



THE SECRETARY OF THE INTERIOR
WASHINGTON

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JUN 11 2012

The Honorable Kent Conrad
United States Senate
Washington, DC 20510

Dear Senator Conrad:

Thank you for your letter of April 19, 2012, regarding tribal consultation with the Mandan, Hidatsa, and Arikara Nation (MHA Nation) as the Bureau of Land Management develops proposed rules concerning hydraulic fracturing.

Enclosed is a letter dated May 3, 2012, to Chairman Tex Hall of the MHA Nation that details the Department of the Interior's (Department) previous and continued consultation with local tribes within the State of North Dakota on the topic of hydraulic fracturing.

I enjoyed my visit to North Dakota. The Department will continue to work with all stakeholders, including tribes, to develop effective and appropriate rules on hydraulic fracturing on public lands.

Sincerely,

Ken Salazar

Ken Salazar

Enclosure



THE SECRETARY OF THE INTERIOR
WASHINGTON

MAY 03 2012

The Honorable Tex "Red Tipped Arrow" Hall
Chairman, Three Affiliated Tribes
Mandan, Hidatsa & Arikara Nation
404 Frontage Road
New Town, North Dakota 58763

Dear Chairman Hall:

Thank you for your letters of March 9 and April 3, 2012, regarding the Bureau of Land Management's development of a draft rule on hydraulic fracturing. I appreciate you taking the time to share your concerns about the effects that this kind of regulation could have on drilling operations in Indian country.

I assure you that the BLM places a high priority on government-to-government consultation. The BLM initiated formal government-to-government consultation on the proposed hydraulic fracturing rule in January 2012. The BLM invited over 175 tribal entities to sessions that were held in Tulsa, Oklahoma; Billings, Montana; Salt Lake City, Utah; and Farmington, New Mexico. Eighty-four tribal members representing 24 tribes attended these 4 meetings.

At these consultation meetings, tribes received an early working version of the draft hydraulic fracturing rule and a detailed explanation regarding the need for a new updated rule. The BLM received many comments throughout the conversation with the attendees, and notified all the participants that individual consultation is available for interested tribes.

Since January, the BLM has met with the United South and Eastern Tribes (USET) to provide information to the 25 assembled member tribes regarding hydraulic fracturing and the impacts it may pose to their lands. In March and April, the BLM met with the Coalition of Large Tribes (COLT) and the Mandan, Hidatsa and Arikara Nation (MHA Nation) to discuss hydraulic fracturing. In the near future, the BLM will be meeting with representatives from several tribes in Montana, including the Blackfeet, Chippewee Cree, Fort Belknap, and Flathead regarding hydraulic fracturing.

In the spirit of Secretarial Order No. 3317 and the Department's policy on consultation with Indian tribes, the BLM is committed to working closely with tribes throughout the development of this rule. Government-to-government consultation between appropriate tribal and BLM officials will continue as an ongoing process. In addition, the rulemaking process provides several other opportunities for input from affected parties. Following publication of the proposed rule, there will be a 60-day public comment period during which we will concurrently continue tribal consultations. Should there be significant changes to the draft rule as a result of

comments, additional consultation opportunities would be available. This good faith effort of open and transparent communication will ensure a process that reflects comprehensive tribal participation and input.

I look forward to working with you as we continue to improve the way we manage energy resources on tribal lands.

Sincerely,

A handwritten signature in black ink that reads "Ken Salazar". The signature is written in a cursive, flowing style.

Ken Salazar

38045
no outgoing

THE NAVAJO NATION



BEN SHELLY PRESIDENT
REX LEE JIM VICE PRESIDENT

April 24, 2012

Michael D. Nedd
Assistant Director, Minerals and Realty Management
Bureau of Land Management
1849 C Street NW, Rm. 5625
Washington, DC 20240

Dear Mr. Nedd:

On December 09, 2011, you sent a form letter to Arvin Trujillo, the former division director for the Navajo Nation Division of Natural Resources under the prior administration (addressed as "Dear Tribal Leader"), inviting the Navajo Nation ("Nation") to engage in government-to-government consultation regarding proposed hydraulic fracturing rules, purportedly to be effective on tribal trust lands and for tribally owned mineral estates. Specifically, as supposedly adequate consultation, you invited the Nation to attend a single meeting with the Bureau of Land Management ("BLM"), and to submit written comments. The Navajo Nation sent Steven Prince, a petroleum engineer with the Navajo Nation Minerals Department to the meeting scheduled in Farmington, New Mexico, on January 19, 2012. According to Mr. Prince, at that meeting BLM did little to engage tribes and presented a slide show regarding hydraulic fracturing that was not solidly based in science, and that would be more likely to create concerns among the public than assuage fears.

At the outset, please be advised that the Navajo Nation strongly opposes the BLM adopting any rules for hydraulic fracturing which would be effective on Navajo tribal trust lands or for Navajo mineral estates, as an unacceptable intrusion on the Nation's sovereignty and right to self-determination. The Navajo Nation has its own environmental and resource management programs, its own oil and gas company, its own laws, and is the only entity that should adopt rules, based in sound science, that are effective for hydraulic fracturing on the Navajo Nation.

Moreover, the Nation believes that any intent of the BLM to promulgate rules for hydraulic fracturing on tribal lands is inconsistent with both the intent and the policy justification for such rules as articulated by Secretary Salazar at the February 15, 2012 Full Committee Oversight Hearing on Department of the Interior Spending and the President's Fiscal Year 2013 Budget Proposal ("February 15, 2012 Hearing"). At the February 15 hearing, in response to a question from Representative Scott Tipton, Secretary Salazar answered as follows:

Your questions really goes to the fact that if you have states now coming on board and saying that they are going to develop their own regulatory regime, why is it necessary for the United States to develop their own regulatory regime, why is it necessary for the United States to develop its

regulatory regime on public lands? My answer is that is I think we have a responsibility; I believe we have a responsibility under laws of this country to make sure that the 700 million acres of the American citizen owned public estate that we are taking care of those lands in a way that any land manager or any land owner would do

...

Our regulations will deal only with the public estate . . .

February 15, 2012 Hearing, archived hearing webcast available at: <http://naturalresources.house.gov/Calendar/EventSingle.aspx?EventID=2777821>. Tribal lands are not in the public estate, are not owned by the American citizenry, and should not be subject to the proposed federal regulatory regime for hydraulic fracturing.

Please also be advised that, as a Native Nation covering 27,000 square miles in three states, with extensive oil and gas reserves, a form letter to the Nation inviting attendance at a single meeting with multiple tribes is not adequate government-to-government consultation for rules with such clear, and potentially adverse, consequences to the Navajo Nation and development of its trust assets. As the Department of the Interior ("DOI") expressly recognizes in its new *Policy on Consultation with Indian Tribes* ("Tribal Consultation Policy"),¹ "[t]he obligation for Federal agencies to engage with Indian Tribes on a government-to-government basis is based on the U.S. Constitution and Federal treaties, statutes, executive orders, and policies. Federal agencies help to meet that obligation through meaningful consultation with Indian Tribes." DOI Tribal Consultation Policy, Section I.

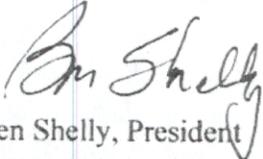
Executive Order 13175 requires *prior* and *meaningful* consultation with the Navajo Nation on those BLM and DOI policies that have tribal implications. See Executive Order 13175, 65 Fed. Reg. 67249, 67249-67252 (Nov. 6, 2000). "Policies that have tribal implications' refers to regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes." *Id.* The DOI Tribal Consultation Policy requires that "[n]otification of a consultation should include sufficient detail of the topic to be discussed to allow Tribal leaders an opportunity to fully engage in the consultation. The notice should also give Tribal leaders the opportunity to provide feedback prior to the consultation, including any request for technical assistance or request for clarification of how the consultation process conforms to this Policy." DOI Tribal Consultation Policy, Section VII.A.

I am sure you agree that sending a form letter to a former Navajo Nation official, stating an opportunity for attendance at a single meeting, and inviting comments, is not adequate consultation for the rules proposed by BLM which would directly impact, potentially adversely, development of Navajo tribal trust assets. Accordingly, I am requesting that you have appropriate officials or staff with the BLM contact Akhtar Zaman, Director, Navajo Nation Minerals Department, to plan for consultation in this matter. The Nation anticipates that several meetings, including technical and legal discussions, will be necessary to adequately carry out the

¹ Available at: <http://www.doi.gov/news/pressreleases/loader.cfm?csModule=security/getfile&pageid=269697>.

requisite government-to-government consultation in this case. Mr. Zaman may be reached at (928) 871-6587, via email to zamanakh@yahoo.com, or via postal mail to: PO Box 1910, Window Rock, Arizona 86515. Your immediate attention to this important matter is appreciated.

Respectfully,



Ben Shelly, President

THE NAVAJO NATION

cc: Ken Salazar, Secretary of the Interior
Akhtar Zaman, Director, Navajo Nation Minerals Department

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Council of Energy Resource Tribes

~League of Indian Nations
April, 13, 2012

Executive Board:

- Chairman
John D. Red Eagle, Osage
- Vice Chairman
Southern Ute
- Secretary
Colville
- Treasurer
Three Affiliated Tribes
- Crow Nation
- Hualapai Nation
- Jemez Pueblo
- Morongo
- Salish Kootenai

CERT Council Members

- Acoma
- Blackfeet
- Cherokee Nation
- Cheyenne-Arapaho
- Cheyenne River Sioux
- Chippewa Cree
- Eastern Shoshone
- Fort Belknap
- Fort Hall
- Fort Mojave
- Fort Peck
- Hopi
- Iowa
- Jicarilla Apache
- Kaibab Paiute
- Kaw
- Lummi
- Muckleshoot
- Navajo
- Nez Perce
- Northern Arapaho
- Northern Cheyenne
- Northern Ute
- Oglala Sioux
- Ohkay Owingeh
- Pauma
- Pawnee
- Penobscot
- Picuris Pueblo
- Ponca
- Ramona Band of Cahuilla
- Rosebud Sioux
- Round Valley
- Saginaw Chippewa
- Santa Ana Pueblo
- St. Regis Mohawk
- Standing Rock Sioux
- Tule River
- Turtle Mountain Chippewa
- Umatilla
- Ute Mountain Ute
- Walker River Paiute
- Yakama
- Zia Pueblo

Canadian First Nations:

- Ermineskin Cree
- Louis Bull Cree
- Montana Cree
- Samson Cree

Executive Director
A. David Lester

Honorable Ken Salazar
Secretary
United States Department of Interior
1849 C Street, N.W.
Washington DC 20240

Dear Secretary Salazar:

On behalf of the member tribes of the Council of Energy Resource Tribes ("CERT"), I am writing to express grave concerns regarding the Bureau of Land Management's ("BLM") draft proposed regulations (the "Rule") governing the use of hydraulic fracturing ("HF") on federal and Indian lands.

CERT questions the process used by the BLM in distributing the draft proposed Rule, the failure to discuss the economic impacts on current and prospective tribal energy development, and the burdensome new regulatory requirements contained in the draft proposed Rule, as more specifically detailed below. In addition, CERT is concerned with the irregular dissemination of several versions of the draft proposed Rule and the likelihood that interested Indian tribes, and others are focusing their comments on an out-of-date document.

INTRODUCTION

As you know, CERT was begun in 1975 in response to the first Arab Oil Embargo and strives to collectively accomplish goals which no single Indian tribe can achieve individually. Specifically, CERT acts to protect and preserve the sovereign rights, environments, natural resources, and assets of its member tribes with the ultimate objective to promote the vigorous execution of Indian tribal self determination.

CERT maintains that Indian tribes are the best stewards of the natural environment, and has witnessed Indian tribes pursue conventional energy and natural resource development in a sustainable way to grow their economies and support their people.

LACK OF MEANINGFUL GOVERNMENT-TO-GOVERNMENT CONSULTATION

CERT and its member tribes first learned of the draft proposed Rule through four regional meetings held by the BLM earlier this year. These meetings were held in Tulsa, OK, Billings, MT, Salt Lake City, UT, and Farmington, NM. It is CERT's understanding that it was not until the final two regional meetings --- held in Salt Lake City and Farmington --- that the BLM opted to share "draft" editions of the Rule with those tribes that were in attendance. Describing these meetings as a starting point for government-to-government consultation, at the Farmington meeting the BLM distributed copies of the "draft" Rule moments before the lunch break and did not provide the tribes in attendance an opportunity to review the Rule in detail, let alone participate in an meaningful conversation with the BLM with respect to the Rule's contents or impacts.

On December 1, 2012, you issued Secretarial Order No. 3317 ("Order 3317"), announcing the "Department of the Interior Policy on Consultation with Indian Tribes." CERT welcomed and lauded the issuance of this order and believes it properly updated and expanded the department's long-standing and continued commitment to consult with tribes, particularly with respect to departmental decisions which may adversely affect Indian tribes. With this order as the backdrop, the BLM has not engaged in the kind of meaningful and informed consultation with the tribal community. The simple fact is that many Indian tribes and their members who may be harmed by the draft proposed Rule did not attend these informal meetings, let alone receive notice of them.

CERT believes that the department and the BLM should honor the spirit and the letter of Order No. 3317 and engage in formal consultation with potentially impacted tribes as well as with individual Indian landowners in advance of the department's formal publication of the proposed Rule. Potentially impacted tribes should not be subject to irregular dissemination of the draft proposed Rule not be forced to await the BLM's publication of the Rule to make their voices heard. CERT, accordingly, requests that the department and the BLM conduct meaningful government-to-government consultation with impacted tribes before publication of the proposed Rule.

FAILURE TO KEEP INDIAN TRIBES INFORMED OF THE DRAFT PROPOSED RULE'S STATUS

Since the distribution of the draft Rule in early 2012, the department and the BLM have not made available to potentially impacted tribes subsequent iterations of the Rule. CERT understands that several tribes have requested these new versions of the Rule, but the requests have not been accommodate. This lack of transparency and consistency in the process precludes tribes from a full and fair opportunity to comment on the proposed Rule, and how it may affect, for example, tribal and allottee mineral owner income. Accordingly, CERT requests that the most current version of the proposed Rule be distributed and made available to Indian tribes, tribal organizations, and individual Indians to ensure meaningful participation in this rulemaking process, in accordance with the government-to-government policy.

INTRUSIONS ON TRIBAL SOVEREIGNTY

Tribes possess "inherent powers of sovereignty which have never been extinguished," derived from their sovereign existence pre-dating European settlement of the United States¹ CERT and the United States Supreme Court are of the view that these sovereign rights include the power to regulate oil and gas and related activities occurring on lands within their jurisdiction.² As such, tribes, like states, can and are authorized to determine when, if, and how they desire to regulate HF. In the event a tribe wishes to implement and impose their own HF rules applicable to tribal lands, they should be permitted to do so, just as tribes which do not wish to regulate HF are free to make that decision.

As currently drafted, the proposed Rule requires oil and gas operators ("operators") of tribal and individual oil and gas leases ("Indian leases") to "certify" that they are not only in compliance with all applicable Federal laws, rules and regulations, but also with state and local laws, rules, and regulations. See proposed 43 CFR 3162.3-3(i)(8).³ Such a certification would serve to impose state and local laws within a tribe's jurisdictional boundaries without that tribe's consent, a major deviation from settled principles of law and a significant diminishment of tribal jurisdiction. Indeed, empowering state or local authorities in this way could result in the effective veto of an energy project on tribal lands.

CERT, therefore, objects to this provision of the Rule and urges the department to protect tribal jurisdiction and authority over energy activities on their own tribal lands.

THE DRAFT PROPOSED RULE TREATS DISPARATELY INDIAN TRIBES AND THEIR MEMBERS

On top of the many comparative disadvantages tribes are confronted with such as Federal fees and charges, leasing delays, permitting challenges and others, the draft proposed Rule will make the production and development of Indian minerals substantially more difficult, less financially profitable, and substantially less appealing to operators.

CERT believes the BLM should fully consider these impacts, especially in light of the Federal trust responsibility to tribes and their members. For these reasons, CERT believes that tribal lands, Indian leases, and Indian minerals should be excluded from the proposed Rule, because the inclusion of Indian lands, resources, and peoples in the draft proposed Rule is in violation of the trust responsibility.

THE DRAFT PROPOSED RULE WILL RESULT IN UNAVOIDABLE DELAY TO INDIAN MINERAL PRODUCTION

i. New and Unnecessary Delays

¹ *United States v. Wheeler*, 435 U.S. 313, 322 (1978).

² See *Merrion v. Jicarilla Apache Tribe*, 455 U.S. 130 (1982); *Montana v. United States*, 450 U.S. 544, 565 (1981).

The proposed Rule requires operators to submit two largely redundant applications to the BLM for approval before they may drill new wells on Indian lands. First, the proposed Rule requires operators to submit proposals for any "well stimulation operations" to the BLM for approval "at least 30 days before the commencement of operations." Attachment 1, at 1, lines 19-21. Such proposals must be submitted to the BLM via the Notice of Intent Sundry (Form 3160-4 Sundry Notices and Reports on Wells) ("NOI"), and include at least ten categories of information. Prior to submitting a proposal for a well stimulation operation, operators must also submit to the BLM a lengthy application for a permit to drill ("APD"). CERT believes this duplicative application process will lead to additional, and longer delays in the production of Indian leases, thereby reducing operators' rates of return and payments to tribes and Indian mineral owners.

