



January 30, 2023

U.S. Department of the Interior
Director, Bureau of Land Management
1849 C St. NW, Room 5646
Washington, DC 20240
Attention: 1004-AE79

Email: BLM_HQ_PRA_Comments@blm.gov

Submission Portal: <https://www.regulations.gov/document/BLM-2022-0003-0001/comment>

RE: Public Land Solutions Comments to Bureau of Land Management Proposed Waste Prevention, Production Subject to Royalties, and Resource Conservation Rule, Attention PRA Office: Public Comment (Docket ID No. BLM-2022-0003; RIN: 1004-AE79)

Public Land Solutions (PLS) provides these comments to the Bureau of Land Management's (BLM) proposed rulemaking that aims to reduce the waste of natural gas from oil and gas leases administered by the BLM that is lost during oil and gas exploration and production activities through venting, flaring, and leaks ("BLM Methane Rule"). The proposed rule describes the "reasonable steps" that operators of Federal and Indian oil and gas leases must take to avoid the waste of natural gas and would also ensure that public and/or Tribal mineral owners are compensated through royalty payments while also incentivizing development practices that protect the quality of life for local communities.

Public Land Solutions supports the BLM's proposal to reduce the waste of public gas, which in turn will have ancillary health benefits due to a reduction in methane venting and flaring. Healthy public lands bring quality of life, visitors, and business investment to nearby communities through outdoor recreation, but only if we ensure the responsible management of those lands. Outdoor recreation businesses rely on access to our public mountains, rivers and deserts and the country has increasingly seen terrible climate change related disasters in the last few years. Without strong common-sense protections against methane and other harmful pollution from oil and gas developments, the \$862 billion¹ outdoor recreation industry will no longer thrive. However, we believe that the BLM should strengthen its proposed methane rule to prevent waste from the deliberate flaring of gas. Furthermore, the draft BLM Methane Rule falls short of the administration's commitment to phase out routine flaring by 2030, and the Department of the Interior's duty to ensure a fair return to taxpayers and preventing the needless waste of public and Tribal resources. The BLM should make two important improvements to the rule: 1) requiring operators to capture gas rather than burning it through flaring, and 2) if flaring does occur it should only occur in limited circumstances, such as for safety reasons or maintenance activities.

¹ The Bureau of Economic Analysis calculates the economic output of outdoor recreation to be \$862 billion, surpassing industries such as mining, utilities, farming and ranching, and chemical products manufacturing. See <https://recreationroundtable.org/economic-impact/>

Public Land Solutions

Public Land Solutions is a non-profit organization dedicated to providing comprehensive recreation planning and stakeholder coordination to support effective and sustainable public land solutions. We have been involved at the local, regional and national level during many planning and permitting proposals related to oil and gas leasing. Our primary mission is the protection and enhancement of recreation assets and opportunities to develop durable and robust recreation economies. Public Land Solutions' advocacy efforts to protect and enhance recreation assets on public lands include organizing stakeholder workshops, providing detailed comments and proposed maps during comment periods, delivering presentations to local and state governments, and communicating with a wide range of interested stakeholders.

Methane Waste Limits Local Governments Revenues and the Outdoor Economy

While we understand that this proposed rule deals primarily with waste and the need to ensure that public and Tribal mineral owners are compensated through appropriate royalty payments, the increased royalties and waste prevention mandated through this rule will also have the ancillary benefit of reducing leaking and flaring and thus improve air quality for recreation and communities working to improve their local outdoor economies. In addition to minimizing waste, a strong rule would have the important co-benefit of lessening oil and gas production's negative impact on the climate and protecting the health of public land communities. Activities like flaring not only waste resources but also damage air quality, health, and visibility—all which are important to outdoor recreation and healthy public land communities whose economies are dependent on clean air and healthy public lands.

Because 49% of royalties collected from federal public lands are returned to the states, Western states and communities are directly affected by lost revenue from methane or natural gas that is wasted on public lands. Moreover, states lose out on additional revenue from state severance and conservation taxes resulting in less money for mitigation, infrastructure, education, and services to the communities most directly affected by the wasteful practice and venting and flaring. By ensuring operators capture and sell or use associated gas, BLM would conserve domestic energy resources and ensure taxpayers benefit from the development of publicly owned minerals.

Methane leaking and flaring harms outdoor recreation.² In 2019 Congress has held a hearing on the effects of climate change on outdoor recreation, where the Outdoor Alliance testified to the many harms inflicted on the quality of the outdoor recreation experience; health impacts and safety concerns for recreationists; and damage to the outdoor recreation economy.³ Climate change wreaks havoc on the outdoor recreation industry from less snowpack, longer and more intense wildfire seasons, water insecurity such as low river flows, basic access lost to public lands during fire season (year-round now in some places), and many other detrimental

² See *Methane + Outdoor Recreation*, Public Land Solutions, found at

³ See testimony re *Subcommittee Hearing Examining the Impacts of Climate Change on Public Land Recreation*, Outdoor Alliance, found at <https://publiclandsolutions.org/methane/>, <https://static1.squarespace.com/static/54aabb14e4b01142027654ee/t/5cddc6fd82a3880001e500c5/1558038270135/OA+Climate+Rec+Impacts+%281%29.pdf>.

impacts. The outdoor industry⁴ brings millions of jobs to communities across the country in many ways. Recreation visitors bring needed dollars to cities and towns that have recreation assets like rivers, trails, and other outdoor spaces where fishing, hunting, boating, hiking, skiing, biking, climbing and a long list of other outdoor activities take place. Outdoor recreation companies, both large and small, are choosing to locate in these communities because employees want to live in places with access to the outdoors. Across the country, communities that have previously depended primarily upon resource extraction have begun to diversify their economies into the recreation sector. And many companies in the oil and gas industry support a strong Methane Rule,⁵ and have developed improved ways to trap fugitive gas emissions during both drilling and the life of the well pad.

