

TESTIMONY OF AMY MALL
NATURAL RESOURCES DEFENSE COUNCIL

ON

H.R. 4293, The “Natural Gas Gathering Enhancement Act”

BEFORE THE COMMITTEE ON NATURAL RESOURCES
SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

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Thank you Chairman Lamborn, Ranking Member Holt, and members of the Subcommittee, for inviting me to present NRDC’s views on H.R. 4293, the Natural Gas Gathering Enhancement Act.

Flaring is a serious environmental problem that needs to be addressed. Flares produce significant amounts of CO₂, contributing to global warming, as well as NO_x, an ozone precursor, and volatile organic compounds, methane, and particulate matter. The genuine need to eliminate flaring, however, is not a reason to waive environmental review of new gathering lines and compressor stations. Gathering lines and compressor stations come with their own serious environmental hazards and the National Environmental Policy Act (NEPA) ensures that these risks are understood, that the public has an opportunity for review and input, and that better alternatives are considered. Efforts to legislate categorical exclusions from NEPA have historically created confusion and resulted in administrative abuses and the Department of the Interior already has discretion under NEPA to establish administrative CEs where appropriate and to take other action. While dramatically reducing flaring is an important goal we should all work to achieve, ignoring other environmental impacts to achieve this goal is not appropriate and NRDC therefore opposes H.R. 4293.

FLARING IS A SERIOUS ENVIRONMENTAL PROBLEM THAT NEEDS TO BE
ADDRESSED

Flares produce significant amounts of CO₂, contributing to global warming. Flares also release NO_x (an ozone precursor) as well as volatile organic compounds, methane, and particulate matter due to incomplete combustion. According to the Greenhouse Gas Reporting Program mandated by Congress, associated gas flaring released around 7 million metric tons of CO₂ in 2012, which is equal to the annual greenhouse gas emissions from more than 1.5 million passenger vehicles.¹ Flaring must absolutely be eliminated, except for cases of safety, to reduce the environmental impacts of oil and gas production. It is also a waste of resources. Federal policy currently allows gas to be flared royalty-free, robbing U.S. taxpayers. Therefore, to protect the health of Americans and the planet and to protect our valuable mineral resources, the federal government should impose restrictions on flaring. It can do this by expanding the green completion requirement of the Clean Air Act to cover oil producing wells. Green completion is a

¹ U.S. Environmental Protection Agency, Greenhouse Gas Reporting Program. (2013). Retrieved June 17, 2014, from <http://www.epa.gov/enviro/facts/ghg/customized.html>

process whereby operators capture gas from the completion phase that would otherwise be vented or flared. There should also be requirements that: (a) limit production and new well drilling to areas with sufficient pipeline resources; (b) mandate maximum onsite and nearby use of captured gas and natural gas liquids; (c) charge royalties on all flared gas; and (d) limit the cumulative duration of flaring. For example, the State of North Dakota is currently considering rules to reduce flare volume, the number of wells flaring, and the duration of flaring by, among other things, restricting production at wells that continue to flare beyond initial allowances.²

The genuine need to eliminate flaring, however, is not a reason to waive environmental review of new gathering lines and compressor stations. This would be the equivalent of “robbing Peter to pay Paul.” Gathering lines and compressor stations themselves pose serious safety and environmental risks, including risks of explosion, leaks, water contamination, dangerous air pollution, and severe noise. Congress must not interfere with consideration and mitigation of those impacts when pursuing a solution to the problems of flaring. The National Environmental Policy Act (NEPA) requires that, where gathering lines and compressors could significantly affect the human environment, these impacts are understood and alternatives for reducing them are explained to the affected public and considered by officials; indeed, the very premise of NEPA is that a comprehensive review of significant environment-related impacts informs major federal decisions. NEPA ensures that federal officials understand the consequences of their choices and the public and local governments are given a voice in the development of projects on federal lands that affect their well-being and interests. Stifling that process will not result in smart solutions to the problem of flaring. Neither our public lands nor nearby communities should be faced with the risks that would come with more gathering lines and compressors constructed without well-informed environmental review.

GATHERING LINES AND COMPRESSOR STATIONS CURRENTLY HAVE TOO LITTLE ENVIRONMENTAL OVERSIGHT, NOT TOO MUCH

This is not the time to weaken environmental review of natural gas gathering lines or compressors. Gathering lines in areas defined as rural—with ten or fewer homes within a quarter-mile of the pipeline in any mile-long stretch of pipe—are not regulated by the Pipeline and Hazardous Materials Safety Administration (PHMSA), and regulations for gathering lines in non-rural areas are much too weak. While historically gathering lines were smaller and thought to be less risky, many gathering lines today are as big as, or bigger than, many transmission lines and may operate at the same extremely high pressures. New gathering lines can be more than 24 inches in diameter and operate at pressures upwards of 1400 pounds per square inch, comparable to some transmission lines. And the regulatory definition of “gathering line”³ is so broad that it can include large compressor stations used to pressurize the gas for long-distance transport.

In 2012, the Government Accountability Office (GAO) reported that there is not even basic information on where gathering lines are or whether any safety procedures are being observed. GAO concluded that “pipeline safety officials are unable to assess and manage safety risks” from

² North Dakota Industrial Commission power point, March 3, 2014, https://www.dmr.nd.gov/oilgas/presentations/NDIC030314_100.pdf

³ 49 C.F.R. § 192.8. See also: American Petroleum Institute, “Guidelines for the Definition of Onshore Gas Gathering Lines,” API Recommended Practice 80, Published April 2000, Reaffirmed March 2007 (incorporated by reference).

unregulated gathering lines.⁴ No regulation means that there are no requirements for pipe thickness, strength, welding, burial depth, inspections, corrosion resistance, installation practices, periodic maintenance to prevent and identify leaks and ruptures, or a record of the location. Without NEPA those issues will remain buried. While we lack any information concerning incidents on unregulated gathering lines or compressor stations in rural areas, GAO found that, in 2010, the average incident on a regulated gas gathering pipeline caused \$1.8 million in property damage.