In addition to the APD, as part of the NOI, the Rule also requires operators to submit a stimulation application ("Stimulation Application") for approval prior to stimulating a well – including newly drilled and existing wells. As examples, CERT believes it is important to note the delays currently experienced by the two largest Indian oil plays in the nation. First, on the Uintah and Ouray Reservation in Northeastern Utah, it presently takes 83 to 414 days for operators of Indian leases to receive an approved APD. Second, on the Fort Berthold Reservation in North Dakota, an APD must go through forty-nine (49) separate steps and reviews before being approved which results in extremely lengthy delays.

CERT believes that requiring the BLM to process and approve an additional application, such as the Rule's required Stimulation Application, will only cause further delays to the already-lethargic development of Indian minerals. The Rule will require the BLM, as well as the Bureau of Indian Affairs ("BIA"), to process and review at least *twice* as much paperwork as exists now with no additional or dedicated staff or budget to complete those reviews.⁴ In total, and when combined with the processing period for the initial APD, CERT has concluded that operators of Indian leases wait two or more years before being permitted to produce Indian leases and minerals; thus further delaying royalty and tax payments to tribes and royalty payments to allottees.⁵

Neither the BLM nor the BIA appear to have the personnel or the fiscal resources required to process, review, and approve additional permitting applications. The addition of these new applications can have no other result than re-directing vital resources away from the processing of APDs and further slow approval processes. Operators will be left waiting several years before they receive approved APDs and Stimulation Applications. CERT is of the opinion that the current delays operators suffer when striving to develop Indian minerals already deters the development of those minerals, and can see no rationale for increasing delays and continuing to diminish the value of Indian minerals through the proposed Rule.

⁴ Operators will also be required to process and produce twice as much paper work pursuant to the Rule. This doubling of work will but further decrease operators' rates of return, delay extraction of tribal and allotted minerals and, ultimately, make Indian minerals less appealing; all to the financial detriment of tribal and allotted lessors.

⁵ Notably, the primary term for most Indian leases is five years or less. Thus, an operator could find that half the primary term of its Indian lease had elapsed before it could even begin to stimulate a well on that lease. Such a situation would continue to make Indian minerals less appealing to operators.

2. Appeal of BLM Stimulation Application Approvals

In addition to the other elements of the proposed Rule that will lead to a diminishment of tribal sovereignty, CERT is of the view that the administrative appeals provided for in the Rule will permit non-tribal parties and entities to hinder, if not preclude, the development of Indian lands and minerals. As proposed, the Rule requires the BLM to make a formal and appealable decision before operators may proceed with a well stimulation. Under 43 CFR Part 4, any "interested party" may appeal a formal BLM decision. This means that once the BLM approves an Operator's Stimulation Application, any person, irrespective of their affiliation with an Indian tribe, its location, or its desires, may appeal the BLM's decision, thereby initiating an administrative appeal process that eventually culminates in a Interior Board of Land Appeals order and/or Federal court litigation before operators can develop tribal Leases.

An administrative appeal within the department currently takes 12 to 36 months to complete before parties may proceed to Federal court. In CERT's view, individuals or groups not affiliated with tribes or tribal communities, or who do not live on or near Indian lands, should not be permitted to challenge BLM decisions supporting Indian economic interests. This is particularly true, for example, where an Indian tribe in North Dakota or Utah supports the decision to permit stimulation operations, but an individual wholly unrelated to the approval from New York disagrees and commences a departmental administrative appeal.

THE DRAFT PROPOSED RULE'S REQUIREMENTS WILL IMPAIR INDIAN MINERAL DEVELOPMENT

The informational requirements imposed by the Rule are duplicative of state law, and will further hinder the development of Indian minerals, which CERT adamantly trusts is not the goal of the BLM. For example, no state currently requires the submission and approval of such unnecessary information when operators attempt to develop state or fee leases.⁶ Below are three examples of the information required in the Rule which are not required to be submitted by operators developing state and fee minerals. These additional burdens will only increase the hurdles to Indian mineral development and continue to make state and fee minerals more appealing than those owned by Tribes and individual Indians.

First, the draft proposed Rule requires Operators to inform the BLM as to "the source, access route, and transportation method for all water anticipated for use in stimulating the well." Proposed 43 CFR 3162.3-3(a)(3). Standard Operator practice is to hire water-hauling companies for needed water supplies, most of whom are currently members of the tribe where Indian lands are being developed. However, contract water-haulers are responsible for acquiring water from legitimate sources and do not typically disclose those sources to operators. Requiring operators to closely monitor from where water originates is not an industry norm, and would require operators to implement new compliance efforts at additional costs. These additional costs will, as a rule, be reflected in the diminution of royalty rates and/or lease bonuses paid for Indian leases.

⁶ It should be noted that currently states also regulate the activities of operators on Federal and Indian leases. No state currently requires Operators to submit the same level of detailed information which is proposed in the Rules. The BLM should not place tribes and tribal members on an uneven playing field where operators see Indian leases in a negative context. Unfortunately, this is exactly what the Rules currently propose.

Second, the draft proposed Rule requires operators to not only submit a report/table of all "additives" to the proposed stimulation, but also submit a report/table which discloses the complete chemical makeup of the stimulation. Proposed 43 CFR 3162.3-3(a)(5). Both Colorado and Texas already require operators to disclose all "additives" which will be implemented in a stimulation.⁷ Under these state rules, operators disclose all chemicals and material which will be added to fresh water in conjunction with a stimulation. CERT believes this is an appropriate mechanism to monitor the "additives" which operators will use, along with fresh water, in stimulation operations.

Demanding that operators submit complete chemical tables / charts of additives and fresh water does not provide any benefit to Indian lessors. These testing requirements will continue to undercut operators' desire and ability to develop Indian minerals, and continue to motivate operators to locate their interests away from Indian country.

Third, the draft proposed Rule requires that operators, prior to initiating stimulation operations, list the mass of each chemical - again not additive chemical - which the operator will use in the stimulation. Stimulation operations change depending on what operators learn during initial stimulation activities. For example, the percentage of one additive may decrease while the percentage of a second additive may increase as a result of geologic conditions surrounding a stimulation area. It is, accordingly, impossible for operators to know the exact mass of each chemical that will be involved in a stimulation in advance of the stimulation.

In addition, the draft proposed Rule is silent regarding the procedures operators must follow if they are forced, due to conditions beyond their control, to modify the stimulation contained within their approved Stimulation Application. Natural weather and temperature conditions dictate how much of one additive operators must use in a stimulation as compared to another. It is unclear from the Rule whether an operator is required to notify the BLM if a change to the stimulation is required by natural forces beyond the operator's control. During a recent congressional appropriations hearing, BLM Director Bob Abbey stated that such on-the-ground approval of a change would not be required. This begs the common-sense question, why must an operator of Indian minerals submit a Stimulation Application which it is not required to follow?

CONCLUSION

Operators already endure reduced rates of return when developing Indian lands and minerals due to inordinate and unnecessary regulatory delays. This reduced rate and delay certainly hinders the development of Indian minerals and makes Indian lands less attractive for mineral development than those of their non-Indian neighbors. These facts have had dire consequences for the development of tribal communities, Indian reservation infrastructure, tribal employment and tribal economies.

⁷ The vast majority of information concerning additives and chemicals is already available to BLM. The FracFocus Chemical Disclosure Registry, a joint project of the Ground Water Protection Council and the Interstate Oil and Gas Compact Commission, is the national HF chemical registry and, as of March 4, 2012, had 194 participating oil and gas companies. The registry was created to provide anyone with access to chemicals used for HF and, in our view, further militates against any need for the Rules' implementation or if implemented, their application to Indian Leases.

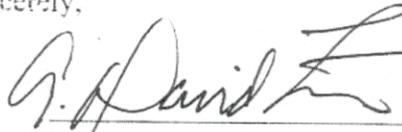
The draft proposed Rule will only act to further increase these ill effects and act to further diminish operators' interest in Indian lands and minerals. Unfortunately, the Federal regulatory scheme and Federal processing delays that hinder Indian mineral development also instigates an infusion of oil and gas capital into the coffers of states and individual non-Indians.

Moreover, it is imperative for the BLM to recall that Indian lands are not public lands; being instead lands set aside for the use, occupancy and benefit of Native Americans. Whatever the BLM may believe is the appropriate HF course for public lands, that course should not be taken for lands over which the BLM does not exercise control. Indian lands should simply not be governed by the draft proposed Rule,⁸ which is designed expressly for the development of lands and minerals under the sole jurisdiction of the BLM. If and how tribes may wish to regulate HF is for tribes to decide, not the BLM or the department, in the manner provided in the draft proposed Rule.

Finally, Congress has recently taken under consideration proposed legislation designed to (1) expedite and improve the development of Indian lands and minerals and (2) reform Federal laws to encourage tribes to assume greater control of their mineral resources.⁹

The proposed Rule, in CERT's opinion, is in direct conflict with these efforts and in direct contravention of the goals identified by tribes and the Congress as necessary to the development of Indian minerals and the enhancement of tribes' ability to control their own destiny.

Sincerely,



A. David Lester,
Executive Director

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ENERGY DEVELOPMENT

⁸ This is particularly true in situations like this one where the Department and the BLM have failed to adequately consult with Tribes.

⁹ See United States. Cong. House of Representatives *To facilitate the development of energy on Indian lands by reducing Federal regulations that impede tribal development of Indian lands*, 112th Cong., 2d Sess., H.R. 3973; United States. Cong. Senate *To amend the Indian Tribal Energy Development and Self-Determination Act of 2005*, 112th Cong. 2d Sess., S. 1684.



THE SECRETARY OF THE INTERIOR
WASHINGTON

MAY 10 2012

Mr. A. David Lester
Executive Director, Council of Energy Resource Tribes
8200 South Quebec Street
Suite 509
Centennial, Colorado 80112

Dear Mr. Lester:

Thank you for your letter dated April 13, 2012, regarding the Bureau of Land Management's development of a draft rule on hydraulic fracturing. I appreciate you taking the time to share your concerns about the effects that this kind of regulation could have on drilling operations in Indian country.

I assure you that the BLM places a high priority on government-to-government consultation. The BLM initiated formal government-to-government consultation on the proposed hydraulic fracturing rule in January 2012. The BLM invited over 175 tribal entities to sessions that were held in Tulsa, Oklahoma; Billings, Montana; Salt Lake City, Utah; and Farmington, New Mexico. Eighty-four tribal members representing 24 tribes attended these 4 meetings.

At these consultation meetings, tribes received an early working version of the draft hydraulic fracturing rule and a detailed explanation regarding the need for a new updated rule. The BLM received many comments throughout the conversation with the attendees, and notified all the participants that individual consultation is available for interested tribes.

Since January, the BLM has met with a number of tribes, including the United South and Eastern Tribes, the Coalition of Large Tribes, and the Mandan, Hidatsa and Arikara Nation to discuss hydraulic fracturing and the impacts it may pose to their lands. In the near future, the BLM will be meeting with representatives from several tribes in Montana, including the Blackfeet, Chippewa Cree, Fort Belknap, and Flathead regarding hydraulic fracturing.

In the spirit of Secretarial Order No. 3317 and the Department's policy on consultation with Indian tribes, the BLM is committed to working closely with tribes throughout the development of this rule. Government-to-government consultation between appropriate tribal and BLM officials will continue as an ongoing process. In addition, the rulemaking process provides several other opportunities for input from affected parties. On May 4, 2012, I announced the release of a proposed rule that would require public disclosure of chemicals used in hydraulic fracturing on public and Indian lands, strengthen regulations related to well-bore integrity, and address issues related to flowback water. Once the proposed rule is published in the Federal Register, a 60-day public comment period will begin, during which we will concurrently continue tribal consultations. Should there be significant changes to the draft rule as a result of comments, additional consultation opportunities would be available. This good faith effort of

open and transparent communication will ensure a process that reflects comprehensive tribal participation and input.

I look forward to working with you as we continue to improve the way we manage energy resources on tribal lands.

Sincerely,

A handwritten signature in black ink that reads "Ken Salazar". The signature is written in a cursive, slightly slanted style.

Ken Salazar

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Congress of the United States
Washington, DC 20515

511429

April 18, 2012

The Honorable Ken Salazar
Secretary
U.S. Department of Interior
1849 C Street, N.W.
Washington, DC 20240

Dear Secretary Salazar:

I received your response of March 29, 2012, regarding the Department of Interior's ("DOI") decision to persist in promulgating hydraulic fracturing ("HF") rules and regulations in spite of extensive concern expressed by members of Congress, tribal leaders, industry, state officials and agencies, and the public. These new regulations will excessively delay, interrupt, and discourage oil and gas production on public and tribal lands in the West and negatively affect 434,000 energy dependant jobs.

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EXECUTIVE ORDER UNIT

Upon review of the attached letters from leaders and representatives from the majority of tribes that will be affected by the HF rules and regulations, it is clear that meaningful tribal consultation has not occurred. To date, the Bureau of Land Management ("BLM") has not complied with Executive Order No. 13175 on Consultation and Coordination with Indian Tribal Governments, the Department of the Interior's Policy on Consultation with Indian Tribes (Tribal Consultation Policy), and its December 1, 2011, affirmation of those policies in Secretarial Order No. 3317. The BLM's actions do not uphold its obligations under the federal trust responsibility and do not fulfill the Department's long-standing and ongoing commitment to consult with Indian tribes.

Therefore, I respectfully request:

- 1) Detailed records of all the HF tribal consultations that the DOI has participated in
- 2) An explanation of the DOI's tribal consultation procedure
- 3) A list of all the HF materials given to the tribes during the consultation process
- 4) An inventory of all the participants involved in the tribal consultation process
- 5) A schedule of future tribal consultations that the DOI will host

In addition, please provide me with responses to the following questions:

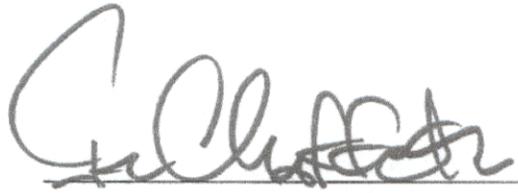
- 1) What materials did the tribes receive prior to the consultations?
- 2) Did the tribes receive revisions of the materials as they were updated?
- 3) How does the DOI intend to respond and address each of the tribes concerns?

Thank you for your prompt attention to this matter.

Sincerely,



Rob Bishop
Member of Congress



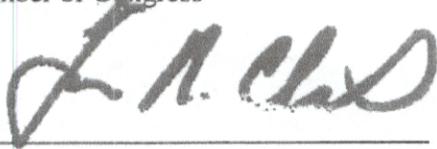
Jason Chaffetz
Member of Congress



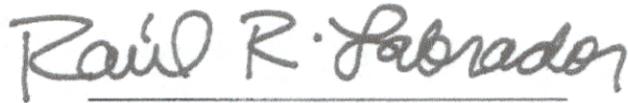
Scott Tipton
Member of Congress



Paul Gosar
Member of Congress



Tom McClintock
Member of Congress



Raul Labrador
Member of Congress



Stevan Pearce
Member of Congress



Cynthia Lummis
Member of Congress



BLACKFEET NATION

P.O. BOX 850 BROWNING, MONTANA 59417
Telephone (406) 338-7521 Fax: (406) 338-7530

EXECUTIVE COMMITTEE
T. A. SHOW - CHAIRMAN
PETER D. TATSEY - VICE CHAIRMAN
RUS J. FISHER - SECRETARY
KENNETH AUGARE - TREASURER

March 21, 2012

BLACKFEET TRIBAL BUSINESS COUNCIL
T. A. SHOW
PETER D. TATSEY
RUS J. FISHER
HENRY BOTTESLY
WILLIE A. SHARP SR.
PAUL MCEVERE
SHANNON J. AUGARE
WOODROW "JAY" WELLS
JESS "JAY" ST. GODDARD

The Honorable Ken Salazar
Secretary of the Interior
United States Department of the Interior
1849 C Street, NW
Washington, D.C. 20240

Re: **Proposed BLM Rule on Hydraulic Fracturing**

Dear Secretary Salazar:

This letter comes to you on behalf of the Blackfeet Tribal Business Council as a request for your Finding that the current proposed BLM Rule on Hydraulic Fracturing does not apply to Indian Tribes, and more especially to the Blackfeet Tribe. This rule is set up to apply to "public lands" not to Indian lands, which, as you are aware, are not public in nature, but rather lands set aside specifically for Indian Tribes and their members.

We also ask that once you make the Ruling that this particular BLM Rule does not apply to Indian Tribes that you set up a meaningful and transparent government-to-government consultation on the issue of hydraulic fracturing on Indian lands. Here, there may be brought to bear the expertise of your department as well as the input from various affected Indian Tribes as to the proper rules which should govern this type of drilling, allowing for expedient development while at the same time protecting the land and the people who live on the land.

The present rule has many problems for the Blackfeet Tribe. First and foremost is the requirement that State and other local laws be complied with when certificate of compliance are signed by the oil producer. The State has absolutely no jurisdiction over Indian land, and this provision, we view, as a direct incursion into the sovereignty of the Blackfeet Tribe. We also take exception to the additional burdens imposed upon the oil producer for repetitious paperwork, unreasonable weight and measurement requirements for the fracturing fluid, and the possible use of an appeal by outside persons which would disrupt the entire oil production process for months and possibly years.

