Testimony of Patrick Montalban

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Hearing On

"Protecting Clean American Energy Production and Jobs by Stopping EPA's Overreach"

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Chairman Johnson, Ranking Member Tonko, Members of the Subcommittee, thank you for holding this important hearing and for allowing me the honor of testifying before you.

My name is Patrick Montalban. I am the owner and operator of Montalban Oil and Gas Operations, Inc (MOGO, INC).

Before addressing the critical issues related to methane before this committee, I would like to give you a bit of background about me and my company.

A Voice From The Heartland: MOGO And Me

I grew up in Billings, Montana. I continued my post-secondary education at the University of Montana and received a degree in Geology in 1981.

I started in the oil and gas business in the early 1980s and followed my career through a number of oil and gas projects and Companies through my 40 plus years in the Industry.

I have been running MOGO for over 20 years, since the late 1990's, having taken over from my father – who started the company in the late 1950s. My son, Joseph P. Montalban, the company's President, runs it with me, and is the third generation to continue building the company.

In terms of responsibilities for MOGO, I manage the engineering and geologic operations and my son manages the financial responsibilities of the Company. We currently employ 15 full-time employees and three contract pumpers. Pumpers, as we call them, conduct the daily gauging of production along with the inspection of all oil and gas wells and any processing facilities. A pumper is essentially responsible for all maintenance and upkeep of the oil and gas properties. Thus, we maintain our own wells and production facilities.

We work hard to treat our employees very well with a good wage and benefits package. Many of our employees have worked for us since I took over the company, and in some cases longer. We have been in the business for a long time, and we understand that to have a good operation, you need to have loyal employees.

Our employee wages average approximately $35 to $40 per hour—a very good wage in rural Montana and North Dakota -- in addition to the following benefits: profit sharing, health insurance, short-term and long- term disability, paid vacation and sick leave, and life insurance.

We currently operate over 350 stripper natural gas wells and 150 stripper oil and enhanced recovery wells for a total of approximately 500 wells. In addition, we operate 13 natural gas plants, a natural gas liquids plant and numerous producing oil fields in northern Montana. The important part to understand is that our company operates strippers oil wells with an average production of 1 to 3 barrels per day and stripper gas wells with an average of 5,000 to 10,000 cubic feet per day. We are the smallest of the small.

We are located in Cut Bank, Montana and are a local-minded, community-oriented Company. The jobs we provide generate important and necessary income to the small towns and rural communities of Montana and North Dakota. These jobs generate critical tax revenue to the local communities and counties in the State of Montana through the state's county revenue sharing program, We also generate critical tax revenues through production and property taxes to the counties and states in which we operate.

We also provide scholarships to local schools and work closely with the Cut Bank and Browning, Montana school systems, donating to educational and sporting causes,

In addition, our company also makes meaningful contributions to our tribal neighbors and partners. We operate a number of properties on the Blackfeet Indian Reservation, providing important revenue in the way of taxes and royalties to the 16,500 enrolled member strong Blackfeet Nation. The main Blackfeet community is Browning -- mentioned above -- the seat of tribal government.

We also are a vital source of income for tens of thousands of oil and gas royalty owners who rely on their monthly checks – many of them retirees on a fixed income – to live and pay bills.

I will note that in New York – as of 2021 – there were 191,205 royalty owners, 45,900 in Ohio and 178,500 in Pennsylvania.

I am also very active in the activities of my state, having been actively involved in advancing legislation, testifying on bills affecting taxation and regulation of stripper wells. I have been involved with the Montana Legislative process for the past 30 years, as a representative for the small independent oil and gas producers in Montana. I worked with the small independent oil and gas producing community on simplifying the production tax structure and streamlining property taxes along with regulatory matters.

At heart, I am a proud small businessman, working hard to support my country and my community. I work closely with community banks, the local chamber of commerce, and other small to mid-sized suppliers to make my business thrive. As a small producer it is the community Banks that we depend on to help us finance our projects in the State of Montana. We do not have the borrowing capacity to deal with the major Banks.

Our company and other small oil and gas operators like us are the “Ma and Pa” companies who are the lifeblood and backbone of the energy production in this nation that drives our economy. And we do that in a way that is committed to running operations that are environmentally responsible, while complying with the myriad of federal and state regulations currently in place.

That said, our company is the antithesis of “Big Oil.” We do not have deep financial pockets with armies of staff and lawyers to address the regulatory onslaught coming out of Washington and – to a lesser degree the Montana state legislature.