PHMSA has estimated that there are more than 200,000 miles of natural gas gathering lines in the country and an additional 30,000-40,000 miles of hazardous liquid gathering lines that carry mostly petroleum products. PHMSA estimates that only about 10% of these lines are regulated. These lines are generally not included in programs that require the marking of utility lines to prevent them from being damaged by excavation or demolition work because there are no requirements to mark or keep records of the locations of gathering lines.

Unfortunately, few states have chosen to add their own rules in the absence of federal rules, so they do not regulate these facilities to ensure safety. For example, after a 2012 compressor station explosion in Pennsylvania, the Pennsylvania Department of Environmental Protection asked the operator not to restart the compressor without permission, but within two days the company had restarted the compressor against the agency's wishes.

THE NATIONAL ENVIRONMENTAL POLICY ACT IS CRUCIAL TO ENSURE THE BEST OUTCOME

The National Environmental Policy Act (NEPA) passed the House of Representatives by a vote of 372 to 15 and passed the Senate by voice vote with no recorded dissent during the Nixon Administration. President Obama's Proclamation on NEPA's 40th anniversary noted NEPA's role in promoting "...open, accountable, and responsible decision making that involves the American public."

NEPA establishes a process to identify and consider the environmental impacts of a government proposal. NEPA requires the government to thoroughly consider the pros and cons for the human environment of proposed significant actions and to develop alternatives that reduce harms and increase benefits. NEPA does not dictate adoption of the least environmentally harmful alternative, but rather requires disclosure and consideration of alternatives that would reduce the harm. NEPA gives the public an opportunity to review and comment on any decisions. It is a tool that improves consensus, accountability and transparency surrounding government decision-making, and promotes buy-in by the public because it assures them an informed voice before final decisions are made.

NEPA's process, helping to maximize the benefits of a project and minimize its health and environmental costs, is exactly what is needed for any important decisions regarding gathering lines or compressor units. Excluding projects from NEPA review or imposing arbitrary deadlines for issuing permits would shortcut the essential work needed to reduce risk, improve safety, and ensure all health and environmental threats are considered.

⁴ U.S. Government Accountability Office, "Pipeline Safety: Collecting Data and Sharing Information on Federally Unregulated Gathering Pipelines Could Help Enhance Safety," GAO-12-388: Published: Mar 22, 2012.

H.R. 4293 would categorically exclude from NEPA sundry notices or rights-of-way for natural gas gathering lines or compression units that are located within an area for which NEPA review has already occurred and adjacent to an existing disturbed area. While a project located adjacent to an existing disturbed area, such as a road or wellpad, may seem like an innocuous location for a gathering line or compressor station, this approach does not take into consideration new or cumulative impacts of additional large-scale industrial development in an area. Potential impacts include threats to surface waters such as streams, ponds, and rivers, destruction of wildlife habitat, increased air pollution, severe noise, and potential impacts on historical and other important resources. Where those impacts have already been considered and vetted in a prior NEPA analysis, then under current law, new analysis is not needed and legislation is unnecessary. In addition, NEPA has built-in mechanisms by which projects with lesser impacts are subject to a less extensive review.

Efforts to legislate categorical exclusions (CEs) from NEPA have historically proven to be an invitation to confusion and administrative abuses. For example, section 390 of The 2005 Energy Policy Act created CEs for oil and gas projects. A 2011 GAO report found that the Bureau of Land Management (BLM) had issued more than 6,000 oil and gas drilling exemptions from fiscal year 2006 through fiscal year 2008 and that the use of these exemptions "often did not comply with either the law or BLM's guidance." GAO found "several types of violations of the law."⁵ According to a more recent investigation by the *Casper Star-Tribune*, the BLM's Casper office issued exemptions 111 times in 2013, and only conducted environmental review seven times. In the first four months of 2014, the Casper office issued 53 exemptions and only conducted two environmental assessments.⁶ Without any environmental review, the public is left in the dark, decisionmakers cannot understand the consequences of their actions, and industry gets a free pass on making others bear the environmental costs of their operations. We are therefore opposed to legislative CEs which undermine the NEPA process, in particular CEs that favor one industry, such as energy.

The Interior Department already has discretion under NEPA to establish administrative CEs where environmental review is genuinely unnecessary, and to take other action. For example, BLM is currently considering new rules to reduce waste, including flaring, under its current authorities. BLM has a duty under the law to minimize the waste of federal oil and gas resources and can and should use the full scope of its current authority to do so.

CONCLUSION

Reducing flaring is a laudable goal. However, ignoring other environmental impacts to achieve this goal is short-sighted. NRDC therefore opposes H.R. 4293 and would be happy to work with the members of the Subcommittee to develop the right solutions, including approaches to directly reduce flaring as well as reducing our dependence on fossil fuels and promoting energy efficiency and clean energy resources.

⁵ U.S. Government Accountability Office, "Energy Policy Act of 2005: BLM's Use of Section 390 Categorical Exclusions for Oil and Gas Development," GAO-11-941T: Published: Sep 9, 2011.

⁶ Storrow, Benjamin, "BLM revives controversial fast-tracking of oil and gas permits," *Casper Star-Tribune*, April 12, 2014.