This proposed rule seems to fly in the face of your edict some months ago to lessen the "red tape" that applied only to Indian lands in the development of tribal natural resources.

Letter to Secretary Ken Salazar
March 21, 2012
Page Two

In your statements, you seemed to grasp the fact that this type of development by Indian Tribes is stymied because of the excess of regulations, most of which are not required on lands off of Indian Reservations. This type of regulation only serves to hold down our Tribe, just at a time when we are in the very beginning stages of successful and profitable oil and gas development. To an outsider, it might appear as if the Federal Government wants to keep Indian Nations in poverty and therefore continues to have an assault on Tribal sovereignty and Tribal development.

We believe this Rule should not apply to our Tribal lands. We want the ability, and have begun to proceed forward with the making of our own Blackfeet Rules on oil and gas development, including rules on hydraulic fracturing. We would like the assistance of your Department and Agencies with their technical expertise so we can develop our own Rules which allow for expeditious drilling and also protect the land and its inhabitants.

We understand your trust responsibility toward Indian Tribes and individual Indian allottees. However, that responsibility should not be used to keep us crippled and living in poverty. Rather, Secretary Salazar, please see that such onerous rules as the proposed BLM Rule on Hydraulic Fracturing are not foisted onto Indian Tribes and Indian Lands. Let us have a meaningful government-to-government consultation without the fear of the imminent threat of some constricting, binding rule being brought down on our heads, just when our Tribe is beginning to see the fruits of our resource development.

The revenue generated from the royalties of oil and gas development will allow us to expand our function as a nation; giving us the ability to fund our own police force and courts, to train our own people for skilled jobs both on and off the Reservation; to educate our young and to provide for the health and safety of our people and fix our crumbling infrastructure, all without having to go "hat in hand" to the government for a grant or a loan. Finally, we will be able to take advantage of our sovereignty for the first time since our Treaty of 1855.

We are putting our trust in you, as our trustee, to see that we can go forward, regulating our resource development on our own terms, always being the careful stewards of our land. We will await your response to this letter. Our Resolution is attached to this letter.

Sincerely yours,

A handwritten signature in black ink, appearing to read "T.J. Show", with the word "(acting)" written in parentheses to the right of the signature.

T.J. SHOW, Chairman
Blackfeet Tribal Business Council

Letter to Secretary Ken Salazar
March 21, 2012
Page Three

cc: Senator Max Baucus, Senator from Montana
Senator Jon Tester, Senator from Montana
Congressman Denny Rehberg, Representative for Montana
Larry Echohawk, Assistant Secretary for Indian Affairs, DOI



BLACKFEET NATION

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EXECUTIVE COMMITTEE
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WOODROW "GAY" WELLS
JESSE "JAY" ST. GODDARD

EXECUTIVE RESOLUTION

No. EX140-2012

- WHEREAS,** The Blackfeet Tribal Business Council is the duly constituted governing body within the exterior boundaries of the Blackfeet Indian Reservation; and
- WHEREAS,** The Blackfeet Tribal Business Council has been organized to represent, develop, protect and advance the views, interests, education, and resources of the Blackfeet Indian Nation; and
- WHEREAS,** Pursuant to the Constitution for the Blackfeet Tribe, Article VI, Section 1(g) and 1(h) respectively, the Blackfeet Tribal Business Council is empowered to manage all tribal enterprises and tribal affairs in an acceptable and businesslike manner and to regulate all businesses within the Blackfeet Reservation; and
- WHEREAS,** The Blackfeet Tribal Business Council has been advised that there is currently pending the approval of a regulation from the Bureau of Land Management (BLM) regarding Hydraulic Fracturing which is intended to apply to the Blackfeet Reservation as well as all other Indian Tribes; and
- WHEREAS,** The Blackfeet Tribal Business Council was not made aware of this proposed regulation until recently, since there was only one informational meeting in Montana, held in Billings, Montana, and even then, was not certain that it had the correct version of such regulation; and
- WHEREAS,** The Blackfeet Tribal Business Council is now conversant with this proposed BLM regulation on Hydraulic Fracturing and believes that it does not apply to the Blackfeet Tribe, since it refers to "public lands" and not Tribal lands; and
- WHEREAS,** The Blackfeet Tribal Business Council also finds this proposed regulation deficient in many ways, the first and foremost problem being that it does not recognize Tribal sovereignty, but rather incorporates the mandate to follow State and local laws, without taking into consideration that State and other local laws have no applicability within the exterior boundaries of the Blackfeet Reservation; and

WHEREAS, The Blackfeet Tribal Business Council also finds that this proposed regulation puts up even more impediments to the eventual drilling for oil than is now mandated, resulting in longer delays, unrealistic demands, and an even greater amount of paperwork which will result in oil and gas producers deciding to take their business off the Blackfeet Reservation to other areas in the State of Montana where such crippling regulations do not apply; and

WHEREAS, The Blackfeet Tribe is just now embarking on an extensive program of oil and gas development, and that this proposed BLM regulation on Hydraulic Fracturing will severely impact such development and cause the oil producers with whom the Blackfeet Tribe is now doing business to abandon the Tribal lands within the Reservation for other fee lands which will not be under this regulation; and

WHEREAS, The Blackfeet Tribe and its members have the expectation of receiving substantial revenue from oil and gas royalties from the drilling on Indian Land within the Reservation, which revenue, from the standpoint of the Tribal government will be used to fund the governmental operations of the Tribe, including all law enforcement and court services as well as job training and funds for needed infrastructure, all of which can enhance the Blackfeet Reservation which has been the victim of grinding poverty; and

WHEREAS, The additional and cumbersome regulations in this proposed BLM regulation on Hydraulic Fracturing can result in the loss of anticipated revenue from those oil producers who are currently spending large sums of money on the Blackfeet Reservation, leaving the Blackfeet Tribe without any means to create meaningful revenue for its governmental functions;

WHEREAS, The BLM has not engaged in any true government-to-government consultation with the Blackfeet Tribe or any of the other Indian Tribes prior to its push to finalize this regulation; now

THEREFORE BE IT RESOLVED as follows:

1. That the Blackfeet Tribal Business Council hereby states its disapproval of the proposed 2012 BLM Rules on Hydraulic Fracturing.
2. That the Blackfeet Tribal Business Council hereby demands a Ruling by the Secretary of the Interior that the proposed BLM Rules on Hydraulic Fracturing which are promulgated for public lands do not apply to Indian and Tribal lands which are not "public lands".

3. That the Blackfeet Tribal Business Council hereby requests an immediate and meaningful government-to-government consultation with the BLM on Hydraulic Fracturing within the Blackfeet Reservation, which recognizes the sovereignty of the Blackfeet Tribe and which will assist the Tribe to create its own regulatory scheme for this procedure which is now used consistently in the drilling for oil and gas.

4. That in the event this proposed BLM Rule on Hydraulic Fracturing goes forward with the plan to apply it to the Blackfeet Reservation, than the Blackfeet Tribal Business Council hereby demands that there be Congressional Hearings on this Rule since it impacts an industry through Indian Country which has, to this point generated over \$425,000,000 in the past fiscal year, thus requiring such a hearing before final approval and implementation.

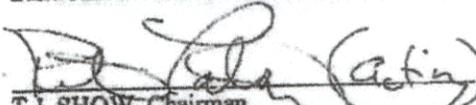
5. That a copy of this Resolution be sent immediately to Secretary of the Interior, Ken Salazar, to the Montana Delegation which includes Senators Max Baucus and Jon Tester and Congressman Denny Rehberg, and to Larry Echohawk, Assistant Secretary for Indian Affairs in the Department of the Interior.

6. That the Chairman or Vice-Chairman in the Chairman's absence, and the Secretary of the Blackfeet Tribal Business Council shall have the authority to sign this Resolution on behalf of the Blackfeet Tribal Business Council.

ATTEST:

THE BLACKFEET TRIBE OF THE
BLACKFEET INDIAN RESERVATION

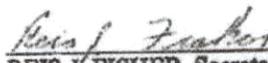

REISS J. FISHER, Secretary
Blackfeet Tribal Business Council

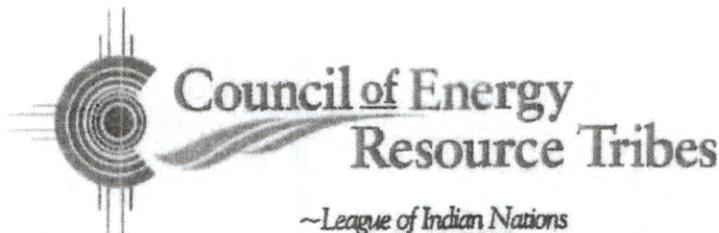

T.J. SHOW, Chairman
Blackfeet Tribal Business Council

CERTIFICATION

I hereby certify that the foregoing Executive Resolution was adopted by the Blackfeet Tribal Business Council during a duly called, noticed and convened Executive Session assembled for business the 21st. Day of March, 2012, with Four (4) members present to constitute a quorum, and Four (4) members voting FOR, Zero (0) members OPPOSED, and Zero (0) members ABSTAINING.

SEAL


REISS J. FISHER, Secretary



Executive Board:
Chairman
John D. Red Eagle, Osage
Vice Chairman
Southern Ute
Secretary
Colville
Treasurer
Three Affiliated Tribes
Crow Nation
Hualapai Nation
James Pueblo
Morongo
Salish Kootenai

CERT Council Members
Acoma
Blackfeet
Cherokee Nation
Cheyenne-Arapaho
Cheyenne River Sioux
Chippewa Cree
Eastern Shoshone
Fort Belknap
Fort Hall
Fort Mojave
Fort Peck
Hopi
Iowa
Jicarilla Apache
Kaibab Paiute
Kaw
Lummi
Muckleshoot
Navajo
Nes Perce
Northern Arapaho
Northern Cheyenne
Northern Ute
Oglala Sioux
Ohkay Owingeh
Paiute
Pawnee
Penobscot
Picuris Pueblo
Ponca
Ramona Band of Cahuilla
Rosebud Sioux
Round Valley
Saginaw Chippewa
Santa Ana Pueblo
St. Regis Mohawk
Standing Rock Sioux
Tule River
Tirele Mountain Chippewa
Umatilla
Ute Mountain Ute
Walker River Paiute
Yakama
Zia Pueblo

Canadian First Nations:
Erminekto Cree
Louis Bull Cree
Montana Cree
Samson Cree

Executive Director
A. David Lester

Honorable Ken Salazar
Secretary
United States Department of Interior
1849 C Street, N.W.
Washington DC 20240

Dear Secretary Salazar:

On behalf of the member tribes of the Council of Energy Resource Tribes ("CERT"), I am writing to express grave concerns regarding the Bureau of Land Management's ("BLM") draft proposed regulations (the "Rule") governing the use of hydraulic fracturing ("HF") on federal and Indian lands.

CERT questions the process used by the BLM in distributing the draft proposed Rule, the failure to discuss the economic impacts on current and prospective tribal energy development, and the burdensome new regulatory requirements contained in the draft proposed Rule, as more specifically detailed below. In addition, CERT is concerned with the irregular dissemination of several versions of the draft proposed Rule and the likelihood that interested Indian tribes, and others are focusing their comments on an out-of-date document.

INTRODUCTION

As you know, CERT was begun in 1975 in response to the first Arab Oil Embargo and strives to collectively accomplish goals which no single Indian tribe can achieve individually. Specifically, CERT acts to protect and preserve the sovereign rights, environments, natural resources, and assets of its member tribes with the ultimate objective to promote the vigorous execution of Indian tribal self determination.

CERT maintains that Indian tribes are the best stewards of the natural environment, and has witnessed Indian tribes pursue conventional energy and natural resource development in a sustainable way to grow their economies and support their people.

LACK OF MEANINGFUL GOVERNMENT-TO-GOVERNMENT CONSULTATION

CERT and its member tribes first learned of the draft proposed Rule through four regional meetings held by the BLM earlier this year. These meetings were held in Tulsa, OK, Billings, MT, Salt Lake City, UT, and Farmington, NM.. It is CERT's understanding that it was not until the final two regional meetings --- held in Salt Lake City and Farmington --- that the BLM opted to share "draft" editions of the Rule with those tribes that were in attendance. Describing these meetings as a starting point for government-to-government consultation, at the Farmington meeting the BLM distributed copies of the "draft" Rule moments before the lunch break and did not provide the tribes in attendance an opportunity to review the Rule in detail, let alone participate in an meaningful conversation with the BLM with respect to the Rule's contents or impacts.

On December 1, 2012, you issued Secretarial Order No. 3317 ("Order 3317"), announcing the "Department of the Interior Policy on Consultation with Indian Tribes." CERT welcomed and lauded the issuance of this order and believes it properly updated and expanded the department's long-standing and continued commitment to consult with tribes, particularly with respect to departmental decisions which may adversely affect Indian tribes. With this order as the backdrop, the BLM has not engaged in the kind of meaningful and informed consultation with the tribal community. The simple fact is that many Indian tribes and their members who may be harmed by the draft proposed Rule did not attend these informal meetings, let alone receive notice of them.

CERT believes that the department and the BLM should honor the spirit and the letter of Order No. 3317 and engage in formal consultation with potentially impacted tribes as well as with individual Indian landowners in advance of the department's formal publication of the proposed Rule. Potentially impacted tribes should not be subject to irregular dissemination of the draft proposed Rule not be forced to await the BLM's publication of the Rule to make their voices heard. CERT, accordingly, requests that the department and the BLM conduct meaningful government-to-government consultation with impacted tribes before publication of the proposed Rule.

FAILURE TO KEEP INDIAN TRIBES INFORMED OF THE DRAFT PROPOSED RULE'S STATUS

Since the distribution of the draft Rule in early 2012, the department and the BLM have not made available to potentially impacted tribes subsequent iterations of the Rule. CERT understands that several tribes have requested these new versions of the Rule, but the requests have not been accommodate. This lack of transparency and consistency in the process precludes tribes from a full and fair opportunity to comment on the proposed Rule, and how it may affect, for example, tribal and allottee mineral owner income. Accordingly, CERT requests that the most current version of the proposed Rule be distributed and made available to Indian tribes, tribal organizations, and individual Indians to ensure meaningful participation in this rulemaking process, in accordance with the government-to-government policy.

INTRUSIONS ON TRIBAL SOVEREIGNTY

Tribes possess "inherent powers of sovereignty which have never been extinguished," derived from their sovereign existence pre-dating European settlement of the United States.¹ CERT and the United States Supreme Court are of the view that these sovereign rights include the power to regulate oil and gas and related activities occurring on lands within their jurisdiction.² As such, tribes, like states, can and are authorized to determine when, if, and how they desire to regulate HF. In the event a tribe wishes to implement and impose their own HF rules applicable to tribal lands, they should be permitted to do so, just as tribes which do not wish to regulate HF are free to make that decision.

As currently drafted, the proposed Rule requires oil and gas operators ("operators") of tribal and individual oil and gas leases ("Indian leases") to "certify" that they are not only in compliance with all applicable Federal laws, rules and regulations, but also with state and local laws, rules, and regulations. See proposed 43 CFR 3162.3-3(f)(8).³ Such a certification would serve to impose state and local laws within a tribe's jurisdictional boundaries without that tribe's consent, a major deviation from settled principles of law and a significant diminishment of tribal jurisdiction. Indeed, empowering state or local authorities in this way could result in the effective veto of an energy project on tribal lands.

CERT, therefore, objects to this provision of the Rule and urges the department to protect tribal jurisdiction and authority over energy activities on their own tribal lands.

THE DRAFT PROPOSED RULE TREATS DISPARATELY INDIAN TRIBES AND THEIR MEMBERS

On top of the many comparative disadvantages tribes are confronted with such as Federal fees and charges, leasing delays, permitting challenges and others, the draft proposed Rule will make the production and development of Indian minerals substantially more difficult, less financially profitable, and substantially less appealing to operators.

CERT believes the BLM should fully consider these impacts, especially in light of the Federal trust responsibility to tribes and their members. For these reasons, CERT believes that tribal lands, Indian leases, and Indian minerals should be excluded from the proposed Rule, because the inclusion of Indian lands, resources, and peoples in the draft proposed Rule is in violation of the trust responsibility.

THE DRAFT PROPOSED RULE WILL RESULT IN UNAVOIDABLE DELAY TO INDIAN MINERAL PRODUCTION

1. New and Unnecessary Delays

¹ *United States v. Wheeler*, 435 U.S. 313, 322 (1978).

² See *Merrion v. Jicarilla Apache Tribe*, 455 U.S. 130 (1982); *Montana v. United States*, 450 U.S. 544, 565 (1981).

The proposed Rule requires operators to submit two largely redundant applications to the BLM for approval before they may drill new wells on Indian lands. First, the proposed Rule requires operators to submit proposals for any "well stimulation operations" to the BLM for approval "at least 30 days before the commencement of operations." Attachment 1, at 1, lines 19-21. Such proposals must be submitted to the BLM via the Notice of Intent Sundry (Form 3160-4 Sundry Notices and Reports on Wells) ("NOI"), and include at least ten categories of information. Prior to submitting a proposal for a well stimulation operation, operators must also submit to the BLM a lengthy application for a permit to drill ("APD"). CERT believes this duplicative application process will lead to additional, and longer delays in the production of Indian leases, thereby reducing operators' rates of return and payments to tribes and Indian mineral owners.

