From the Doghouse

To flair or not to flair: The BLM’s newest proposed rule changes

*by Eric Thompson*

Earlier this year, the Bureau of Land Management (BLM), announced a proposal to limit methane emissions on public and tribal lands. More specifically, the BLM, through the U. S. Secretary of the Interior, Sally Jewell, stated “[t]he proposed rule on venting, flaring and leaking will help curb waste of our nation’s natural gas supplies, reduce harmful methane emissions and provide a fair return on public resources for federal taxpayers, Tribes, and States.”

As indicated above, the BLM is making a two-pronged attack to support its proposal. Their first rational is an environmental one, which is consistent with the Obama Administration’s desire to cut emissions of methane by forty to forty five percent by 2025. The second argument is an economic one. According to the BLM, “[b]etween 2009 and 2014, enough natural gas was lost through venting, flaring and leaks to power more than five million homes for a year. …”, which has led to $23 million in lost or unaccounted annual royalty revenue.

In addition to requiring producers to upgrade equipment in hopes of reducing flaring, the proposed rule changes also dictate when producers would be required to pay royalties on vented or flared natural gas.

Under the premise that the proposed rule changes are “cost-effective” and “common sense”, the BLM further claims the newly un-flared gas would result in enough natural gas to “supply every household in the cities of Dallas and Denver combined – ever year.” The BLM did not comment on whether or not cities not starting with “D” would benefit from the proposed rule changes.

Interestingly, the BLM’s proposed regulations have both sides of the coin calling foul. Anti-production environmentalists, like the Natural Resources Defense Council, argue the regulations do not go far enough to curb flaring on federal lands and fail to prohibit flaring on non-federal lands, including flaring and venting occurring at processing plants. On the other hand, pro-production advocates argue the proposed rule changes don’t account for the added cost of new equipment, the time-cost of delaying oil production or the costs of getting the natural gas to market (i.e., infrastructure).

As of the date of publishing, the author could not determine if the economic models used by the BLM in order to account for lost revenue were static or dynamic. Nonetheless, it should be noted, most economists would recognize that any dramatic increase in the supply of natural gas will decrease the market price, absent a reciprocal increase in demand.

The BLM has extended the comment period regarding the proposed rule changes through April 22, 2016.

*Eric Thompson is licensed to practice law in Colorado, Wyoming and New Mexico. He received his Juris Doctorate degree from the University of Wyoming. Prior to attending law school, he graduated from Regis University with a double-major in business and economics.*

*Eric began his legal career at Akers & Thompson LLC, formerly Akers & Associates LLC, in January 2010 and was promoted to partner in July of 2015. Eric’s practice has focused entirely around oil and gas law, including mineral title examination on federal, state, and fee land, the acquisition and divestiture of leasehold and mineral properties, as well as service, joint operating, communitization, and unitization agreements.*

*Akers & Thompson LLC, a firm consisting of attorneys currently licensed to practice in Colorado, North Dakota, New Mexico, Texas and Wyoming, specializes in oil and gas, title examination, acquisitions and divestitures, and the drafting and administration of exploration, development and operating agreements. For more information, go online to www.akers-lawfirm.com.*