen throughout our economy.[2] Meanwhile, in some parts of Europe, misguided energy policies have resulted in price spikes up to five-fold higher from just a year ago.

As demand for oil and gas continues to increase around the world, government policies can either help or hurt—they can alleviate price spikes, or they can worsen them. Unfortunately, many policies being considered by Congress and the Administration today are poorly designed and will exacerbate the problem.

[1] "The Economic Contribution of Independent Operators in the United States" (May 2019) HIS Markit, for IPAA
https://www.ipaa.org/new-study-independent-oil-gas-operators-drive-american-energy-development-by-wide-margin/
[2] Associated Press, "From cars to gasoline, surging prices match a 13-year high" by: Christopher Rugaber, Oct. 13 2021:
https://apnews.com/article/business-consumer-prices-inflation-prices-e80c0c24a6ec5ca1c977eccd6294d01b

Shutting down pipelines, restricting development of oil and natural gas on federal lands, calls for punitive new energy taxes, and costly, duplicative regulations on our industry will not improve our climate – but they will drive up costs for American families and businesses.

Congress can help alleviate Americans' rising energy prices, however, by championing policies that support domestic production.

However, two specific policies that are currently under consideration by Congress today will restrict supply and increase costs, thereby further driving up costs: the so-called methane fee and policies that will reduce production on federal lands.

Methane Tax/New Natural Gas Taxes

AXPC companies are focused on reducing methane emissions from their operations and support effective and reasonable regulation of methane that balances the essential value of US oil and natural gas production with the global challenge of addressing climate change.

The historic reductions in US greenhouse gas emissions over the last decade have been driven by technological advances and the emergence of US natural gas production as a low-cost source of reliable energy. Methane emissions rates in America's largest energy producing regions have continued to decline, even as production increased.[3] And, the Marcellus and Utica Shales in the Appalachian Basin is one of the lowest carbon-intensive and methane-intensive basins in the world.[4]

Through programs like The Environmental Partnership and numerous pilot projects with academia and eNGOs, industry invests significant resources in testing and deploying cutting-edge technologies to detect and reduce methane emissions. These technologies, deployed at scale, are essential to long-term, meaningful emissions reductions in a cost-effective manner.

It is important that regulatory policy enables us to build on that success. **Rather than incentivizing investments in emerging technologies to accelerate emissions reductions, the proposed methane tax would have the reverse effect of hampering investment in breakthrough technologies.** A punitive tax on American producers will also make US LNG less competitive in the global market, to the detriment of efforts to export US LNG to less energy rich countries around the world looking to natural gas to support their climate efforts and provide reliable, low-cost energy to their citizens.

This punitive methane fee amounts to a production tax on America's oil and natural gas industry that would hurt supply of natural gas and could cost the American people over $9 billion and about 90,000 jobs across the country. The jobs lost due to the higher cost of natural gas are not just those in our industry. Natural gas is the largest source of electricity in this country. Thus a tax on natural gas means higher priced electricity and industrial fuels. That means less competitive US manufacturing, which impacts millions of American workers and customers. This would be bad in any economy – but especially one currently experiencing record high inflation rates.

[3] 2021 Annual Report of The Environmental Partnership: https://www.api.org/-/media/Files/Policy/Environment/TEP/2021/The-Environmental-Partnership-2021-Annual-Report.pdf

[4] EQT ESG Report Calendar Year 2020, "Empowering Evolution" https://esg.eqt.com/content/EQT_2020_ESG_Report.pdf

Higher energy costs act as a regressive tax on American families and businesses. The most vulnerable Americans will suffer the largest burden of this policy. One-third of Americans already have trouble paying their energy bills, adding a new tax on natural gas would only make those burdens larger. An analysis by the American Gas Association (AGA) shows that this proposed tax would increase natural gas bills at least 12 percent – maybe even up to 34 percent.[5] This could be on top of the double-digit increase predicted by EIA.[6]

This new natural gas tax also conflicts with President Biden's promise not to raise taxes on Americans making less than $400,000.