In addition to the APD, as part of the NOI, the Rule also requires operators to submit a stimulation application ("Stimulation Application") for approval prior to stimulating a well - including newly drilled and existing wells. As examples, CERT believes it is important to note the delays currently experienced by the two largest Indian oil plays in the nation. First, on the Uintah and Ouray Reservation in Northeastern Utah, it presently takes 83 to 414 days for operators of Indian leases to receive an approved APD. Second, on the Fort Berthold Reservation in North Dakota, an APD must go through forty-nine (49) separate steps and reviews before being approved which results in extremely lengthy delays.

CERT believes that requiring the BLM to process and approve an additional application, such as the Rule's required Stimulation Application, will only cause further delays to the already-lethargic development of Indian minerals. The Rule will require the BLM, as well as the Bureau of Indian Affairs ("BIA"), to process and review at least *twice* as much paperwork as exists now with no additional or dedicated staff or budget to complete those reviews.⁴ In total, and when combined with the processing period for the initial APD, CERT has concluded that operators of Indian leases wait two or more years before being permitted to produce Indian leases and minerals; thus further delaying royalty and tax payments to tribes and royalty payments to allottees.⁵

Neither the BLM nor the BIA appear to have the personnel or the fiscal resources required to process, review, and approve additional permitting applications. The addition of these new applications can have no other result than re-directing vital resources away from the processing of APDs and further slow approval processes. Operators will be left waiting several years before they receive approved APDs and Stimulation Applications. CERT is of the opinion that the current delays operators suffer when striving to develop Indian minerals already deters the development of those minerals, and can see no rationale for increasing delays and continuing to diminish the value of Indian minerals through the proposed Rule.

⁴ Operators will also be required to process and produce twice as much paper work pursuant to the Rule. This doubling of work will but further decrease operators' rates of return, delay extraction of tribal and allotted minerals and, ultimately, make Indian minerals less appealing; all to the financial detriment of tribal and allotted lessors.

⁵ Notably, the primary term for most Indian leases is five years or less. Thus, an operator could find that half the primary term of its Indian lease had elapsed before it could even begin to stimulate a well on that lease. Such a situation would continue to make Indian minerals less appealing to operators.

2. Appeal of BLM Stimulation Application Approvals

In addition to the other elements of the proposed Rule that will lead to a diminishment of tribal sovereignty, CERT is of the view that the administrative appeals provided for in the Rule will permit non-tribal parties and entities to hinder, if not preclude, the development of Indian lands and minerals. As proposed, the Rule requires the BLM to make a formal and appealable decision before operators may proceed with a well stimulation. Under 43 CFR Part 4, any "interested party" may appeal a formal BLM decision. This means that once the BLM approves an Operator's Stimulation Application, any person, irrespective of their affiliation with an Indian tribe, its location, or its desires, may appeal the BLM's decision, thereby initiating an administrative appeal process that eventually culminates in a Interior Board of Land Appeals order and / or Federal court litigation before operators can develop tribal Leases.

An administrative appeal within the department currently takes 12 to 36 months to complete before parties may proceed to Federal court. In CERT's view, individuals or groups not affiliated with tribes or tribal communities, or who do not live on or near Indian lands, should not be permitted to challenge BLM decisions supporting Indian economic interests. This is particularly true, for example, where an Indian tribe in North Dakota or Utah supports the decision to permit stimulation operations, but an individual wholly unrelated to the approval from New York disagrees and commences a departmental administrative appeal.

THE DRAFT PROPOSED RULE'S REQUIREMENTS WILL IMPAIR INDIAN MINERAL DEVELOPMENT

The informational requirements imposed by the Rule are duplicative of state law, and will further hinder the development of Indian minerals, which CERT adamantly trusts is not the goal of the BLM. For example, no state currently requires the submission and approval of such unnecessary information when operators attempt to develop state or fee leases.⁶ Below are three examples of the information required in the Rule which are not required to be submitted by operators developing state and fee minerals. These additional burdens will only increase the hurdles to Indian mineral development and continue to make state and fee minerals more appealing than those owned by Tribes and individual Indians.

First, the draft proposed Rule requires Operators to inform the BLM as to "the source, access route, and transportation method for all water anticipated for use in stimulating the well." Proposed 43 CFR 3162.3-3(a)(3). Standard Operator practice is to hire water-hauling companies for needed water supplies, most of whom are currently members of the tribe where Indian lands are being developed. However, contract water-haulers are responsible for acquiring water from legitimate sources and do not typically disclose those sources to operators. Requiring operators to closely monitor from where water originates is not an industry norm, and would require operators to implement new compliance efforts at additional costs. These additional costs will, as a rule, be reflected in the diminution of royalty rates and/or lease bonuses paid for Indian leases.

⁶ It should be noted that currently states also regulate the activities of operators on Federal and Indian leases. No state currently requires Operators to submit the same level of detailed information which is proposed in the Rules. The BLM should not place tribes and tribal members on an uneven playing field where operators see Indian leases in a negative context. Unfortunately, this is exactly what the Rules currently propose.

Second, the draft proposed Rule requires operators to not only submit a report/table of all "additives" to the proposed stimulation, but also submit a report/table which discloses the complete chemical makeup of the stimulation. Proposed 43 CFR 3162.3-3(a)(5). Both Colorado and Texas already require operators to disclose all "additives" which will be implemented in a stimulation.⁷ Under these state rules, operators disclose all chemicals and material which will be added to fresh water in conjunction with a stimulation. CERT believes this is an appropriate mechanism to monitor the "additives" which operators will use, along with fresh water, in stimulation operations.

Demanding that operators submit complete chemical tables / charts of additives and fresh water does not provide any benefit to Indian lessors. These testing requirements will continue to undercut operators' desire and ability to develop Indian minerals, and continue to motivate operators to locate their interests away from Indian country.

Third, the draft proposed Rule requires that operators, prior to initiating stimulation operations, list the mass of each chemical - again not additive chemical - which the operator will use in the stimulation. Stimulation operations change depending on what operators learn during initial stimulation activities. For example, the percentage of one additive may decrease while the percentage of a second additive may increase as a result of geologic conditions surrounding a stimulation area. It is, accordingly, impossible for operators to know the exact mass of each chemical that will be involved in a stimulation in advance of the stimulation.

In addition, the draft proposed Rule is silent regarding the procedures operators must follow if they are forced, due to conditions beyond their control, to modify the stimulation contained within their approved Stimulation Application. Natural weather and temperature conditions dictate how much of one additive operators must use in a stimulation as compared to another. It is unclear from the Rule whether an operator is required to notify the BLM if a change to the stimulation is required by natural forces beyond the operator's control. During a recent congressional appropriations hearing, BLM Director Bob Abbey stated that such on-the-ground approval of a change would not be required. This begs the common-sense question, why must an operator of Indian minerals submit a Stimulation Application which it is not required to follow?

CONCLUSION

Operators already endure reduced rates of return when developing Indian lands and minerals due to inordinate and unnecessary regulatory delays. This reduced rate and delay certainly hinders the development of Indian minerals and makes Indian lands less attractive for mineral development than those of their non-Indian neighbors. These facts have had dire consequences for the development of tribal communities, Indian reservation infrastructure, tribal employment and tribal economies.

⁷ The vast majority of information concerning additives and chemicals is already available to BLM. The FracFocus Chemical Disclosure Registry, a joint project of the Ground Water Protection Council and the Interstate Oil and Gas Compact Commission, is the national HF chemical registry and, as of March 4, 2012, had 194 participating oil and gas companies. The registry was created to provide anyone with access to chemicals used for HF and, in our view, further militates against any need for the Rules' implementation or if implemented, their application to Indian Leases.

The draft proposed Rule will only act to further increase these ill effects and act to further diminish operators' interest in Indian lands and minerals. Unfortunately, the Federal regulatory scheme and Federal processing delays that hinder Indian mineral development also instigates an infusion of oil and gas capital into the coffers of states and individual non-Indians.

Moreover, it is imperative for the BLM to recall that Indian lands are not public lands; being instead lands set aside for the use, occupancy and benefit of Native Americans. Whatever the BLM may believe is the appropriate HF course for public lands, that course should not be taken for lands over which the BLM does not exercise control. Indian lands should simply not be governed by the draft proposed Rule,⁸ which is designed expressly for the development of lands and minerals under the sole jurisdiction of the BLM. If and how tribes may wish to regulate HF is for tribes to decide, not the BLM or the department, in the manner provided in the draft proposed Rule.

Finally, Congress has recently taken under consideration proposed legislation designed to (1) expedite and improve the development of Indian lands and minerals and (2) reform Federal laws to encourage tribes to assume greater control of their mineral resources.⁹

The proposed Rule, in CERT's opinion, is in direct conflict with these efforts and in direct contravention of the goals identified by tribes and the Congress as necessary to the development of Indian minerals and the enhancement of tribes' ability to control their own destiny.

Sincerely,



A. David Lester,
Executive Director

⁸ This is particularly true in situations like this one where the Department and the BLM have failed to adequately consult with Tribes.

⁹ See United States. Cong. House of Representatives *To facilitate the development of energy on Indian lands by reducing Federal regulations that impede tribal development of Indian lands*, 112th Cong., 2d Sess., H.R. 3973; United States. Cong. Senate *To amend the Indian Tribal Energy Development and Self-Determination Act of 2005*, 112th Cong. 2d Sess., S. 1684.

EXECUTIVE BRANCH OF THE APSÁALOOKE NATION

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Crow Country

Cedric Black Eagle, Chairman
Calvin Coolidge Jefferson, Vice-Chairman
Scott Russell, Secretary
Darrin Old Coyote, Vice-Secretary

The Honorable Ken Salazar
Secretary
United States Department of Interior
1849 C Street N.W.
Washington, DC 20240

March 22, 2012

RE: Proposed BLM Regulations on Hydraulic Fracturing in Indian Country

Dear Secretary Salazar:

I am writing to express my concern regarding the Bureau of Land Management (BLM) proposed regulations for hydraulic fracturing, insofar as they are intended to apply to Indian lands. The BLM has not engaged in meaningful consultation with tribal governments, and the regulations as proposed could negatively impact development of Crow Tribal trust assets.

The BLM has hosted meetings in Oklahoma, Montana, Utah, and New Mexico to date, and has planned an additional meeting in Washington, D.C. next week. Unfortunately, many tribal leaders did not receive adequate notice of the past meetings and were unable to attend. Additionally, the meetings were structured as informational, rather than as a consultation with meaningful discussion of issues impacting tribal resources. Indeed, the draft regulations were not provided until the end of the meetings, and there was not adequate time provided to review the draft, comment, or ask questions during the meetings. Tribal consultation must consist of more than an opportunity to participate in the "notice and comment" period after draft regulations are published, especially when tribal trust assets are impacted.

Additionally, we do not agree with the inclusion of tribal lands as part of BLM's statutory authority over "public lands". Tribal lands are not "public lands", and we dispute that BLM has authority to regulate Indian lands as contemplated in the draft regulations.

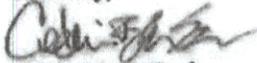
The Crow Nation has seen the impact that short-sighted regulatory decisions have had on our oil and gas development efforts. Producers have left Crow Reservation projects to work on state fee lands adjacent to the Reservation because of the regulatory hurdles and inequitable fees required for permitting drilling on Indian lands under federal law. This continues to restrict the Crow Tribe's ability to provide services to the citizens of the Crow Nation, and to other members of the communities on the 2.4 million-acre Crow Indian Reservation. We are struggling to create new jobs in the energy development sector, and currently face an unemployment rate of around

Letter from Chairman Black Eagle to Secretary Salazar
March 22, 2012
Page 2 of 2

45% on the Crow Indian Reservation. The proposed hydraulic fracturing regulations will exacerbate a situation that has already been extremely detrimental.

I strongly believe that the BLM must engage in meaningful government-to-government consultation with Indian tribes, in conformity with Secretarial Order No. 3317, issued on December 1, 2011, before draft regulations on hydraulic fracturing are published. Thank you for your efforts to work collaboratively with tribal governments. I look forward to working with you and your able staff on this and other issues of concern to the Crow Nation.

Sincerely,



Cedric Black Eagle
Chairman, Crow Nation

Cc: Senator Max Baucus
Senator John Tester
Congressman Denny Rehberg



MANDAN, HIDATSA & ARIKARA NATION
Three Affiliated Tribes * Fort Berthold Indian Reservation
Tribal Business Council

Tex "Red Tipped Arrow" Hall
Office of the Chairman

April 3, 2012

The Honorable Ken Salazar
Secretary
U.S. Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

**RE: BLM Fails to Fulfill Tribal Consultation Policies for Hydraulic
Fracturing Regulations**

Dear Secretary Salazar:

As you know, the Office of Management and Budget (OMB) is currently reviewing draft regulations developed by the Bureau of Land Management (BLM) to regulate hydraulic fracturing. These regulations will have a substantial impact on energy development on Indian lands.

In developing its hydraulic fracturing regulations, BLM has not complied with Executive Order No. 13175 on Consultation and Coordination with Indian Tribal Governments, the Department of the Interior's Policy on Consultation with Indian Tribes (Tribal Consultation Policy), and your December 1, 2011 affirmation of those policies in Secretarial Order No. 3317. BLM's actions to date do not comply with its obligations under the federal trust responsibility and do not fulfill the Department's long-standing and ongoing commitment to consult with Indian tribes.

I request that you withdraw the proposed regulations from OMB and postpone their publication in the Federal Register until BLM has complied with tribal consultation policies. In the alternative, BLM should exclude any permits on Indian lands from the proposed regulations until proper and meaningful consultation with tribes can occur.

I also formally request that you enlist the Department's Tribal Governance Officer (TGO) to monitor BLM's compliance with the Department's Tribal Consultation Policy, Executive Order No. 13175, and other consultation requirements. Working with the TGO and the Assistant Secretary for Indian Affairs, the BLM needs to first develop an appropriate consultation protocol and timeline. This consultation protocol should clarify that BLM is prepared to: (1) withdraw the draft regulations from OMB or excluded permits on Indian lands from the proposed regulations, (2) work with tribes to develop a consultation timeline, (3) engage tribes in the Initial Planning Stage and the other two stages of consultation, and (4) generally set out the steps that BLM will follow to comply with the Department's Tribal Consultation Policy and other

consultation requirements. In addition, the TGO, the Assistant Secretary and BLM should work with tribes to determine how the proposed regulations should apply in Indian Country in light of the federal trust responsibility, federal policy to promote economic development and tribal self-sufficiency, and other concerns unique to Indian Country.

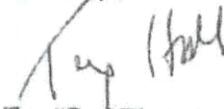
We have already attempted to address these issues with BLM. On March 26, 2012, a few tribes met with BLM in Washington, D.C. to resolve our concerns regarding BLM's failure to meaningfully consult with tribes. BLM rejected our concerns. BLM stated that its past actions and its willingness to meet with tribes if tribes so request fulfills the Department's tribal consultation policies. As we discuss in the attached memorandum, these actions completely fail to provide tribes with effective consultation as required by the Administration's and the Department's consultation policies.

BLM's actions fail to fulfill a policy that is only four months old. In December 2011, the Department announced that its new Tribal Consultation Policy would provide, "a strong, meaningful role for tribal governments at all stages of federal decision-making on Indian policy." Press Release, Department of the Interior, "Secretary Salazar Kicks Off White House Tribal Nations Conference at Department of the Interior" (Dec. 2, 2011). In the development of its hydraulic fracturing regulations, BLM has not afforded tribes the meaningful role promised in the Department's announcement.

Fortunately, BLM still has the opportunity to correct its violation of the policy and take steps to fully engage tribes in consultation. I look forward to working with you, your TGO, the BLM, and the Assistant Secretary for Indian Affairs to develop an appropriate tribal consultation protocol to consider issues related to hydraulic fracturing.

Thank you for your attention to this issue.

Sincerely,



Tex "Red Tipped Arrow" Hall, Chairman
TAT - MHA Nation

Enclosure

cc w/enclosure: Larry Echo Hawk, Assistant Secretary for Indian Affairs
Bob Abby, Director, Bureau of Land Management

MEMORANDUM

Requirements of the Administration's and the Department of the Interior's Policies on Consultation with Indian Tribes in Regard to the Bureau of Land Management's Proposed Hydraulic Fracturing Regulations

April 3, 2012

The Bureau of Land Management (BLM) is developing a regulation for hydraulic fracturing activities that will have significant impacts on tribal resources and Indian energy development. Since BLM has not engaged in meaningful or appropriate consultation with Indian tribes and has not fulfilled its trust obligations to consult with tribes, BLM must withdraw the draft hydraulic fracturing regulations from the Office of Management and Budget (OMB) or should exclude the application of these regulations to any permits on Indian lands until proper and meaningful consultation with tribes can occur. In addition, the Department's Tribal Governance Officer (TGO), the Assistant Secretary for Indian Affairs and BLM should work with tribes to develop an appropriate consultation protocol and timeline for the development of any regulation.

The Department of the Interior's Policy on Consultation with Indian Tribes (Tribal Consultation Policy) requires that the BLM structure a consultation process to allow "timely input" from tribes and which will enable BLM to work with tribes as "collaborative partners." Tribal Consultation Policy § VII.E.2. The policy states that, "[c]onsultation is a deliberative process that aims to create effective collaboration and informed Federal decision-making. Consultation is built upon government-to-government exchange of information and promotes enhanced communication that emphasizes trust, respect, and shared responsibility." *Id.* § II.

