

# United States Senate

WASHINGTON, DC 20510

August 5, 2022

The Honorable Deb Haaland  
Secretary  
Department of the Interior  
1849 C. Street NW  
Washington, DC 20240

Dear Secretary Haaland,

We write today regarding the implementation of oil and natural gas related infrastructure provisions in the Infrastructure Investment and Jobs Act (IIJA). Specifically, we write regarding implementation of section 11318, which established a categorical exclusion under the National Environmental Policy Act (NEPA) for issuance of a sundry notice or right-of-way for oil, natural gas, and produced water gathering lines and associated field compression or pumping units to reduce methane and carbon dioxide emissions on federal and applicable tribal lands.<sup>1</sup> Prior to its inclusion in IIJA, the section was included in the Surface Transportation Reauthorization Act, reported by the U.S. Senate Environment and Public Works Committee (EPW) by a 20-0 unanimous vote.<sup>2</sup> The Department of Interior's (DOI or Department) effective and timely implementation of this provision would help to reduce methane waste on federal lands.

As you know, a wellhead is connected to gathering lines which utilize compressor stations to maintain pressure and transport the oil, natural gas, or produced water to a collection point. If a well is not connected to a gathering line or there is not enough capacity in existing gathering infrastructure, operators must flare or vent the natural gas and transport the oil and produced water by heavy-duty trucks.

On May 19, 2022, during a Senate Energy and Natural Resources Committee hearing on DOI's fiscal year (FY) 2023 budget request, the Chairman asked you if DOI had taken steps to expedite the process for permitting infrastructure on federal and tribal lands in order to capture natural gas and prevent methane and carbon dioxide emissions which result from venting and flaring. In your response you stated, "we all need to reduce methane waste." You then acknowledged the new authority provided in the IIJA and said you would "move that forward as we can." Similarly, on June 17, 2022, President Biden stated, "by stopping the leaking and flaring of the super potent greenhouse gas and capturing this resource for countries that need it, we're addressing two problems at once." We believe implementing section 11318 quickly is critical to achieving this shared goal in a timely manner. However, it has been more than seven months since the IIJA was passed and we are not aware of any substantive action taken by DOI to implement section 11318 on the lands you manage.

Implementation of section 11318 would have real impacts in reducing methane and carbon dioxide emissions of operations on federal lands. For states with oil and associated natural gas, the lack of

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<sup>1</sup> Public law 117-58 117th Congress. Retrieved July 22, 2022, from <https://www.congress.gov/117/plaws/publ58/PLAW-117publ58.pdf>

<sup>2</sup> S. 1931 117th Congress. Retrieved July 22, 2022, <https://www.congress.gov/bill/117th-congress/senate-bill/1931/text>.

midstream infrastructure can make the capture and transport of some natural gas assets uneconomic. North Dakota has a statewide gas capture rate of 95%, a marked improvement from the low-70% range just 8 years ago. However, capture rates vary widely across the state with a high capture rate of 97% and a low of 74%.<sup>3</sup> North Dakota's lower performing areas are largely attributed to federal or tribal land where permitting infrastructure is dependent on federal agencies.

The permitting issues extend to other states as well. For example, New Mexico, a state with substantial oil and natural gas development on tracts of federal and tribal lands, vented or flared 21,776,000 MCF in 2020.<sup>4</sup> Further, in Utah in 2021, a total of 538,761 MCF was vented or flared with 70% of it coming from federal and tribal lands.<sup>5</sup>

A further reduction in methane and carbon dioxide emissions requires the federal government to serve as a facilitating partner in the development of midstream infrastructure, with federal land managers playing a pivotal role. As the North Dakota experience demonstrates, enabling private sector innovation, rather than imposing top-down federal requirements, is an effective way to reduce methane and carbon dioxide emissions. At an EPW Committee hearing on April 6, 2022, Administrator Regan was confronted with the issue of higher venting and flaring rates on federal land, and he assured the committee a whole-of-government approach was being pursued. Thus far, however, the Administration has prioritized the development of additional federal mandates. The EPA has charged forward with plans to impose new requirements on methane emissions and other air pollutants from new and existing oil and natural gas operations, while section 11318 remains unimplemented. The EPA proposal includes unworkable provisions to eliminate venting of associated natural gas from oil wells. Meanwhile, DOI has done nothing to implement the categorical exclusion under NEPA for gathering lines and associated infrastructure that would immediately help all producers who operate on federal lands build the midstream infrastructure needed to reduce venting and flaring.

To date, we have not seen any substantive evidence of federal land managers utilizing the permitting efficiencies at your disposal. Rather than pursuing a punitive approach, federal land managers should use NEPA authorities like this to work with producers in a collaborative manner. We respectfully request an update on DOI's implementation of the categorical exclusion under NEPA for issuance of a sundry notice or right-of-way for oil, natural gas, and produced water gathering lines and associated field compression or pumping units to reduce methane and carbon dioxide emissions on federal and applicable tribal lands. We look forward to your response and working with you to ensure section 11318 is implemented in a timely manner.

Sincerely,



Kevin Cramer  
United States Senator





Shelley Moore Capito  
United States Senator


<sup>3</sup> Helms, L., 2022. Director's Cut May 2022 Production. [online] Available at: <https://www.dmr.nd.gov/dmr/sites/www/files/documents/Oil%20and%20Gas/Monthly%20Production/2022/07.19.22.Directors%20Cut.pdf> [Accessed 22 July 2022].

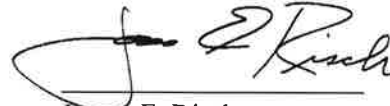
<sup>4</sup> Eia.gov. 2022. *Natural Gas Vented and Flared*. [online] Available at: [https://www.eia.gov/dnav/ng/ng\\_prod\\_sum\\_a\\_EPG0\\_VGV\\_mmcf\\_a.htm](https://www.eia.gov/dnav/ng/ng_prod_sum_a_EPG0_VGV_mmcf_a.htm) [Accessed 22 July 2022].


<sup>5</sup> Matthew Hiebing, 2021. Utah Division of Oil, Gas and Mining

  
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United States Senator


  
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John Cornyn  
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Cc: EPA Administrator, Michael S. Regan  
USDA Secretary, Tom Vilsack