In addition to these wide-spread negative effects of the proposed methane fee on American jobs and energy bills, the legislation is constructed in a way that penalizes the industry. Because the legislation relies on flawed, biased formulas, many operators who operate nationally below a 0.2 percent methane intensity will pay this punitive tax. AXPC members, on average, operate nationally at below 0.2 percent methane intensities but would wind up paying hundreds of millions annually under this tax. EPA recently proposed new regulation to address methane emissions which, by its own estimate, will cost industry $13 billion a year in compliance costs and would reduce emissions by 74 percent. Compliance with existing and forthcoming regulations would not prevent producers from facing this new tax. Even producers going above and beyond current and future compliance minimums will find themselves subject to millions of dollars simply because of the way the fee is assessed. In reality, the double hit on capital spend from implementing the two simultaneous approaches will only make it harder for companies to quickly come into compliance with what are significantly costly requirements and already frustrated worldwide supply chain disruptions.

Royalty, Rental and Fee Increases for New Production on Federal Lands

Energy produced on federal lands and waters is critical to America's energy security, accounting for 20 percent of all oil and natural gas produced here.[7] **The myriad of punitive federal leasing policies in the reconciliation bill will lead to less production on federal lands (less supply), which will hurt our energy security and be yet another upward pressure on Americans' energy prices.**

Collectively, AXPC member companies provide billions annually in revenues generated from oil and natural gas development of federal lands. Many AXPC members also operate on tribal lands and have valued, working relationships with tribal nations. We are committed to working with local, state, tribal, and federal governments to responsibly produce the Nation's natural resources, and care deeply about protecting cultural resources and the environment.

Oil and natural gas production on federal lands also supports hundreds of thousands of American jobs and provides Americans with lower household energy costs.[8] A recent study conducted by OnLocation indicates that an indefinite or long-term development pause on federal lands policy would result in an elimination of nearly one million American jobs by the year 2022.[9]

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[5] INGG Release, "Natural Gas Associations Urge Congress to Withdraw New Tax on Natural Gas from Budget Reconciliation" October 26, 2021: https://www.ingaa.org/News/PressReleases/39051.aspx

[6] "US Heating bills set to surge as energy costs jump," BBC News, October 15, 2021 https://www.bbc.com/news/business-58930277

[7] [7] OnLocation,Inc., "The Consequences of a Leasing and Development Ban on Federal Lands and Waters" https://www.api.org/news-policy-and-issues/exploration-and-production/federal-leasing-and-development-ban-study

[8] "Consumer Expenditures--2019." US Bureau of Labor Statistics, September 9, 2020. https://www.bls.gov/news.release/cesan.nr0.htm

[9] OnLocation,Inc., "The Consequences of a Leasing and Development Ban on Federal Lands and Waters" https://www.api.org/news-policy-and-issues/exploration-and-production/federal-leasing-and-development-ban-study

Additionally, the oil and natural gas industry voluntarily contributes millions of dollars to conservation efforts. And, the Great American Outdoors Act, which is the largest public lands conservation bill signed into law in 50 years, is exclusively funded by revenue from federal oil and natural gas.

Notably, the Great American Outdoors Act included:

- The Land and Water Conservation Fund (LWCF) Permanent Funding Act to fully and permanently fund public lands conservation nationwide – which provides $900 million annually into the LCWF, providing critical conservation without the need for appropriations from Congress; and

- The National Parks and Public Land Legacy Restoration Fund, which creates a new fund for national park and public lands restoration of up to $1.9 billion annually for five years ($9.5 billion total) from onshore energy revenues including oil and natural gas, coal, and renewables. Revenues from this fund go to the National Park Service, the United States Forest Service, the Fish and Wildlife Service, the Bureau of Land Management (BLM), and to Bureau of Indian Education schools.

Producing oil and natural gas on federal lands is a lengthy and complicated process, with multiple levels of analysis, public involvement, capital investment, federal and state review, and legal challenges. We believe that enormous benefits can result from continued oil and natural gas development on federal lands, as both our nation and the world will continue to need reliable, affordable energy for decades to come. **Federal lands provisions in the reconciliation bill are extremely problematic for our industry, our workers, and our nation's ability to remain energy secure.**

The federal lands provisions in reconciliation negatively impact existing leases and dramatically increases the cost, risk and business uncertainty associated with developing federal minerals. The current text of the reconciliation bill inappropriately impacts existing leases, includes many duplicative fees, increased fees and rates, problematic language and duplicative requirements.