Because of the impacts the proposed regulation will have on tribal resources, BLM is required to follow the "Stages of Consultation" set out in the Department's Tribal Consultation Policy in the development of any hydraulic fracturing regulations. These stages include an "Initial Planning Stage," a "Proposal Development Stage," and an "Implementation of Final Federal Action Stage."

As described in detail below, BLM has only begun to meet the requirements of the Initial Planning Stage. BLM's tribal consultation actions to date consist of the January 2012 Regional Tribal Consultation meetings and a few follow up meetings with individual tribes. This is just the beginning of tribal consultation. At this stage, BLM should not have draft regulations pending at OMB.

In addition, BLM must take proactive steps to correct its failure to comply with the Department's Tribal Consultation Policy and its federal trust obligations. This is particularly needed because BLM has already provided the draft hydraulic fracturing regulations to OMB. BLM's actions to date have given tribes the impression that tribal input is not desired or only minimally needed.

The Department should enlist its TGO to monitor BLM's actions as it develops an appropriate consultation protocol and restarts tribal consultation. Throughout the consultation process, the Department's TGO is also directed to facilitate government-to-government consultation, to implement a reporting system to ensure that consultation efforts are documented and reported to the Secretary, and to fulfill other TGO obligations under the Department's policy. Tribal Consultation Policy § VII.B.1(a)-(g).

The resulting consultation protocol should clarify that BLM is prepared to: (1) withdraw the draft regulations from OMB or excluded permits on Indian lands from the proposed regulations, (2) work with tribes to develop a consultation timeline, (3) engage tribes in the Initial Planning Stage and the other two stages of consultation, and (4) generally set out the steps that BLM will follow to comply with the Department's Tribal Consultation Policy and other consultation requirements.

Initial Planning Stage

During the Initial Planning Stage, BLM is directed to involve tribes "as early as possible" and provide enough information to enable tribes to fully engage and assist in the development of regulations that will affect tribal resources. Tribal Consultation Policy § VII.E.1. This early stage should be informative as BLM identifies and describes the issue it believes needs regulation and it must also include a meaningful dialogue in which BLM considers tribal views on the issue, the need for regulation and alternatives for addressing the issue. Based on a review of BLM's actions to date, BLM has only begun to comply with the requirements of the Initial Planning Stage of the Department's Tribal Consultation Policy.

As an initial matter, the April and November 2011 Regional Public Forums in Bismarck, North Dakota, Little Rock, Arkansas, Denver, Colorado, and Washington, D.C. were not part of the tribal consultation process as BLM has asserted in meetings with tribes. These meetings were advertised to the general public, were not directed to tribal leaders, and were purely informational. These are not tribal consultation sessions on a government-to-government basis and should not be represented by BLM as part of the tribal consultation process.

The January 2012 Regional Tribal Consultations in Tulsa, Oklahoma, Billings, Montana, Salt Lake City, Utah; and Farmington, New Mexico could be considered a beginning to tribal consultation, but on their own, they do not fulfill the Department's Tribal Consultation Policy. These meetings were purely informational. The BLM made no attempt at these meetings to involve tribes in determining the scope of the issue, offer tribes an opportunity to participate in drafting the regulations, or engage tribes in a discussion of alternatives to federal regulation.

BLM's failure to involve tribes early in the regulation development process violates basic tribal consultation principles. For example, Executive Order No. 13175 requires that agencies, "consult with tribal officials as to the need for Federal standards and any alternatives that would limit the scope of Federal standards or otherwise preserve the prerogatives and authority of Indian tribes." Exec. Order No. 13175 § 3(c)(3) (Nov. 9, 2000). BLM never consulted with

tribes on the need for a hydraulic fracturing regulation or preservation of tribes' authority to regulate the issue themselves.

Based on these actions and according to the Department's Tribal Consultation Policy, BLM is still in the Initial Planning Stage of tribal consultation. Consequently, BLM's draft regulations needs to be withdrawn from OMB or permits on Indian lands should be excluded from the regulation until BLM has complied with the policy. Allowing the draft regulation to be published in the Federal Register before initial consultation stages are completed would violate the Administration's and the Department's tribal consultation policies.

Proposal Development Stage

Without fully initiating or completing the Initial Planning Stage, BLM is attempting to skip ahead and quickly complete the Proposal Development Stage with little to no tribal involvement as required by the Department's Tribal Consultation Policy. Contrary to BLM's actions, the Department's Tribal Consultation Policy requires BLM to work with tribes at the beginning of the Proposal Development Stage to establish a timeline for the consultation process. The Tribal Consultation Policy also requires BLM to work with Tribes as "collaborative partners."

First, at the start of the Proposal Development Stage, BLM is required to work with tribes to develop an appropriate schedule for the consultation. The Tribal Consultation Policy specifically states that:

The Bureau or Office shall develop a process . . . that maximizes the opportunity for timely input by Indian Tribes and is consistent with both Tribal and Bureau or Office schedules. The Bureau or Office will solicit the views of affected Indian Tribes regarding the process timeline to consult on a Departmental Action with Tribal Implications. The Bureau or Office should work with Indian Tribes to structure a process, to the extent feasible, that considers specific Indian Tribal structures, traditional needs, and schedules of the Indian Tribes. The Bureau or Office should make all reasonable efforts to comply with the expressed views of the affected Indian Tribes regarding the process timeline at this Stage, taking into account the level of impact, the scope, and the complexity of the issues involved in the Departmental Action with Tribal Implications, along with the other factors driving the schedule. The process will be open and transparent. . . .

Tribal Consultation Policy § VII.E.2. BLM has not developed a consultation process or timeline with tribes.

Hydraulic fracturing and the potential impact of the proposed regulations on tribal resources, Indian energy and economic development are significant—especially in areas of high demand for oil and gas resources. A regulation of this magnitude requires a more extensive timeline and process to fully engage tribes in the development of draft regulations. To comply with the Department's Tribal Consultation Policy during the Proposal Development Stage, BLM

needs to develop a consultation timeline with tribes that takes into account the level of impact, the scope, and the complexity of the issues involved.

Second, the Proposal Development Stage requires that BLM work with tribes as collaborative partners. While the January 2012 Regional Tribal Consultations included disclosure of the Department's proposed action, BLM did not involve tribes as collaborative partners or engage tribes in a meaningful dialogue about the substance of the regulations. These meetings were merely informational.

For example, BLM arrived at two of the four meetings with draft regulations already completed. BLM should not present tribes with completed regulations at this stage, rather BLM should work with tribes to develop the regulations from the ground up. This never occurred. BLM also did not engage tribes in a meaningful dialogue about the substance of the regulations. Of course, this would have been difficult as tribes were not provided an opportunity to review the regulations ahead of the meeting.

Moreover, soon after the January 2012 Regional Tribal Consultations, BLM submitted its draft regulation to OMB for review. OMB review is typically the last step before publication of a draft regulation in the Federal Register. BLM's actions foreclosed meaningful consultation and did not provide any opportunity for collaboration with tribes as required by the Department's Tribal Consultation Policy.

After extensive efforts to contact BLM, a few tribes met with BLM in Washington, D.C. on March 26, 2012, to discuss the lack of tribal consultation and finally provide some feedback to BLM on the draft regulations. This meeting represented the first time that BLM and tribes were prepared to have a dialogue on the draft regulations. Unfortunately, because of BLM's actions to date, the majority of the meeting was spent discussing the lack of consultation. Towards the end of the meeting, there was a little time for tribes to provide some comments on the details of the draft regulations, but there was no substantive exchange of information, no development of the required consultation timeline, and no discussion of ideas and concerns as required in meaningful consultation.

The Department's Tribal Consultation Policy also requires that tribal consultation be conducted with Departmental officials who are knowledgeable about the matters at hand, are authorized to speak for the Department, and can exercise delegated authority in the disposition and implementation of an agency action. Tribal Consultation Policy § II. In contrast, BLM officials who attended the March 26th meeting made clear throughout the meeting that they could only listen to tribal suggestions, could not provide any responses during the meeting, and would need to discuss any responses with their superiors. Similarly, BLM's suggestion that tribes meet with their local Field Offices for consultation does not comply with the Department's Tribal Consultation Policy since BLM has made no indication that the local Field Offices are authorized to speak for the Department or exercise delegated authority. BLM "Dear Tribal Leader" letter (Dec. 9, 2011).

Finally, it is not the responsibility of tribes to seek out meetings to discuss the contents of a draft regulation. The BLM must comply with the Department's Tribal Consultation Policy on its own initiative when proposing to develop regulations that will affect tribal resources.

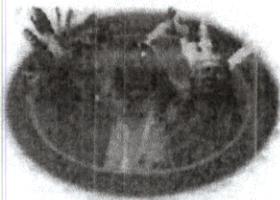
Implementation of Final Federal Action Stage

The Department's Tribal Consultation Policy includes a third stage regarding a post-consultation review process. While this third stage is not mandatory, its inclusion in the Department's Tribal Consultation Policy suggests that these efforts are encouraged, support the federal trust responsibility, and would result in more effective Departmental actions and regulations. If BLM eventually decides that a hydraulic fracturing regulation that includes Indian lands is needed, BLM should include an Implementation of Final Federal Action Stage in its consultation process. Given the complexity of hydraulic fracturing, the magnitude of potential impacts to tribes and the need for adequate BLM staff to oversee any regulatory process, post-consultation review and training is likely to be needed.

Conclusion

BLM skipped most of the Initiate Planning Stage of the Department's Tribal Consultation Policy and is not complying with the requirements of the Proposal Development Stage. Consequently, BLM must withdraw the draft hydraulic fracturing regulations from OMB or should exclude the application of these regulations to any permits on Indian lands until proper and meaningful consultation with tribes can occur. Also, the Department's TGO, the Assistant Secretary for Indian Affairs and BLM should work with tribes to develop an appropriate consultation protocol and timeline for consultation on the development of any hydraulic fracturing regulation.

In sum, BLM must restart its consultation process to properly engage tribes. If BLM does not take these steps, BLM's proposed regulations on hydraulic fracturing would be developed in violation of the Department's four-month old Tribal Consultation Policy. This is nothing like the meaningful role in federal decision-making promised to tribes when the policy was announced.



MANDAN, HIDATSA & ARIKARA NATION

Three Affiliated Tribes * Fort Berthold Indian Reservation
Tribal Business Council

Tex "Red Tipped Arrow" Hall
Office of the Chairman

March 9, 2012

The Honorable Ken Salazar
Secretary
U.S. Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

Re: Proposed BLM Regulations on Hydraulic Fracturing in Indian Country

Dear Secretary Salazar:

I write to express my concerns with the Bureau of Land Management's (BLM) decision to persist with regulations for hydraulic fracturing (fracing) that will apply to Indian lands. I am concerned with BLM's lack of meaningful tribal consultation on the proposed regulations and the impact the regulations will have on energy development on the Mandan Hidatsa and Arikara Nation (MHA Nation).

First, I can find no authority for the BLM to implement regulations on Indian lands. Although the BLM has jurisdiction to regulate fracing on "public lands," Indian lands are not public lands. Indian reservation lands are set aside and reserved for the exclusive use and benefit of Indian tribes. The Federal Land Policy and Management Act of 1976 does not provide BLM with direct or delegated authority over Indian lands. Thus, I call into question the authority of the BLM to promulgate regulations for fracing on Indian lands.

Second, even if BLM has assumed or obtained the authority to regulate fracing on Indian lands, the development of any regulation must be consistent with the Department's tribal consultation policy and must fulfill the federal trust responsibility. BLM's actions to date are not consistent with either the consultation policy or the trust responsibility. On December 1, 2011, you issued Secretarial Order No. 3317 announcing the "Department of the Interior Policy on Consultation with Indian Tribes." This policy updated and expanded the Department's long-standing and on-going commitment to consultation with Indian tribes. A few months later, the BLM is on the verge of violating this new policy.

Third, the BLM may not, consistent with the trust responsibility and the MHA Nation's treaty rights, apply its public interest standards to our lands. In addition, the BLM's concerns with potential environmental effects arising from shallow fracing may not be consistent with the federal trust responsibility, the MHA Nation's treaty rights, or its rights under the United Nation's Declaration for Indigenous rights. The MHA Nation's Reservation was set aside for the exclusive use and benefit of the MHA Nation, in recognition of its sovereignty and its prior claim to its aboriginal territory. Consistent with this notion, the UN Declaration on Indigenous

404 Frontage Road * New Town, North Dakota * 58763-9402
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rights recognizes the authority of the MHA Nation to decide for itself how best to develop and regulate its resources. As you know, the President endorsed the UN Declaration in December, 2010.

Over the past couple of months, BLM hosted four meetings in Tulsa, Oklahoma; Billings, Montana; Salt Lake City, Utah; and Farmington, New Mexico. BLM is describing these meetings as a starting point for tribal consultation, but much more needs to be done. The content of these meetings was purely informational. Tribal leaders were not engaged in a meaningful discussion, instead they were merely informed of what the BLM plans to do. A draft of the proposed regulations was not available at all of the meetings, and when the draft regulations were available, they were handed out at the end of the meeting with no time to review or ask questions. This falls far short of the "exchange of information" and "enhanced communication" that your Secretarial Order requires.

I now understand that a draft of the proposed regulations is going through the review process for publication in the Federal Register in the near future. This is unacceptable. Indian tribes have not had an opportunity to review the proposed regulations and engage BLM in any communication about tribal specific issues that should be included in the regulations. The BLM's tribal consultation process to-date does not comply with your Order's requirement to involve tribes early in the planning process.

In addition, the BLM may not, consistent with the trust responsibility, apply its public interest standards to Indian lands. In contrast to oil and gas development on "public lands," royalties and taxes from drilling on tribal and allotted lands on the Reservation are a significant source of revenue for our tribal government and income for allottees on the Reservation. Adding additional burdens for the development of oil and gas on the Reservation could chill production and force operators to shift investment away from our Reservation to state and private lands where the regulatory burden is less onerous, thus depriving the Tribe of needed revenue.

After many years of economic hardship, the MHA Nation and its members are finally seeing improved economic conditions due to the oil and gas activity on the Reservation. New BLM rules on Hydraulic Fracturing would disproportionately impact the MHA Nation and its members due to our greater reliance on oil and gas development for economic growth and sustainability. Without proof that these rules are necessary to protect against an identified threat to the environment, deep well fracing on the Reservation should be exempt from the additional regulatory burdens that the proposed BLM rules would impose. At a minimum, BLM should explain how it is going to mitigate this disproportionate impact.

According to the draft regulations, the BLM plans to look at three key issues pertaining to the fracing process: wellbore integrity, disclosure, and flowback water. We know of no incidents on tribal lands, much less "public lands", that would precipitate federal regulation. While federal regulation of the shallow gas wells in Wyoming and Pennsylvania may be justified to protect ground water, I see no such justification for deep horizontal wells like those that are drilled on the Fort Berthold Reservation.

Oil and gas operators seeking permits to drill on "public lands" and Indian lands already undergo an extensive environmental review process before they can begin drilling activities. This process has become lengthy, time consuming and costly. These delays and costs are one of

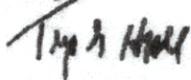
the primary reasons why oil and gas developers look just over the Reservation boundary for cheaper and quicker development opportunities on private lands. We need to remove road blocks to Indian energy development, not increase them.

The process has become so time consuming that in certain parts of Indian country, a backlog of hundreds, if not thousands, of permits exists. BLM Field Offices already cannot keep up with the processing of applications for permits to drill. Additional regulations will only make the problem worse. BLM does not have the capacity, staff or technical expertise, needed to implement the rule.

The Environmental Protection Agency and other federal agencies are currently conducting scientific studies on fracing. BLM regulation is premature in advance of the EPA study, and BLM has offered no justification for proceeding with this new regulation without the benefit of these studies. Without clear demonstration of a problem with the fracing process and without providing tribes an opportunity to respond to any identified deficiencies, we feel the BLM regulation is unnecessary.

For these reasons, I request that the BLM not move forward at this time with the publication of regulations for Hydraulic Fracturing in the Federal Register. The BLM needs to restart its consultation process to properly engage tribes. I would be happy to discuss this matter in more detail with you or representatives of the BLM. I look forward to your response. You may contact me at 701.627.4781 or via email at redtippedarrow@rtc.coop.

Sincerely,



Tex "Red Tipped Arrow" Hall, Chairman
TAT - MHA Nation

Cc: Larry Echo Hawk, Assistant Secretary for Indian Affairs
Bob Abby, Director, Bureau of Land Management



NATIONAL CONGRESS OF AMERICAN INDIANS

March 7, 2012

The Honorable Ken Salazar
Secretary of the Interior
United States Department of the Interior
1849 C Street, NW
Washington, D.C. 20240

The Honorable Wilma Lewis
Asst. Secretary for Land & Minerals
U.S. Department of the Interior
1849 C Street, NW
Washington, DC 20240

RE: Tribal Consultation on BLM Hydraulic Fracturing Regulations

Dear Secretary Salazar:

On behalf of the National Congress of American Indians, I am writing to request that the Department of Interior and the Bureau of Land Management engage in government-to-government consultation with Indian tribes regarding the BLM's proposed hydraulic fracturing ("HF") regulations.