I am on the frontlines of ensuring a stable domestic energy supply and fighting back against threats to that supply. That is what I have spent my career doing and will continue to do. It is an important part of the reason I am here today. To make it clear, we are not “Big Oil” or part of the large producers, we are a small independent family-owned Company.

So, why is the current administration so clearly trying to make it hard and expensive for small operators to stay in business and produce the oil and natural gas that this country will need for decades to come?

I just do not understand it.

But I do know this: By shutting down the small producers while oil demand is high, and will be for decades, will result in shipping jobs, revenue, and a key source of supply to many of our adversaries –who ironically, cause much more environmental harm by their production process than US producers -- taking us back to increased dependency for our nation's energy supply.

The energy crisis of the 1970s – and the long gas lines that came with it – which many here may be too young to remember is not a life I want to return to.

EPA And Methane: Well Intentioned Perhaps, But Out of Touch

That brings me to the focus of today's hearing: putting a spotlight on the looming impacts of the recently finalized methane rule regulatory package -and other EPA related actions on small producers.

There are three major actions by EPA that have me and many of my small producer friends concerned in Montana and around the country – I am active in the National Stripper Well Association, so I am regular contact with folks across the nation who are talking about all of this.

Those actions are the proposed Greenhouse Gas Reporting Registry rule (the often referred to Subpart W proposed, rule); the just finalized Methane Rule – known as "Ooba and OOOOc" and the Inflation Reduction Act's Methane Emission Reduction Program (MERP) charge – more correctly the natural gas tax.

I would note that the rules for the IRA tax are due out in the next few weeks. Though there is no guarantee of that. This is typical EPA. According to the law, I am supposed to be collecting information this year –2024- that will be the basis for the tax collection in 2025. And yet the proposed "rules of the road" of how all that is supposed to work are not even out yet.

And here is the part the makes the least sense about it: The IRA tax is going to be based on emissions of methane but those who are subject to the tax are going to be tracked based on the amount of CO_2 they emit.

So how is that going to work? I live in the real world of natural gas MCFs (1 MCF = 1,000 cubic feet) and barrels of oil that we produce daily at our stripper operations. Not tons of CO_2.

Leaves me shaking my head.

As aside, it is important to note that only a small percentage of a barrel of oil is used for gasoline. The vast majority of the product is used for everyday use, indeed some lifesaving machines in hospitals.

Then there is the fact that this hodgepodge of proposed, final, and pending rules – all linked in some way— are on different timetables for enforcement and measurement, some will be dependent on states to issue regulations and some not.

That is nuts. Talk about our government not having their act together!

And worst of all, if that is possible, is the process surrounding all of EPA's actions. For starters, the development of these rules and regulations – and ones yet to be issued -- have been and or will be written and issued by well-intended, smart, good people. The only problem is they have no real-world experience with how my business and the industry operates. So, they produce rules that do not work or make sense.

But I can hear some folks here now saying “But Patrick, there has been and always is a comprehensive public input process with hearings and comment periods etc.” Well, I can tell you the public hearings and webinars are a bit of a joke. In the public meetings I am aware of related to the 0000b and c for example – they were online webinar type affairs for the most part, and certainly if there were in person meetings, no outreach was held in my part of the country.

In the meetings, each person gets just 3 minutes or so to say their peace – and submit materials -- and that is it. No questions could be asked by the public, no back and forth. No dialogue. When it came time to file public comments on the proposed rule, it was all one sided. They get submitted and that is the end of it.

It makes normal folks so frustrated with Washington.

Turning now to a couple of very specific concerns I have about the OOOOb/OOOc rule that was just finalized – I call it the testing and inspection rule.

My biggest problem with it is that it ***requires every single operator*** to test equipment no matter how small the production. Many operators are small with only a few employees and will not be able to handle the responsibility in an economic manner and would ultimately put them out of business.

That is pretty ridiculous. It is a perfect example of what I am talking about, the disconnect by folks who make these rules.

Our operations – which maintain a high level of safety and efficiency -- just do not generate enough fugitive or associated gas to be an issue. Generally, emissions from our wells are minimal and often almost immeasurable. When producing stripper natural gas wells, we are producing at such low volumes -- I have wells producing five mcf (5,000 cubic feet) per day for example—and we are not able to produce them if there are any leaks or emissions.

In fact, which is often the cases across industry – recognizing there are always outliers, with a bad actor here and there to screw it up for the rest of us. But do not take my word for it: The Biden Administration's DOE released a study of methane emissions from small producers and has determined as much. The study is attached to my testimony.