If these provisions pass in reconciliation, they will create conflicting statutes and lead to a host of litigation and liability *for* the government and the American taxpayer. For example, new bonding requirements – which impacts both existing and new leases –would force companies to provide assurance for activities that are not even required. And, for idle wells, reconciliation text creates a second, conflicting BLM definition and imposes excessive and duplicative financial assurance. It is merely a punitive, unnecessary waste of capital and could run the risk of exhausting the bond market and result in litigation and delays.

The text unreasonably cuts in half, the primary term for leases, from 10 years down to five, a statistically unrealistic timeframe for operators to be able to get through NEPA review and associated legal challenges, permitting, and reach first production. And, the proposed NEPA rules are expected to lengthen the already multi-year process even further. Reducing lease terms for existing leases would also result in major breach of contract issues and potential takings concerns.

The bill also hurts environmental progress by adding methane royalties that disincentivize gas capture and beneficial reuse that other policies, like the new rules in New Mexico, are expressly intended to encourage. In addition to causing lawsuits, it could also lead to more flaring or emissions where gas capture is discouraged. Further, **the bill eliminates the US Secretary of the Interior's authority to protect taxpayers' interest by placing leases in suspension when production is inhibited due to conservation concerns or severe market downturns.**

By increasing the cost and risk associated with developing on federal land, reconciliation will result in significantly less development on federal lands – which will result in significantly less revenue for local and state economies, especially in the west, which is highly dependent upon responsible federal development.

In 2019 alone, DOI reported that it disbursed close to $12 billion dollars from energy production on federal lands to the federal government and states.[10] In New Mexico, which accounts for 57 percent of federal onshore oil production and 31 percent of onshore natural gas production, 30 percent of the state's budget is funded by oil and gas development, much of which is attributable to federal lands development.[11]

Reconciliation provisions that harm the competitiveness of federal leases include:

- A 60 percent increase in onshore minimum royalty rates – from 12.5 percent to 18.75 percent
- New severance fee (at least $0.50 per BOE of production), which is duplicative of royalties
- New Conservation Fee - $4/acre on producing leases (undefined and duplicative of rentals)
- New Speculative Leasing Fee - $6/acre on nonproducing leases (duplicative of bonus bids)
- New expression of Interest Fee for lease bids of $15 per acre (duplicative of administrative fees)
- 500 percent increase in Minimum Bids for leases - from $2/acre to $10/acre
- Roughly doubles the existing lease rental rates operators are required to pay
- Bonding provisions and additional, duplicative bonding for idle wells
- Inspection Fee for Federal Leases, Communitization Agreements, and Units
- Idle Well Fees for well developing Federal Leases

<u>The bottom line is:</u> less production on federal lands will mean less production domestically, which will further drive up energy costs for American families and businesses.

Over the last decade, while costs for most household goods have skyrocketed, American's energy costs have stayed historically low and stable due to the American energy revolution—while reducing emissions more than any country in the world. Domestic energy production supports good paying jobs, low and stable energy costs, greater national security *and* climate progress.

Thank you for your leadership on energy and environmental issues in a way that supports low and stable energy costs, protects American jobs, our economy, and our energy security, while retaining our global climate leadership. We hope this hearing will highlight the impact these flawed policies will have on American families and businesses. This country has the resources to meet the challenge of rising energy cost, and we stand ready solve this challenge.

Respectfully,

Anne Bradbury
CEO
American Exploration and Production Council

[10] US Department of the Interior, "Natural Resources Revenue Data" https://revenuedata.doi.gov/querydata/?dataType=Disbursements
[11] Adrian Hedden, Collapse of Oil Industry in New Mexico Could Last Years, THE JOURNAL, Nov. 27, 2020, available at https://thejournal.com/articles/194050