On December 1, 2011, Secretary Salazar issued Secretarial Order No. 3317 announcing the "Department of the Interior Policy on Consultation with Indian Tribes." This policy updated and expanded the Department's long-standing and ongoing commitment to consultation with Indian tribes. We urge that the BLM engage in consultation with tribal governments on the HF regulations.

Over the past couple of months, BLM hosted four meetings in Tulsa, Oklahoma; Billings, Montana; Salt Lake City, Utah; and Farmington, New Mexico. Many tribal leaders became aware of these meetings after they took place, but we understand that BLM is describing these meetings as a starting point for tribal consultation. Indeed, much more needs to be done.

The content of these meetings was purely informational. Tribal leaders were not engaged in a meaningful discussion, instead they were informed of what the BLM plans to do. A draft of the proposed regulations was not available at all of the meetings, and when the draft regulations were available, they were handed out at the end of the meeting with no time to review or ask questions. This falls short of the "exchange of information" and "enhanced communication" that the Secretarial Order requires.

At these meetings, BLM stated that the consultation process would continue through the public comment period, but the consultation policy and the federal government's trust responsibility requires more than merely allowing tribes to participate in the public comments period. Outreach to Indian country is needed. BLM stated that its field offices would be the lead for further consultation. While we are pleased that field offices would be involved, consultation with tribal governments should occur at policymaker levels. In addition, BLM State Directors should engage the tribes in their states so that tribes can be assured that their comments and concerns will reach policymakers in Washington, D.C.

EXECUTIVE COMMITTEE

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WESTERN
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A significant issue is the BLM is proposing these regulations under its authority over "public lands." Indian lands are not "public lands" and should not be included within the proposed regulations. Indian lands are lands held for the use and benefit of tribes and their members, not the public. Instead, the BLM should consider the unique aspects of Indian lands.

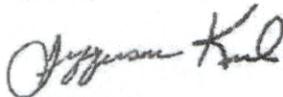
Consultation with tribal governments is the only way for BLM to take into account the impacts of its proposed regulation on tribal energy and economic resources. This permitting process for oil and gas developers on Indian lands is already lengthy, time consuming and costly. The proposed HF regulations will require oil and gas operators to seek yet another round of permits for all well stimulation activities leading to further delay. The added delay will cause oil and gas operators to leave Indian country for state and private lands, a fact that is occurring under current permitting requirements.

Tribes and tribal members cannot afford the flight of oil and gas operators from their lands. Oil and gas royalties from drilling on Indian lands are a significant source of revenue for tribes and tribal members. The proposed BLM HF regulations will severely and disproportionately impact tribal economies because of their greater reliance on oil and gas development for economic growth and sustainability.

At the same time, Indian tribes are interested in learning about the potential impacts of hydraulic fracturing on their lands, waters and the surrounding environment. This discussion needs to include tribes because the Department has a trust responsibility to protect tribal resources and tribal communities, and the tribal leaders also have a duty to care for the best interests of their lands and people.

NCAI strongly supports your Secretarial Order on Tribal Consultation and asks Interior engage in consultation on the BLM HF regulations. We greatly appreciate all of your efforts to support tribal governments and we look forward to talking with you about this issue and other pressing issues throughout Indian Country.

Sincerely,



Jefferson Keel



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #ECWS-12-005

TITLE: Seeking Meaningful Tribal Consultation on the Bureau of Land Management's Proposed Hydraulic Fracturing Regulations

EXECUTIVE COMMITTEE

PRESIDENT
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Tlingit

NCAI HEADQUARTERS
1316 P Street, N.W.
Washington, DC 20005
202.466.7767
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WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, the NCAI seeks meaningful tribal consultation on the Bureau of Land Management's (BLM) proposed regulatory scheme regarding Hydraulic Fracturing (HF); and

WHEREAS, the BLM hosted only four informational meetings throughout the West and is describing these meetings as tribal consultations; and

WHEREAS, the BLM's proposed HF regulations were only available at one of these informational meetings; and

WHEREAS, the BLM proposes conducting tribal consultation through its field offices while Indian tribes should address policy makers in Washington, D.C. for true government-to-government consultation; and

WHEREAS, Indian lands are not "public lands" therefore, the tribes deserve a regulation that deals with Indian lands only; and

WHEREAS, tribes are also interested in consultation on the impacts of hydraulic fracturing on the environment, land and human health; and

WHEREAS, the BLM should consider that oil and gas operators seeking permits to drill on lands held in trust by the federal government already undergo an extensive environmental review process before they can begin drilling activities; and

WHEREAS, the BLM should consider that the permitting process has become lengthy, time consuming and costly, so much so that there is a backlog of hundreds, if not thousands, of applications for permits to drill that have not been processed by the BLM; and

WHEREAS, the proposed BLM regulations will require oil and gas operators to seek another round of permits for all well stimulation activities leading to further delay; and

WHEREAS, this added delay will cause oil and gas operators to leave Indian lands for state and private lands, a fact that is occurring under the Application for Permit to Drill scheme; and

WHEREAS, the BLM should balance regulatory concerns with the needs of Indian tribes to develop their energy resources to provide long-term economic resources for tribal communities; and

WHEREAS, oil and gas royalties from drilling on Indian lands are significant sources of revenue for the tribes and tribal members and the proposed BLM HF regulations will severely and disproportionately impact tribal economies because of their greater reliance on oil and gas development for economic growth and sustainability.

WHEREAS, the NCAI requests that BLM engage in true government-to-government consultation with the tribes regarding the HF regulations.

NOW THEREFORE BE IT RESOLVED, that NCAI seeks meaningful government-to-government consultation on the Bureau of Land Management's proposed Hydraulic Fracturing regulations so that the regulations will better meet the needs of the tribes.

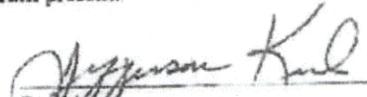
BE IT FURTHER RESOLVED, that the Secretary of the Interior should declare that the proposed BLM Hydraulic Fracturing regulations do not apply to Indian lands because Indian lands are not "public lands" and are for the use and benefit of the tribes and tribal members.

BE IT FURTHER RESOLVED, that NCAI supports the Bureau of Land Management proposing a rule specifically for the Indian lands which should be developed with input from the tribes.

BE IT FURTHER RESOLVED, that this resolution shall be the policy of NCAI until is withdrawn or modified by subsequent resolution.

CERTIFICATION

The foregoing resolution was adopted by the Executive Committee at the 2012 Executive Council Winter Session of the National Congress of American Indians, held at the L'Enfant Hotel and Conference Center in Washington, DC, with a quorum present.


President

ATTEST:


Recording Secretary

NAVAJO NATION OIL & GAS COMPANY

A Federal Corporation

P.O. Office Box 4439 • Window Rock, Arizona • 86515

Telephone (928) 871-4450 • FAX (928) 871-4451



March 20, 2012

Hon. Ken Salazar
Secretary, U.S. Department of the Interior
1849 C Street, NW
Washington, D.C. 20240

Re: Bureau of Land Management's Proposed Hydraulic Fracturing Rule

Dear Secretary Salazar:

On behalf of the Navajo Nation Oil and Gas Company (NNOGC), I am writing to express my concerns with the Bureau of Land Management's (BLM) evident decision to propose a rule to regulate the practice of hydraulic fracturing on public and Indian lands. This decision was confirmed yesterday when BLM Director Bob Abbey testified to the Senate Appropriations Committee that his agency will propose a rule on hydraulic fracturing in April 2012.

As you know, the NNOGC is a corporation wholly-owned by the Navajo Nation, and is a significant producer of oil and natural gas from Navajo Nation lands. With the largest reservation and tribal population in the U.S., NNOGC's energy-related activities represent a major source of revenues to the Navajo Nation and significant employment and income opportunities to Navajo people.

Tribal oil and gas producers around the country, including the Southern Ute Indian Tribe, the Ute Tribe of the Uintah and Ouray Reservation, the Mandan Hidatsa and Arikara Nation, use hydraulic fracturing and believe the practice necessary for the future development of their mineral resources. The NNOGC agrees with these sentiments, particularly with respect to the future development recently-acquired lands and mineral resources.

Should the department proceed with a rule regarding hydraulic fracturing, I strongly suggest it be guided by the following guideposts and suggestions.

- (1) The expressed justification for the rule is to "protect the larger public's interest in the public domain," and as Indian lands cannot remotely be considered "public lands," the rule should not apply to Indian lands in the first instance.
- (2) If the department, nevertheless, decides to proceed with a rule and intends the rule to have application in Indian Country, the rule should not include reference to state and local rules or jurisdiction over activities and persons on Indian tribal lands, see e.g., 25 CFR 1.4.
- (3) Departmental officials have cited environmental protection, and specifically water quality measures, as justifying the need for a Federal rule to regulate activities related to hydraulic fracturing. The reality is that best management practices have been successfully developed in

the oil and gas industry relating to the hydraulic fracturing process, the construction and monitoring of wells and wellbore integrity, groundwater sampling and protection, and others, all of which minimize the types of environmental degradation that is at the heart of the argument for a Federal rule.

(4) Unlike all other landowners in the U.S., Indian tribes and their development corporations such as NNOGC face unique hurdles in their efforts to identify and develop conventional energy resources. These hurdles include significant delays in securing Federal approvals for land leasing and related permitting, an untimely Federal appraisal process, fees for applications for permits to drill and other Federal fees, NEPA compliance, and other challenges which, taken together, result in under-investment in energy resource development on tribal lands.

A new rule relating to hydraulic fracturing, will result in additional and extraordinary delays in getting tribal projects moving because the need for new BLM approvals will likely foster appeals that could take the IBLA a year or two to decide.

(5) Imposing a new and burdensome rule on tribal energy producers is contrary to the essential thrust of legislation now pending in the House of Representatives and the Senate that are intended to remove unreasonable, uneconomic, or anachronistic barriers to more vigorous energy production on Indian lands and to promote tribal self-determination and self-sufficiency. The BLM's proposed HF regulation will place additional burdens on an already over-regulated industry and will harm Indian tribes, their members and surrounding communities, many of which depend on energy production to drive the regional economies.

To-date, the BLM has held four regional meetings to discuss a draft rule informally shared with tribes earlier this year. I am reliably informed that a second draft rule has been developed but has not been circulated to any tribes. Given there is a second draft rule extant, and as various Indian tribes, the National Congress of American Indians, and Members of Congress have already noted in correspondence to you, the breadth and depth of BLM outreach and consultation with Indian Country has been insufficient given the potential impact the rule could have on tribal energy resources and economic development.

I urge you to undertake a more vigorous consultation with the tribal community consistent with President Obama's pledge and Secretarial Order 3317, in which you announced a policy of "enhanced communication" when it comes to decisions that impact Indian tribes and their members.

Thank you for your consideration of my request and your ongoing support of Indian Country.

Sincerely,



WILSON GROEN
President and CEO

Attachments Southern Ute Indian Tribe Letter, Jan. 18, 2012
State of North Dakota Governor Letter, Feb. 8, 2012
Reps. Don Young Dan Boren Letter, Feb. 8, 2012
Ute Indian Tribe Letter, Feb. 9, 2012
Energy Industry Associations Letter, Feb. 15, 2012
State of Utah Dept. of Natural Resources Letter, Feb. 21, 2012
NCAI Letter, Mar. 7, 2012, and Resolution #ECWS-12-005
Mandan, Hidatsa & Arikara Nation Letter, Mar. 9, 2012

end



UTE INDIAN TRIBE
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February 9, 2012

The Honorable Ken Salazar
Secretary
U.S. Department of the Interior
1849 C Street, N.W.
Washington DC 20240

Dear Secretary Salazar:

The Ute Tribal Business Committee (UTBC) on the behalf of the Ute Indian Tribe (the "Tribe") of the Uintah and Ouray Indian Reservation (Reservation) writes to express its concern with the Bureau of Land Management's (BLM) decision to persist with rule and regulations for hydraulic fracturing (Fracing) activities on Indian (Federal) lands. We are not only concerned with the process by which the BLM plans to develop the rule but also the impact it will have on the oil and gas industry on the Reservation.

To date, the BLM has hosted a handful of informational meetings throughout the West and describing that as tribal consultation. An informational meeting describing to tribes what the BLM plans to do is not tribal consultation. Effective tribal consultation is sitting down at the table with tribes to discuss the proposed rule and its effects on the tribal economy and the social structure of the tribe. This has not happened.

According to the draft regulations the BLM handed out in Salt Lake City, UT, the BLM plans to look at three key issues pertaining to the Fracing process: wellbore integrity, disclosure, and flowback water. We know of no incidents on Tribal lands that would precipitate federal regulation.

Oil and gas operators seeking permits to drill on "public lands" already undergo an extensive environmental review process before they can begin drilling activities. This process has become lengthy, time consuming and costly, so much so that there is a backlog of hundreds of permits to drill applications not having been acted upon by the BLM Field Office.

The Environmental Protection Agency, as well as other federal agencies, are currently conducting scientific studies on Fracing. BLM regulation is premature in advance of the EPA study, and BLM has offered no justification for proceeding with this new regulation without the benefit of these studies. Without clear demonstration of a problem with the Fracing process and without providing Tribes and states an opportunity

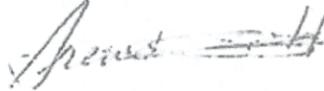
to respond to any identified deficiencies, we feel the BLM regulation is putting the horse before the cart.

According to BLM, Fracing is used in more than ninety percent of the oil and gas wells drilled on "public lands." Oil and gas royalties from drilling on public lands are significant revenue source for the federal government, the Tribe and Utah. Adding additional burdens for the development on Tribal lands could have an adverse effect of forcing operators to shift investment away from our Reservation, thus depriving the Tribe of needed revenue.

A significant effect in Utah would fall on the significant acres of trust lands managed by the Tribe on our Reservation. After many years of economic hardship, the Tribe and its members are finally seeing improved economic conditions on the Reservation due to the oil activity on the Reservation. New BLM rules on Hydraulic Fracturing would disproportionately impact the Tribe due to our greater reliance on oil and gas development for economic growth and sustainability.

For these reasons, the Ute Indian Tribe requests that BLM not move forward at this time with the development of regulations for Hydraulic Fracturing on public lands and more specifically Reservation lands.

Sincerely,

A handwritten signature in cursive script, appearing to read "Irene C. Cuch", with a horizontal line underneath.

Irene C. Cuch, Chairwoman
Ute Tribal Business Committee



SOUTHERN UTE INDIAN TRIBE

January 18, 2012

Jim Stockbridge, Trust Liaison Officer
Bureau of Land Management
Denver Federal Center, Building 50
P.O. Box 25047
Denver, Colorado 80225-0047

**Re: Government-to-Government Consultation Concerning BLM Development
of Hydraulic Fracturing Regulations for Federal and Tribal Trust Lands**

Dear Mr. Stockbridge:

I am writing in response to the letter from Michael D. Nedd, BLM's Assistant Director for Minerals and Realty Management, dated December 9, 2011, inviting the Tribe to engage in government-to-government consultation regarding BLM's intent to develop regulations governing hydraulic fracturing of oil and gas wells on federal and trust lands. At this initial consultation phase, we have broken our comments into three categories: (1) suggestions for process; (2) a summary of the importance of hydraulic fracturing to the Tribe and the development of the Tribe's minerals; and (3) a summary of the environmental concerns and protection measures associated with hydraulic fracturing. It is the Tribe's position that any new regulations regarding hydraulic fracturing should be cost effective, consistent with industry best management practices, and require full public disclosure of the chemical constituents of hydraulic fracturing fluids used by oil and gas operators.

I. Suggestions for Process.

We appreciate that BLM appears to be requesting consultation with the Tribe at an early stage in the process of developing regulations. As an initial matter, we would suggest that the consultation process include not only an opportunity for comment on proposed BLM regulations but consultation on the formulation of proposed regulations. With that suggestion in mind, we are furnishing these initial comments which include several concepts that we believe should guide the development of any new hydraulic fracturing regulations. To ensure that the Tribe has an opportunity for meaningful input on the development of the regulations, we request that the BLM circulate discussion drafts of possible regulations for review and comment before any proposed

regulations are issued.

II. Tribe's Economic Interest in Hydraulic Fracturing.

The Tribe has a significant interest in BLM's regulation of hydraulic fracturing operations based on the Tribe's interest in both oil and gas development and environmental protection. This historic well stimulation practice has been conducted on the vast majority of wells on the Reservation and is necessary for the continued development of conventional oil and gas resources as well as coalbed methane.

Advancements in oil and gas related technologies have created the potential for development of shale formations on the Reservation. In order to recover the hydrocarbon resource in these low permeability formations, hydraulic fracturing is a necessity. It is the hydraulic fracturing process that creates the permeability in shale formations and makes the extraction of oil and gas economically feasible. Preliminary studies indicate that there are significant recoverable reserves associated with several shale formations on the Reservation. The development of these shale plays could have substantial socio-economic benefit to the Tribe and these reservoirs could not be developed in the absence of hydraulic fracturing.

III. Environmental Concerns and Protection Measures associated with Hydraulic Fracturing.

The major environmental concerns regarding hydraulic fracturing of oil and gas wells are related to water quality/quantity issues, air quality, worker safety, and the disclosure of chemicals used in hydraulic fracturing. The following section summarizes these concerns and the existing environmental protection and monitoring methods available to oil and gas companies conducting the stimulation process.

