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United States Senate

Committee on Finance

Business Income Tax Reform Working Group

219 Dirksen Senate Office Building

Washington, DC 20510

Dear Senators Thune, Cardin and Members of the Business Tax Reform Working Group:

I am the founder, chairman and chief executive officer of a leading independent oil and natural gas production company headquartered in Denver, Colorado. We started 30 years ago from scratch, and through a lot of hard work and good fortune, we built a thriving company and created a lot of jobs in the process. As you know, independent companies drill about 95 percent of American oil and gas wells, produce about 60 percent of American oil and about 85 percent of American natural gas. Our industry, which proudly supports millions of jobs, is enduring very challenging market conditions due to the price issues with which you are familiar. At this time of protracted strain, we could ill afford to lose two linchpin tax policies that have undergirded our industry for decades – the deductions for intangible drilling and development costs and percentage depletion. These are in no sense "special breaks." They are not credits or subsidies. Indeed, every business in America – from the local corner bakery to the most sophisticated corporation -- has a means to account for expensing and depreciation.

Our capacity to expense intangible drilling costs (things like labor and site preparation – costs that have no salvage value after they are spent) in the year they are incurred is a key part of our financial planning. It has been estimated that removing this deduction would eliminate roughly 25 percent of the capital available for independent producers at current tax rates. It is obvious that less access to investment capital would mean a decline in drilling and ultimately less of the energy output that has played an increasingly important role in powering our economy in recent years. Removing this 100-year-old provision from the code would not only eliminate a large percentage of the capital available for us to continue looking for new oil and natural gas, it would also diminish the many economic benefits created by those activities – millions of jobs and billions in revenue for the government.

Similarly, the percentage depletion deduction has been a part of the U.S. tax code since 1926. Depletion is a form of depreciation for mineral resources that allows for a deduction from taxable income to reflect the declining production of reserves over time. This deduction supports the development of U.S. oil and natural gas and an array of other mineral resources that would otherwise be uneconomic to produce. Only smaller independent producers are able to utilize this deduction, but as you know, we play an outsize role in the actual production of resources in the United States.

Altering our tax treatment would not provide meaningful revenue to pay for tax reform legislation and would benefit nobody other than the foreign producers that we as a country have worked so hard to eliminate our dependence on. The first principle of any policy initiative should be "do no harm." No current iteration of tax reform proposals – even the laudable goal of reducing the corporate rate to 25 percent -- would lower effective rates for independent producers to offset the loss of these linchpin deductions. The American energy renaissance would truly be jeopardized if tax reform guts independent producers' access to capital and cost recovery. I share your desire to reform the tax code and thereby unlock the full potential of our economy. I am confident that with you playing a leadership role, Congress can find a way to do so without creating negative unintended consequences in the process. It would be a privilege to serve as a resource for you.

Sincerely,

Kevin P. Kauffman

Chairman & CEO