My good friend and fellow stripper operator Nick Powell's company -- Colt Industries in Kansas -- took part in the study. Nick and his team tell the story of how the DOE contractor folks came to his operations and started to do the testing – GSI Environmental out of Austin. Initially, GSI could find no measure of gas at first, leading them to check their equipment to ensure it was working properly. However, they determined it was working fine and tested again. The Colt Industries equipment was simply not leaking gas. The study also showed Colt was not an aberration.

Members of the committee, this is just one example of the disconnect between EPA and the reality of how small operators conduct our businesses.

Frankly, if folks who wrote the rule truly understood the industry, there would have been an exemption for the smallest operators, like there used to be. But now, as I look at OOOO b and c, it looks folks are doubling down on the requirements for operators like me.

Now, some will say, "but Patrick, the rule allows you lots of flexibility on the use of AVO – audio, visual—testing, which is easier and far less costly than the more expensive flare cameras and such." Again, the small independent producer in Montana will not be able to afford the audio-visual equipment and would have to contract the services out, likely putting many out of business.

It has to be highlighted that so many details remain to be settled. Key administrative requirements remain completely unknown: How often will I have to test? How often will I have to report results? To whom? What data will I have to share? And the list goes on.

Please understand that we currently report all production data to the Montana Board of Oil & Gas so much of this additional reporting seems very likely to be a repetitive process.

Perhaps the most frustrating thing to me: I do not know what the goal is. How much methane is this rule supposed to result in reduction of in my state and my community? When and how will we know all the reporting and requirements are yielding results? What are the benchmarks?

In ten years, how will we know this is working and the air is cleaner? And will my son still be in business?

Another concern I have is the reporting requirements in the rule, including those related to capping wells, which are well known. The reporting requirements in the lead up to and post closure seem to go on for pages, and pages.

There are dozens of reporting requirements and again to what end?

So, again, duplication and bureaucracy looms: Currently we are regulated by the Montana Board of Oil & Gas and the Bureau of Land Management to whom we must provide plugging and abandonment plans for approval. This seems like another duplication.

As for the proposed Subpart W-- the proposed rule being developed by mandate of the IRA -- the proposed rule states it is the intent that data shall be collected so as “to ensure that reporting is based on empirical data, accurately reflects total methane emissions and waste emissions from applicable facilities. This allows owners and operators of applicable facilities to submit empirical emissions data that appropriately demonstrate the extent to which a charge is owed.”

Yet, the proposed rule appears to predominantly require operators to rely on generic emission assumptions that inflate emissions reporting, in some instances up to three times the actual emission amounts. Again, this will be a hardship and an added expense to small independent oil and gas producers like me, likely causing many to go out of business due to the cost of adhering to these stringent regulations.

Conclusion

Mr. Chairman, members of the committee, I could go on. But I hope you see the point: EPA's methane emissions regulatory regime is disjointed, poorly thought out, with no plan for tangible measures of success, Further, it is reckless in its approach to the potential impact on peoples' livelihoods and the economy.

These are important small oil and gas producers located in rural Montana and rural America who provide much needed jobs and income to our schools, hospitals, and main street.

A final point before I close. These regulations are part of the Biden Administration's "whole of government" assault on small operators and are not happening in a vacuum. In my part of the world, the force and effect of federal and state regulations is currently and potentially being felt over and over again by the looming impacts of other federal requirements on me besides the methane regulations.

For example, I am facing pending Bureau of Land Management regulations on leasing and bonding, increased requirements on venting and flaring on BLM lands, BLM's rule related to expanding the definition of conservation areas and activities, the EPA's water related issues paperwork issues with BLM awhile back, concerns with past threats to cut off community bank funding by some of the Biden nominees.

The subpart W proposed rule should be withdrawn, and the testing and inspection rule should be reconsidered until they accurately address the significant flaws in both. The IRA methane fee rules need to accurately reflect how we do business on the ground.

Let me close with this. I strongly believe in addressing methane capture in a sensible way. I do not want to see the air polluted any more than any of you. But there is a right way (e.g., incentive based, public-private partnership driven, outcome-based measures) and there is the wrong way: this administration's approach.

We strongly support clean air, clean water, and environment in the local communities in which we live and work. I am an avid outdoorsman and I love to fish and hunt. I, too, want to protect the excellent quality of life we enjoy in the state of Montana.

I would welcome the opportunity to work with this committee and anyone else who is interested in working to find a constructive way forward to balance environmental protection with economic success, as this nation has done for decades.

Thank you, Mr. Chairman, once again for holding this hearing and bringing these important issues to the public's attention.

I look forward to answering any questions.

Thank you,

Patrick M. Montalban, Chairman & CEO
Montalban Oil & Gas Operations, Inc