Water Quality/Quantity

With respect to water quality, the main concern is that hydraulic fracturing of oil and gas reservoirs could create preferential pathways connecting shallow aquifers with the hydrocarbon bearing zone and subsequently contaminate useable water supplies. The potential for hydraulic fracturing to impact shallow aquifers is dependent on the site specific geology and appropriate completion techniques, but is generally low. There is often a significant interval of low permeability strata between the shallow aquifers and the hydrocarbon bearing zones that retards the movement of fluids between these formations. An understanding of the local geology is crucial in evaluating the potential for hydraulic fracturing to impact shallow aquifers.

The potential for impacts to shallow aquifers can be minimized through proper casing and cementing procedures. Casing serves to isolate drinking water aquifers from fluids inside the wellbore and the cementation of the annulus between the formations and the

well casing prohibits the vertical and horizontal migration of fluids in the vicinity of the wellbore.

Another issue of concern is the demand that hydraulic fracturing could place on groundwater and surface water supplies. It is thought that the quantity of water required to conduct hydraulic fracturing operations on shale wells could deplete water supplies that will be needed for other uses. Operators should recycle water associated with hydraulic fracturing whenever possible. This best management practice will help minimize the impact on local water supplies.

Air Quality

Air emissions associated with hydraulic fracturing and well completions have also been a topic of environmental concern. Operators should use appropriate best management practices and remain in compliance with the relevant rules and emission standards associated with the hydraulic fracturing operations.

Worker Safety

Another major concern associated with hydraulic fracturing is that the chemicals used in the hydraulic fracturing process could be harmful to human health. Proper health and safety practices should be followed during the well stimulation process to minimize the potential for impacts to human health and the environment. These practices include the use of personal protective equipment, the availability of MSDS sheets onsite, and the proper containment of fluids and chemicals.

Chemical Disclosure

As a matter of transparency and good environmental and health and safety practices, the Tribe believes that operators on federal and tribal trust land should participate in disclosure programs that track the chemicals used in the hydraulic fracturing process.

Environmental Protection Measures

A variety of best management practices exist within industry to monitor the hydraulic fracturing process, wellbore integrity, and potential environmental impacts. These practices include pressure monitoring before and during the well stimulation, bradenhead testing, domestic water well sampling, and the collection of cement bond log data. Beyond the efforts of monitoring, proactive protection of groundwater and the surrounding environment can be accomplished through best management practices including successful completion techniques (casing and cementing), proper waste management, recycling of water, and spill prevention methods implemented for fluid and chemical storage vessels on the ground surface.

IV. Conclusion.

In conclusion, we appreciate the opportunity to engage in government-to-government consultation and request that the BLM circulate discussion drafts of possible regulations for review and comment before any proposed regulations are issued.

Hydraulic fracturing is vital to the production of oil and gas resources on the Reservation. In the absence of hydraulic fracturing, the commercial viability of current and future oil and gas development could be significantly compromised. Care must be taken, therefore, to ensure that any new regulations governing hydraulic fracturing are not overly burdensome.

Best management practices currently in use serve to ensure environmental, health, and safety protection for the general public and the Tribal membership. A variety of monitoring and environmental protection techniques are currently available to and being implemented by oil and gas companies. New regulations associated with hydraulic fracturing, therefore, should be cost effective and consistent with industry best management practices.

Thank you once again for the opportunity to submit these initial comments. We look forward to actively participating in the regulation development process and we expect that BLM will give our comments serious consideration.

Sincerely,



Jimmy R. Newton, Jr., Chairman
Southern Ute Indian Tribal Council

cc: Charley Flagg, Justice & Regulatory Director
Lena Atencio, Natural Resources Department Director
Bruce Valdez, Growth Fund Executive Director
Tribal Council Members



SOUTHERN UTE INDIAN TRIBE

April 9, 2012

Jim Stockbridge, Trust Liaison Officer
Bureau of Land Management
Denver Federal Center, Building 50
P.O. Box 25047
Denver, Colorado 80225-0047

Re: Tribal Comments Regarding the BLM's Proposed Hydraulic Fracturing Regulations

Dear Mr. Stockbridge:

On behalf of the Southern Ute Indian Tribe, I would like to thank you for meeting with our staff on January 19, 2012 as an initial step in the government-to-government consultation process associated with the BLM's development of hydraulic fracturing regulations. We hope that the consultation process continues and the BLM conducts additional meetings with Tribes who will be impacted by the proposed regulations. A meaningful consultation process is critical to the formulation of regulations that are in the best interest of tribes.

At the January 19th meeting, BLM staff presented background and concepts to be considered in the development of proposed regulations, and the Tribe provided general comments regarding the importance of hydraulic fracturing in developing the Tribe's oil and gas resources in a prudent manner. In our comment letter, we suggested that the tribal consultation process on this important subject include not only an opportunity for comment on the proposed regulations, but also consultation during the formulation of those regulations. Although BLM has not yet published proposed regulations in the Federal Register for public comment, it is our understanding that BLM has prepared draft proposed regulations and has submitted them to the Office of Management and Budget for publication approval without consulting our Tribe or other affected tribes. We do not believe that the preparation and submission of draft proposed rules to OMB without further input from affected tribes constitutes meaningful tribal consultation.

P.O. Box 737 + IGNACIO, CO 81137 + PHONE: 970-563-0100

At the January 19, 2012 meeting, the Tribe expressed its interest in hydraulic fracturing from both an economic and environmental protection standpoint. In short, the Tribe stated its desire that any new regulations associated with hydraulic fracturing be cost effective and consistent with best available industry practices.

The Tribe has reviewed the BLM's summary of draft proposed hydraulic fracturing regulations, and this letter presents specific suggestions that we urge BLM to adopt prior to publication of proposed rules. We hope that the information provided in this letter will assist in your development of regulations that are protective of the environment and allow for the continued economic development of the Tribal mineral estate.

Background

The Southern Ute Indian Reservation is located in the northern portion of the San Juan Basin, an area with a long history of both oil and gas development and environmental protection. For decades, the Tribe, industry, and the BLM have worked together in this portion of the basin to ensure that oil and gas development proceeds in an environmentally responsible manner.

Large scale efforts such as the Bradenhead testing program and the domestic water well sampling program have resulted in extensive databases of wellbore integrity and groundwater quality information. The Bradenhead testing program has been successful in identifying wellbore integrity issues and operators have mitigated those issues accordingly. The most recent BLM Bradenhead testing report indicated a substantial increase in the number of wells displaying lower bradenhead test pressure/flow and stated that this favorable trend is the result of remediation and mitigation efforts. Thousands of wells on our Reservation have been stimulated through hydraulic fracturing and, because there have been no documented cases of adverse environmental impacts resulting from well stimulation, the previously mentioned programs confirm that the current balance of regulation and industry best practices is adequate and effective.

Hydraulic fracturing is necessary for the continued development of both conventional and coalbed methane resources on our lands. Beyond these existing plays, preliminary studies indicate that there are significant recoverable reserves associated with shale formations underlying the Reservation. The development of these shale plays could have substantial economic benefit to the Tribe and they cannot be developed if hydraulic fracturing regulations are overly burdensome and compromise the commercial viability of continued development.

Tribal Comments Regarding Proposed Regulations

Based on our review of the materials circulated by BLM, certain portions of the draft proposed regulations create concern within the Tribe with respect to timing, cost-effectiveness, and environmental liability. These issues are discussed in detail below.

Comment #1 - Regarding Section 3162.3-3(a) Subsequent well operations; Well stimulation. A proposal for well stimulation operations must be submitted by the operator on Form 3160-5 (Sundry Notices and Reports on Wells) for approval by the authorized officer at least 30 days before commencement of operations is desired.

Providing information that includes specific details of the hydraulic fracturing design 30 days prior to the commencement of the hydraulic fracturing operation is not practical. Typically, the design of the hydraulic fracturing treatment does not happen until the well has been drilled and specific data regarding the target formation have been obtained. These data are used to design the hydraulic fracturing treatment accordingly. The hydraulic fracturing operation is conducted as quickly as possible following the design, often less than 30 days, in order to utilize equipment in the field efficiently and minimize surface impacts and wildlife disturbance.

It is unreasonable to require the operator to submit detailed information that is not available 30 days before the normal commencement of such operations. If operators must comply with the 30-day advance notice requirement, it is likely that operators may provide information that is only an estimate and therefore, possibly inaccurate.

A more reasonable approach would be to require general information regarding a typical hydraulic fracturing design for the particular formation as part of the Application for Permit to Drill (APD) process with a clear understanding that modifications will be made when specific data are obtained. When these data are obtained, an operator could provide specifics regarding the hydraulic fracturing design, for information purposes only, prior to the commencement of the well stimulation. However, the operator's ability to conduct hydraulic fracturing during the development of the Tribal mineral estate should not be contingent upon additional approvals beyond the APD. Waiting for BLM approval would cause substantial delays to an already time-sensitive process.

Operators have performed hydraulic fracturing on the Reservation for decades and sound casing and cementing procedures have ensured the protection of the surrounding environment. Some commentators have suggested that the scale of hydraulic fracturing today is greater than in the past. However, hydraulic fracturing of a horizontal shale well consists of a series of small fracs conducted over a long horizontal lateral. Each individual frac stage is much smaller than a traditional frac job conducted on a vertical well. Furthermore, the implementation of horizontal drilling and multi stage hydraulic fracturing technology minimizes surface disturbance and environmental impact, while allowing for more efficient development of the resource.

Changing current practice by requiring BLM approval of a detailed hydraulic fracturing design 30 days prior to commencement of the operations will undoubtedly have negative impacts to the Tribe's oil and gas interests without creating additional environmental protection.

Comment #2 - Regarding Section 3162.3-3 (a) (2) Subsequent well operations: Well stimulation. ... The proposed measured depths (both top and bottom) of all occurrences of usable water and provide Cement Bond Logs (or another log acceptable to the authorized officer) proving that the occurrences of usable water have been isolated to protect them from contamination.

The Tribe agrees that well bore integrity, through proper casing and cementing procedures, is critical to the protection of groundwater aquifers. On our Reservation, years of research have identified the useable aquifers, and these zones are located at extremely shallow depths (frequently 100 to 300 feet below ground surface). The hydrocarbon bearing zones are located at much greater depths (2,500 to 8,000 feet below ground surface), and there is often a significant interval of low permeability strata that retards the movement of fluids between the two zones. These geologic barriers, as well as sound casing and cementing procedures, ensure the protection of useable groundwater on our Reservation.

Operators should continue to provide cement bond log (CBL) data to the BLM whenever it is collected for a well drilled into the Tribal mineral estate. However, operators do not automatically run CBL's as this has never been a requirement of regulatory agencies and there are timing and cost considerations associated with running such a log. CBL's are usually run at the discretion of the operator, typically when the operator has reason to believe that the integrity of the cement job is inadequate and requires attention.

In the past, circulation of cement to surface has been sufficient evidence of a successful cement job and subsequent protection of groundwater aquifers. The Tribe was instrumental in requiring cement to surface in the San Juan Basin. This information, along with the details of the casing and cementing procedures, are

provided to the BLM in a well completion report.

Requiring CBL's for every well that will be stimulated through hydraulic fracturing is not cost effective and could create burdens that compromise the economic feasibility of the project. This draft proposed regulation should be revised to require that operators continue to provide to the BLM well completion reports, along with any other available information regarding the condition of the well completion, to indicate that groundwater aquifers are protected.

Please note that the domestic water well sampling program in the northern San Juan Basin indicates that the current practices mentioned above have been sufficient in protecting groundwater. The Bradenhead testing program already in place will identify potential threats to groundwater, and mitigation plans can be designed under the existing regulations to address these issues. The Tribe was instrumental in requiring and enforcing the Bradenhead testing program.

Comment #3 - Regarding Section 3162.3-3 (a) (7) Subsequent well operations; Well stimulation. A certification signed by the operator that the proposed treatment fluid complies with all applicable permitting and notice requirements as well as all applicable Federal, state, and local laws, rules, and regulations.

The Tribe supports limiting the use of treatment fluids to those that comply with the relevant laws, rules, and regulations; however, requiring the operator to sign such a certification is not appropriate as it is the service company that is ultimately in control of the fluids being pumped into the subsurface. While operators should strive to maintain good communication with their service companies, their control over the composition of the treatment fluids is limited to the instructions they provide to the service company. Continuous monitoring of fluids being utilized by the service company is not feasible for the operator and therefore, this regulation should be revised to state the following:

A certification signed by the operator that the operator has instructed the service company to utilize treatment fluids that comply with all applicable permitting and notice requirements as well as all applicable Federal, state, and local laws, rules, and regulations.

This language will ensure that the requirement for compliance is placed with the entity that has the ability to ensure compliance and that the certification is something that the operator can reasonably sign. A similar revision is warranted for the draft proposed regulation regarding the subsequent certification associated with the treatment fluids that were used during well stimulation.

Comment #4 - Regarding 3162.3-3 (a) (4) and (5) - Subsequent well operations; Well stimulation. A report (table) that discloses all additives of the proposed stimulation fluid...A report (table) that discloses the complete chemical makeup of all materials used in the proposed stimulation fluid...

The Tribe supports the full disclosure of chemicals used in the hydraulic fracturing process. Full disclosure is in the best interest of Tribes, industry, regulators, and the public as it will ensure a transparent process and allow for emergency response to occur in an efficient manner.

Comment #5 - Conditions of Approval should be consistent with regulations.

Future Conditions of Approval (COA's) associated with APD's should be consistent with existing regulations. Recently, the approval of an APD submitted to the BLM by the Tribe contained numerous COA's that were above and beyond the BLM's proposed hydraulic fracturing regulations. Communication between the Tribe and the local BLM office indicated that future Sundry Notices may require the following COA's:

"soil sampling and analyses proximal to the well pad; surface water and/or groundwater sampling, analysis, and monitoring requirements; Microseismic monitoring during frac operations; utilization of tracer chemicals in completion fluids; installation of offset water monitoring wells...sampling and/or chemical analyses of completions and or flowback fluids ...cement/casing reviews and repairs for offset plugged and abandoned wells."

These requirements could make projects completely uneconomic. The cost of conducting microseismic alone, for example, is often several hundred thousand dollars. It is important that the BLM communicates efficiently within its own organization to ensure that future COA's are consistent with its own regulations. If site-specific conditions warrant additional COA's beyond the proposed regulations, cost-effectiveness must be taken into account. Furthermore, to the extent that the imposition of specific COA's reflects a uniform practice that has not gone through notice-and-comment rulemaking, the imposition of such conditions may well be invalid as violating the Administrative Procedures Act (5 U.S.C. §553).

Comment #6 - Federal regulation of hydraulic fracturing should be conducted by a single federal agency.

Recent developments regarding the regulation of hydraulic fracturing indicate that multiple federal agencies have expressed interest in the issue. If the federal government is to regulate hydraulic fracturing, it is critical that a single lead agency conducts the regulation and coordinates with the other federal agencies as

needed. This will prevent inconsistent regulation from multiple entities that could significantly slow down the permitting process.

Comment #7 - The BLM does not have sufficient staffing to implement the proposed regulations.

The BLM does not have sufficient funding or staffing to implement the draft proposed regulations and process APD's in a timely manner. Hydraulic fracturing designs are highly technical and the majority of regulators are incapable of conducting meaningful review and comments on the proposed treatments. BLM staffing on a local level is already limited and substantial increases in responsibilities beyond the technical capabilities of existing staff will unnecessarily slow down the permitting process.

Conclusion

We appreciate the opportunity to provide comments regarding the BLM's draft proposed hydraulic fracturing regulations. We encourage the BLM to continue the consultation process with Tribes that will be impacted by the proposed regulations. We hope that the information provided in this letter will be used to revise the draft regulations accordingly. The continued use of hydraulic fracturing as a well stimulation technique is critical to the Tribe's oil and gas development interests and must be regulated in a manner that is not only protective of the environment, but also cost effective and consistent with industry practices. Please feel free to contact us with any additional questions that you may have.

Sincerely,



Jimmy R. Newton, Jr., Chairman
Southern Ute Indian Tribal Council

cc: Southern Ute Tribal Council
Southern Ute Indian Tribe Growth Fund
Southern Ute Indian Tribe DNR
Southern Ute Indian Tribe EPD
BLM
BIA



THE SECRETARY OF THE INTERIOR
WASHINGTON

37709 outgoing
went to all signers
of incoming letter

JUN 20 2012

The Honorable Scott Tipton
House of Representatives
Washington, DC 20515

Dear Representative Tipton:

Thank you for your letter dated April 18, 2012, regarding the Bureau of Land Management's ongoing effort to update its regulations pertaining to hydraulic fracturing. I welcome your comments about the potential effects this rule may have on oil and gas production on Federal and Indian lands.

On May 4, 2012, the Department of the Interior announced the release of a proposed rule that would require public disclosure of chemicals used in hydraulic fracturing on Federal and Indian lands, strengthen regulations related to well-bore integrity, and address issues related to flowback water. Publication of the proposed rule in the Federal Register on May 11, 2012, initiated a 60-day public comment period, during which tribal, state, and local governments, industry, other stakeholders, and the public are encouraged to provide their input. In the spirit of Secretarial Order No. 3317 and the Department's policy on consultation with Indian tribes, the BLM is committed to working closely with tribes throughout this process.

