Testimony of Nick Powell,
Chairman, Colt Energy
Before the
Small Business Committee
Subcommittee on Rural Development, Energy, and Supply Chains
Highlighting the Role of Small Businesses in Domestic Energy Production
Room 2360
Rayburn House Office Building

March 29, 2023

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

My name is Nick Powell, chairman and majority shareholder of Colt Energy.

I acquired the Mack C Colt Company in 1986. The Colt family started the business in the 1920s. It's an almost 100-year-old company that has always operated in Eastern Kansas. Our headquarters for operations is Iola, Kansas with a population of approximately 5,500. Iola is located in Allen County with a population of 12,500. It is engaged in oil and gas exploration, development, and production and gas gathering in eastern Kansas. Colt owns and operates over 150 producing oil and gas leases throughout the region with approximately 400 barrels of oil and 1,800 mcf of gas produced daily. Our wells are generally less than 1,200 feet in depth. Typically, 500 to 1,300 feet for oil, and for gas a little deeper. Our average oil well produces a little over 1 bbl per day and our average gas well produces 15 mcf per day. Colt currently employs 39 full time field, office, and management personnel. We also maintain our own service units including construction, drilling, well pulling and well washing crews.

Our employee wages average approximately $75,000 on top of which we add the following benefits: profit sharing, health insurance, 401k retirement plan with a 4% company match, short-term and long-term disability, paid vacation and sick leave, and life insurance.

We and other small oil and natural gas producers provide an important source of good-paying jobs in small communities throughout Kansas. We also provide tax revenue to counties in which we operate and to thousands of royalty owners who rely on their monthly checks.

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

In all my years in the business, I have never seen an administration take such a callous and unrealistic approach to energy policy. We have been hit with costly and confusing regulations from the day Biden became president. Many of which we have no idea how much it will cost to implement.

It used to be that previous administrations and congresses tried to protect small oil and gas operators from onerous regulations that had no real benefit for their cost. Now it seems just the opposite. Trying to eliminate percentage depletion, removing the marginal well exemption from Methane leak regulations and taxes to be collected on methane by the EPA to name a few.

The only purpose served by shutting down small producers while oil demand is still strong and will be for decades is to ship those jobs, revenue and secure energy supply to many of our adversaries that cause

much more environmental harm by their production process than US producers taking us back to dependency for our nation's energy supply.

President Biden opened the SPR and released 200 million bbls of oil into the market. This is an artificial and temporary increase in oil supply driving down prices hurting investment in long term real supply. This of course will lead to even higher prices in the future than existed before the release.

Percentage Depletion

While I recognize percentage depletion is outside the jurisdiction of this committee, its critical you and your colleagues understand its value and purpose.

It was established a number of years ago to provide a minimal but critical simple tax deduction to a limited scope of producers, those small upstream operators producing 15 bbls of oil or 90 mcf of natural gas per well per day with total production under 1,000 bbl/d.

Unlike other revenue producing assets, an oil or natural gas well after quickly reaching peak production goes into a study decline as it depletes the reserve from which it is producing. The only way to maintain production and therefore revenue levels to meet operating costs is to continue to drill more wells. The percentage depletion allowance was put in place to account for this situation in oil, natural gas and mineral extraction.

In terms of percentage depletion for these stripper wells, they are also low-margin wells because it costs a lot more in terms of man-hours to manage so many wells to get so little oil, so we've got higher operating costs per barrel, high lifting costs, whereas the majors might be $10 a barrel, we've got thinner margins, no cost depletion, and so that percentage depletion of 15% of gross income on a well has a big impact on your taxable income and allows needed income that can be put back into drilling and hiring.

So, maintaining percentage depletion is key to maintaining cash flow and continued efforts to drill. Because, if we drill less, production declines we have slower to no growth rates, and fewer, if any, people hired. Loss of domestic supply and the cascading adverse impacts.

Kansas, in particular, is almost exclusively a stripper well state. We have a lot of old wells where if you eliminated percentage depletion, you'd take a big chunk of wells and they'll just knock-off into the uneconomic category. We're people-intensive, when we're putting dollars into new wells, the ratio of that money going to people instead of steel and drilling rigs is much more people-intensive. A bigger share of our investment goes back into jobs instead of steel that is imported from overseas, it drives right back into local hiring. That hiring helps small communities that are struggling. In states like Kansas, we've become a pretty good employer in the areas we operate in.

Pending Taxes and Regulations

With the number and complexity of the regulations and tax proposals threatening our company we have to rely on our industry associations to monitor and keep us informed of these possible threats. We can't afford to have in house lawyers and regulatory and tax specialists on our payroll.
Two big regulation and tax issues they have been having us follow are the regulation of monitoring and repairing methane leaks and taxes to be collected by the EPA on methane.

Regarding the EPA's pending methane inspection and testing rule. I and many others I know on the small energy company spectrum, believe that under any regulation EPA issues, stripper/marginal wells should continue to be exempt as we have been under the previous rule issued during the Trump Administration (any operator that produced 15 barrels a day or less was exempt). However, the pending testing and inspection EPA rule eliminates that exemption.

It is important to note that generally emissions from our wells are minimal and often almost immeasurable. Don't take my word for it: The Biden Administration's DOE released a study of methane emissions from small producers has determined as much.

Oil leases owned and operated by our company were used in this DOE study. I have included with my written testimony a letter from our Executive Vice President who was on site to witness the tests. Once the test started they were concerned that their equipment was reading little if any methane and stopped the test to check their equipment. Turns out the equipment was good, there just was not much methane there to register on their equipment. And this turned out to be true for most low producing wells.

What is worse, is the level and frequency of inspection required of each facility and the nature of the reporting is truly unknow at this point. For a marginal operator, how those kinds of questions are answered are critical. And frankly, I and others are very concerned.

Second, let's take the Inflation Reduction Act's methane fee of $900 per ton, based on a CO2 emitted calculation and conversion which begins to kick in next year and would be a twin hit on top of the testing and inspection regulation, which could also significantly impact operations in terms of cost etc.

There are too many questions and concerns regarding the fee to take the committee's time here, but I can tell you that as I have looked at it, in terms of my company, I am very concerned about the cost, time and effort necessary to determine if I am covered.

These two examples don't take into consideration other costs of doing business that increased as supply issues surround shortage of steel pipe and casing for exploration for example have gone up, looming additional regulatory requirements associated with remediating and monitoring inactive or terminated wells, as well as general labor, fuel and operating costs.

So, when we are continuing to face some of the highest inflation rates we have seen in 40 years, small operators can ill afford any additional unnecessary costs or regulatory burdens..

Thank you, Mr. Chairman, once again for holding this hearing on the serious issues facing small energy companies.

I look forward to answering your questions.

Sincerely,

Nicholas K. Powell, Chairman
Colt Energy, Inc.