A Review of the Oil and Gas Industry Arguments against the BLM Methane Waste Prevention Rule

Executive Summary

Conservation Economics Institute[1]

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[1] Primary Contacts: Pete Morton, Ph.D. Senior Economist, Conservation Economics Institute (pete@conservationecon.org); and Evan Hjerpe, Ph.D. Executive Director, Conservation Economics Institute (evan@conservationecon.org. Paper prepared for The Wilderness Society.

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The BLM's methane waste prevention Rule, which went into effect on January 17th, 2017, was put in place to help ensure a fair return to public taxpayers from oil and gas development on public and tribal lands. The Government Accountability Office (GAO) (2010) estimated taxpayers lose as much as $23 million in royalty revenues each year when this natural gas is not captured. The BLM's Final Rule represents a triple-win scenario where capturing previously wasted natural gas provides benefits to taxpayers, the oil and gas industry, and to public health by reducing pollution.

Despite the logical and beneficial aspects of the Rule, representatives for the oil and gas industry want the Rule repealed based on claims of economic hardship estimated in a memo from John Dunham and Associates. The JDA memo claims $1.26 billion in economic impacts and compliance costs – a claim that has been repeated by industry groups and the media. In stark contrast, the BLM estimated about $200 million in average compliance costs and minimal economic impacts (i.e. changes in industry output and wages) from the Rule. The BLM also found that the benefits of the Rule outweigh the costs by an average of $150 million annually. The BLM compliance costs are much less because the JDA estimate wrongly included alleged distributional impacts (i.e. output, wages, and taxes) in its estimate of compliance costs.

Because there is conflicting rhetoric on the economic effects of the Rule, we decided to peer review the merits of the JDA memo and overall industry arguments against the Rule. Here is what we found:

1) JDA's estimate of economic impacts (changes in wages, output, and taxes), comprising more than $1 billion of the $1.26 billion figure listed, is inaccurate. JDA made no acknowledgement of jobs and output that will be created from new gas that is captured, engineering, consulting, leak detection, and monitoring. When considering the NET effect of the Rule, overall output and jobs are likely to increase rather than decrease.

2) The JDA memo ignores the phased-in approach of the Rule and the allowable exemptions if compliance costs are unduly costly. That is, if some marginal wells were forced to cease production due to rule compliance costs, they can get exemptions from the Rule. These two factors ensure that impacts will be able to be planned out in advance, and the most adversely affected operators are exempt from many compliance aspects.

3) JDA commits an egregious economics mistake by conflating changes in jobs and output with costs and benefits of the Rule. Industry output (and jobs) from oil and gas revenue represent distributional economic impacts, where gains or losses in output from regulatory policy shift from one place to another. As such, economists separate economic impacts from costs and benefits of the Rule. JDA's analysis is an inaccurate depiction of the economic reality related to the Rule, and does not accord with standard economic theory.

4) The JDA Memo is flawed because its analysis cannot be checked or replicated—JDA did not cite to any dataset, detail any of the assumptions for its economic model, or provide its methodology.

5) The entire JDA analysis relies on one blanket starting assumption---that the Rule will cause 4,700 fewer oil wells to be undertaken with a correlating reduction of 112 million barrels of oil in the future due to the compliance costs of the Rule. This assumption is never explained or investigated. Rather, the JDA memo only says that this starting assumption is based on "JDA's dynamic model of the oil and natural gas industry" and "internal JDA estimates." In reality, overall production is likely to increase under the Rule.

6) Prices change and energy markets are dynamic, not static. Inexplicably, JDA criticizes the BLM for modeling a dynamic market. The BLM correctly modelled a dynamic natural gas market by allowing price to change based on forecasts from the Energy Information Administration.

7) The JDA analysis excludes the revenue generated by capturing more methane for sale by, for example, leak detection and repair at wellheads. This marketed new gas will generate significant revenue, or cost savings that will reduce net compliance costs, which can spur substantial positive economic impacts in jobs and output. JDA also excludes new taxes coming from increased gas sales.

8) Plugging leaks at wellheads also creates jobs in the methane mitigation industry, similar to that of your local plumber. The JDA memo completely ignores the jobs created as a result of increases of demand in the methane mitigation industry. Forty years of economic research has shown that by and large, regulatory policies drive innovation and create jobs.

9) JDA does not consider net effects. A valid economic impact analysis of regulations on federal lands must consider the net effects, not just a one-sided industry perspective. Oil and gas development on public lands affects everybody, not just the oil and gas industry.

10) Congressional leaders who are actually concerned about creating millions of American jobs, should be endorsing the BLM methane capture rule.

In summary, after reviewing the JDA memo we found it lacking in transparency, in economic rigor and merit. Because of the lack of transparency in data and questionable methods, the $1.26 billion in costs cited by industry groups should be summarily rejected by the public and federal decision makers. The inaccurate and contradictory assumptions render the JDA memo flawed, unable to stand up to economic scrutiny, and are devoid of any supporting economic theory.

In contrast to the JDA memo, the data and methods used by BLM to determine compliance costs and compare them to benefits are transparent and sound. BLM properly assigned dynamic market prices to calculate the value of the methane captured due to the Rule. BLM's analysis of compliance costs is reasonable, and BLM rightly found that the modest compliance costs would not have a significant impact on a substantial number of small entities. Overall, the BLM's methane capture rule is an improvement in economic efficiency at both the national and regional levels.