We understand the need for energy production, but the BLM should acknowledge the cost of methane pollution to local public land communities. Allowing oil and gas operators to use old technology will waste public resources, shortchange U.S. taxpayers, and damage air quality and prohibit communities from diversifying their economies. By promulgating this proposed BLM Methane Rule—along with implementing best practices and using newly developed technologies—BLM can prevent waste, bring a fair return to U.S. taxpayers and royalty revenues to county budgets, while also improving air quality in oil and gas communities across the country who want to expand regional outdoor recreation economies.

Improvements are Needed to BLM’s Proposed Methane Rule to Prevent Waste and Protect the Outdoor Recreation Economy

BLM’s Proposed Rule represents a number of important steps toward addressing methane waste, by replacing the BLM’s outdated 40-year old rules governing venting and flaring.⁶ Current BLM regulations and policies are ill-suited to address the large volume of flaring associated with the rapid development of oil and gas resources that has occurred in recent years, and does not account for technological and operational advancements that can reduce losses of gas from oil storage tanks, and other equipment. With this proposed rule, the BLM would, consistent with the Mineral Leasing Act, establish the general rule that “operators must use all reasonable precautions to prevent the waste of oil or gas developed from the lease” and authorize the BLM to specify reasonable measures—reflecting relevant advances in technology and changes in industry practice—to prevent waste as conditions of an application for permit to drill. In addition, the BLM’S proposed Methane Rule would require operators to submit a waste minimization plan with all applications for permits to drill oil wells providing the BLM with information on “anticipated associated gas production, the operator’s capacity to capture that gas production for sale or use, and other steps the operator commits to take to reduce or eliminate gas losses.” If deemed insufficient, the BLM may delay the permit until the operator adequately addresses the waste minimization plan’s deficiencies.

⁴ See *Outdoor Recreation Satellite Account, U.S. and States, 2021*, Bureau of Economic Analysis, found at <https://outdoorindustry.org/advocacy/>.

⁵ See <https://www.reuters.com/business/environment/us-unveils-crackdown-methane-starting-with-oil-gas-rules-2021-11-02/>, https://www.bp.com/en_us/united-states/home/news/press-releases/bp-statement-on-proposed-methane-rules.html

⁶ Contained in Notice to Lessees and Operators of Onshore Federal and Indian Oil and Gas Leases: Royalty or Compensation for Oil and Gas Lost (“NTL-4A”).

The draft rule also accepts that oil and/or gas can be “unavoidably lost” in connection with certain development operations, which the BLM will not consider “wasted” and therefore not be subjected to royalty payments. The rule would also detail circumstances in which lost oil or gas would be considered “unavoidably lost” (i.e., during well completions, production testing, and emergencies), and a monthly volume limit on royalty-free flaring due to “events that may prevent produced gas from being transported to market.”

BLM Should Strengthen Its Proposed Methane Rule

On balance, PLS applauds these much-needed reforms requiring that operators use all reasonable precautions to prevent the waste of oil or gas developed from the lease, which in turn will generate increased revenues for local governments while also improving conditions for outdoor recreation and associated recreation economies. While the proposed BLM Methane Rule outlines a number of specific actions that operators must take to avoid wasting oil or gas, such the “unavoidably lost” loophole that is likely to be abused unless limits are placed on the duration of permitted flaring under this standard. Although the BLM’s Methane Rule is a strong step to address methane waste, there remain gaps in the proposal that need to be corrected. The BLM has the opportunity significantly strengthen its proposed methane rule by including flaring and venting standards similar to state regulations in New Mexico and Colorado—a step that would prevent waste while limiting oil and gas production’s negative impact on the quality of life in many Western communities. Specifically, the BLM should make the following improvements:

- Require oil and gas companies to capture gas rather than burning it in flares,
- Flaring should only occur in very limited circumstances, such as for safety reasons and maintenance activities.
- BLM should prevent flaring unless specifically an exception enumerated in the rule and such exceptions should only allow for short-term flaring. The lack of industrial “takeaway” capacity should not justify routine flaring as this loophole will incentivize not upgrading operator infrastructure.

* * *

Public Land Solutions applauds the BLM’s work drafting a methane waste rule and urges the agency to set even stronger standards and eliminate loopholes to end wasteful flaring from oil and gas facilities. Finally, BLM should finalize this methane rulemaking quickly; by adopting new rules the BLM can eliminate 16 million metric tons of climate pollution each year. Please feel free to contact me with any questions or comments at jason@publiclandsolutions.org.

Sincerely,



Jason Keith
Managing Director
Public Land Solutions