The Bureau of Land Management held four consultation sessions in January 2012, and four additional forums for tribal representatives before the proposed rule was published in the Federal Register. Through its efforts, the BLM met with approximately 35 tribes this spring. In May 2012, after publication of the proposed rule in the Federal Register, the BLM invited tribes to four additional consultation sessions that it held in June. In advance of these meetings, the BLM telephoned the tribes to alert each of them to the written invitation and assess each tribe's interest in individual consultation opportunities. The BLM is now responding to requests for individual consultations that tribes made during those telephone calls, at the regional meetings, or through other interactions with BLM staff. For example, the BLM is working to schedule further consultation with Fort Berthold this summer. Consultation with interested tribes is ongoing and will continue throughout the rulemaking process.

In response to your specific requests, I am enclosing an external thumb drive that contains responsive material provided by the BLM, including:

- A copy of the BLM's December 2011 invitation letter to tribes and a list of addresses for January 2012 consultation sessions in Tulsa, Oklahoma; Billings, Montana; Salt Lake City, Utah; and Farmington, New Mexico.

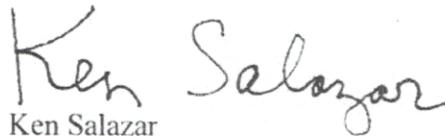
- The documents distributed at the January 2012 consultation sessions.
- Copies of the sign-in sheets for the January consultation sessions.
- A copy of the BLM's May 2012 invitation letter to tribes for consultation sessions this June in Salt Lake City, Utah; Farmington, New Mexico; Tulsa, Oklahoma; and Billings, Montana. The list of addresses is the same as that used for the December 2011 invitation letter.
- Copies of the sign-in sheets for the June consultation sessions.
- A copy of the proposed rule, the accompanying economic analysis, and the environmental assessment that the tribes received on a CD prior to the June consultation sessions.
- A copy of BLM Instruction Memorandum 2012-108, which outlines the tribal consultation procedure that BLM is following during this rulemaking process, as well as BLM Handbook H-8120-1, which outlines BLM guidelines for tribal consultation.

As the BLM moves forward with tribal consultation under the guidelines established in IM 2012-108, we will evaluate each tribe's concerns from the perspective of proper execution of the Department's trust responsibility, including acknowledgment of tribal sovereignty, the protection of tribal resources, and the development of sustainable tribal economies.

Thank you for your interest in this important matter. We look forward to continuing to work with tribes to help ensure that oil and gas development may occur in a safe and environmentally responsible manner on Indian lands.

A similar response is being sent to the co-signers of your letter.

Sincerely,


Ken Salazar

Enclosure

MATTHEW H. MEAD
GOVERNOR

THE STATE OF WYOMING



STATE CAPITOL
CHEYENNE, WY 82002

ES0 37594 incoming

Office of the Governor

April 12, 2012

The Honorable Ken Salazar
Secretary of the U.S. Department of the Interior
U.S. Department of the Interior
1849 C Street, NW
Washington, D.C. 20240

Dear Secretary Salazar,

In 2010, Wyoming became the first state in the nation to develop and adopt rules pertaining to hydraulic fracturing. Wyoming's rules address well-bore integrity and flowback water, require disclosure of hydraulic fracturing constituents, and apply on federal, private and state lands. These rules were developed based on sound science and a thorough public process. They are intended to protect public health, safety, and the environment while allowing economic growth.

I have heard no concern from the Bureau of Land Management (BLM) about the adequacy of Wyoming's regulatory structure. It is troubling, then, to learn that the BLM has drafted similar rules pertaining to hydraulic fracturing for oil and natural gas production on federal land, including land where mineral interests are federal. I am concerned that the proposed rules will duplicate and possibly be sequential to Wyoming's rules. Such layering of federal rules on top of existing state rules is unnecessary, burdensome, and unreasonable. Such redundancy will add cost and delay to a process that is already efficiently, effectively regulated by the State of Wyoming.

BLM's rulemaking effort here appears to go against Executive Order 13563, "Improving Regulation and Regulatory Review", in which the President ordered the least burdensome tools for achieving regulatory ends and the promotion of predictability and certainty. That Order also required taking into account benefits and costs. The BLM's exercise to regulate what is already state-regulated does not meet the letter or the spirit of the President's Order. For example, the proposed rules will create unpredictability and increase uncertainty not only for operators developing the resource but also for states like Wyoming that are proactively and responsibly regulating hydraulic fracturing right now. And, given the added delay and other burdens

To: Honorable Ken Salazar
April 12, 2012
Page 2

associated with the proposed rules, a cost-benefit accounting appears missing or flawed.

I respectfully request that the BLM not duplicate Wyoming's regulations or impose duplicate regulations on Wyoming. I further request that BLM defer to states, like Wyoming, that adequately and effectively manage hydraulic fracturing. I appreciate your consideration of my comments and look forward to hearing back from you.

Sincerely,



Matthew H. Mead
Governor

MHM:tt

cc: The Honorable Mike Enzi, U.S. Senate
The Honorable John Barrasso, U.S. Senate
The Honorable Cynthia Lummis, House of Representatives

EXECUTIVE
OFFICE OF THE
GOVERNOR

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THE SECRETARY OF THE INTERIOR
WASHINGTON

MAY 10 2012

The Honorable Matthew H. Mead
Governor of Wyoming
Cheyenne, Wyoming 82002

Dear Governor Mead:

Thank you for your letter dated April 12, 2012, regarding hydraulic fracturing and the Bureau of Land Management's ongoing efforts to produce a draft rule on well stimulation. I appreciate you taking the time to share your concerns about the effects that this kind of regulation could have in Wyoming.

As you may know, the BLM's hydraulic fracturing regulatory framework dates from 1982 and does not reflect the significant technological advances that have occurred over the past 30 years. Today, hydraulic fracturing occurs on nearly 90 percent of all wells drilled on public lands. The BLM invited tribal representatives to engage in government-to-government consultation by attending meetings in Oklahoma, Montana, Utah, and New Mexico. Additional public forums were held in North Dakota, Arkansas, Colorado, and Washington, D.C. During these sessions, the Department of the Interior received a clear message from the public and tribal representatives that they would like the BLM to update its regulations on well stimulation and that more information about post-drilling stimulation operations on public lands should be provided to the public.

It is commendable that the State of Wyoming became the Nation's first to implement rules regarding hydraulic fracturing. Your efforts to protect the health and safety of Wyoming's citizens and environment are examples the BLM will follow as it continues to refine the proposed rule. On May 4, 2012, I announced the release of a proposed rule that would require public disclosure of chemicals used in hydraulic fracturing on public and Indian lands, strengthen regulations related to well-bore integrity, and address issues related to flowback water. Once the proposed rule is published in the Federal Register, a 60-day public comment period will begin, during which the public, governments, industry, and other stakeholders are encouraged to provide their input. We look forward to continuing to work with Wyoming during this process to avoid burdensome regulations and duplicative or redundant efforts at the Federal level.

I appreciate and share your thoughts about the importance of robust oil and gas development in the United States. Strong domestic production is critical to our efforts to reach energy independence. I am confident that by providing the public with more information about drilling activities on public lands—in addition to strengthening well bore integrity standards and water management practices—that we can ensure a bright future for this important energy source.

As we move forward, we will continue to work closely with industry, Federal and state agencies, tribal representatives, and the public to evaluate how best to update our requirements to help assure robust development of our domestic energy resources while also protecting the important resource values of our public lands.

I look forward to working with you as we continue the pursuit of balanced stewardship of America's public lands and resources.

Sincerely,

A handwritten signature in black ink that reads "Ken Salazar". The signature is written in a cursive, flowing style.

Ken Salazar

37361. incoming



MANDAN, HIDATSA & ARIKARA NATION
Three Affiliated Tribes * Fort Berthold Indian Reservation
Tribal Business Council

Tex "Red Tipped Arrow" Hall
Office of the Chairman

April 3, 2012

The Honorable Ken Salazar
Secretary
U.S. Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

RE: BLM Fails to Fulfill Tribal Consultation Policies for Hydraulic Fracturing Regulations

Dear Secretary Salazar:

As you know, the Office of Management and Budget (OMB) is currently reviewing draft regulations developed by the Bureau of Land Management (BLM) to regulate hydraulic fracturing. These regulations will have a substantial impact on energy development on Indian lands.

In developing its hydraulic fracturing regulations, BLM has not complied with Executive Order No. 13175 on Consultation and Coordination with Indian Tribal Governments, the Department of the Interior's Policy on Consultation with Indian Tribes (Tribal Consultation Policy), and your December 1, 2011 affirmation of those policies in Secretarial Order No. 3317. BLM's actions to date do not comply with its obligations under the federal trust responsibility and do not fulfill the Department's long-standing and ongoing commitment to consult with Indian tribes.

I request that you withdraw the proposed regulations from OMB and postpone their publication in the Federal Register until BLM has complied with tribal consultation policies. In the alternative, BLM should exclude any permits on Indian lands from the proposed regulations until proper and meaningful consultation with tribes can occur.

I also formally request that you enlist the Department's Tribal Governance Officer (TGO) to monitor BLM's compliance with the Department's Tribal Consultation Policy, Executive Order No. 13175, and other consultation requirements. Working with the TGO and the Assistant Secretary for Indian Affairs, the BLM needs to first develop an appropriate consultation protocol and timeline. This consultation protocol should clarify that BLM is prepared to: (1) withdraw the draft regulations from OMB or excluded permits on Indian lands from the proposed regulations, (2) work with tribes to develop a consultation timeline, (3) engage tribes in the Initial Planning Stage and the other two stages of consultation, and (4) generally set out the steps that BLM will follow to comply with the Department's Tribal Consultation Policy and other

consultation requirements. In addition, the TGO, the Assistant Secretary and BLM should work with tribes to determine how the proposed regulations should apply in Indian Country in light of the federal trust responsibility, federal policy to promote economic development and tribal self-sufficiency, and other concerns unique to Indian Country.

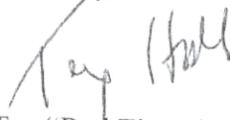
We have already attempted to address these issues with BLM. On March 26, 2012, a few tribes met with BLM in Washington, D.C. to resolve our concerns regarding BLM's failure to meaningfully consult with tribes. BLM rejected our concerns. BLM stated that its past actions and its willingness to meet with tribes if tribes so request fulfills the Department's tribal consultation policies. As we discuss in the attached memorandum, these actions completely fail to provide tribes with effective consultation as required by the Administration's and the Department's consultation policies.

BLM's actions fail to fulfill a policy that is only four months old. In December 2011, the Department announced that its new Tribal Consultation Policy would provide, "a strong, meaningful role for tribal governments at all stages of federal decision-making on Indian policy." Press Release, Department of the Interior, "Secretary Salazar Kicks Off White House Tribal Nations Conference at Department of the Interior" (Dec. 2, 2011). In the development of its hydraulic fracturing regulations, BLM has not afforded tribes the meaningful role promised in the Department's announcement.

Fortunately, BLM still has the opportunity to correct its violation of the policy and take steps to fully engage tribes in consultation. I look forward to working with you, your TGO, the BLM, and the Assistant Secretary for Indian Affairs to develop an appropriate tribal consultation protocol to consider issues related to hydraulic fracturing.

Thank you for your attention to this issue.

Sincerely,



Tex "Red Tipped Arrow" Hall, Chairman
TAT - MHA Nation

Enclosure

cc w/enclosure: Larry Echo Hawk, Assistant Secretary for Indian Affairs
Bob Abby, Director, Bureau of Land Management

MEMORANDUM

Requirements of the Administration's and the Department of the Interior's Policies on Consultation with Indian Tribes in Regard to the Bureau of Land Management's Proposed Hydraulic Fracturing Regulations

April 3, 2012

The Bureau of Land Management (BLM) is developing a regulation for hydraulic fracturing activities that will have significant impacts on tribal resources and Indian energy development. Since BLM has not engaged in meaningful or appropriate consultation with Indian tribes and has not fulfilled its trust obligations to consult with tribes, BLM must withdraw the draft hydraulic fracturing regulations from the Office of Management and Budget (OMB) or should exclude the application of these regulations to any permits on Indian lands until proper and meaningful consultation with tribes can occur. In addition, the Department's Tribal Governance Officer (TGO), the Assistant Secretary for Indian Affairs and BLM should work with tribes to develop an appropriate consultation protocol and timeline for the development of any regulation.

The Department of the Interior's Policy on Consultation with Indian Tribes (Tribal Consultation Policy) requires that the BLM structure a consultation process to allow "timely input" from tribes and which will enable BLM to work with tribes as "collaborative partners." Tribal Consultation Policy § VII.E.2. The policy states that, "[c]onsultation is a deliberative process that aims to create effective collaboration and informed Federal decision-making. Consultation is built upon government-to-government exchange of information and promotes enhanced communication that emphasizes trust, respect, and shared responsibility." *Id.* § II.

Because of the impacts the proposed regulation will have on tribal resources, BLM is required to follow the "Stages of Consultation" set out in the Department's Tribal Consultation Policy in the development of any hydraulic fracturing regulations. These stages include an "Initial Planning Stage," a "Proposal Development Stage," and an "Implementation of Final Federal Action Stage."

As described in detail below, BLM has only begun to meet the requirements of the Initial Planning Stage. BLM's tribal consultation actions to date consist of the January 2012 Regional Tribal Consultation meetings and a few follow up meetings with individual tribes. This is just the beginning of tribal consultation. At this stage, BLM should not have draft regulations pending at OMB.

In addition, BLM must take proactive steps to correct its failure to comply with the Department's Tribal Consultation Policy and its federal trust obligations. This is particularly needed because BLM has already provided the draft hydraulic fracturing regulations to OMB. BLM's actions to date have given tribes the impression that tribal input is not desired or only minimally needed.

The Department should enlist its TGO to monitor BLM's actions as it develops an appropriate consultation protocol and restarts tribal consultation. Throughout the consultation process, the Department's TGO is also directed to facilitate government-to-government consultation, to implement a reporting system to ensure that consultation efforts are documented and reported to the Secretary, and to fulfill other TGO obligations under the Department's policy. Tribal Consultation Policy § VII.B.1(a)-(g).

The resulting consultation protocol should clarify that BLM is prepared to: (1) withdraw the draft regulations from OMB or excluded permits on Indian lands from the proposed regulations, (2) work with tribes to develop a consultation timeline, (3) engage tribes in the Initial Planning Stage and the other two stages of consultation, and (4) generally set out the steps that BLM will follow to comply with the Department's Tribal Consultation Policy and other consultation requirements.

Initial Planning Stage

During the Initial Planning Stage, BLM is directed to involve tribes "as early as possible" and provide enough information to enable tribes to fully engage and assist in the development of regulations that will affect tribal resources. Tribal Consultation Policy § VII.E.1. This early stage should be informative as BLM identifies and describes the issue it believes needs regulation and it must also include a meaningful dialogue in which BLM considers tribal views on the issue, the need for regulation and alternatives for addressing the issue. Based on a review of BLM's actions to date, BLM has only begun to comply with the requirements of the Initial Planning Stage of the Department's Tribal Consultation Policy.

As an initial matter, the April and November 2011 Regional Public Forums in Bismarck, North Dakota, Little Rock, Arkansas, Denver, Colorado, and Washington, D.C. were not part of the tribal consultation process as BLM has asserted in meetings with tribes. These meetings were advertised to the general public, were not directed to tribal leaders, and were purely informational. These are not tribal consultation sessions on a government-to-government basis and should not be represented by BLM as part of the tribal consultation process.

The January 2012 Regional Tribal Consultations in Tulsa, Oklahoma, Billings, Montana, Salt Lake City, Utah; and Farmington, New Mexico could be considered a beginning to tribal consultation, but on their own, they do not fulfill the Department's Tribal Consultation Policy. These meetings were purely informational. The BLM made no attempt at these meetings to involve tribes in determining the scope of the issue, offer tribes an opportunity to participate in drafting the regulations, or engage tribes in a discussion of alternatives to federal regulation.

BLM's failure to involve tribes early in the regulation development process violates basic tribal consultation principles. For example, Executive Order No. 13175 requires that agencies, "consult with tribal officials as to the need for Federal standards and any alternatives that would limit the scope of Federal standards or otherwise preserve the prerogatives and authority of Indian tribes." Exec. Order No. 13175 § 3(c)(3) (Nov. 9, 2000). BLM never consulted with

tribes on the need for a hydraulic fracturing regulation or preservation of tribes' authority to regulate the issue themselves.

Based on these actions and according to the Department's Tribal Consultation Policy, BLM is still in the Initial Planning Stage of tribal consultation. Consequently, BLM's draft regulations needs to be withdrawn from OMB or permits on Indian lands should be excluded from the regulation until BLM has complied with the policy. Allowing the draft regulation to be published in the Federal Register before initial consultation stages are completed would violate the Administration's and the Department's tribal consultation policies.

Proposal Development Stage

Without fully initiating or completing the Initial Planning Stage, BLM is attempting to skip ahead and quickly complete the Proposal Development Stage with little to no tribal involvement as required by the Department's Tribal Consultation Policy. Contrary to BLM's actions, the Department's Tribal Consultation Policy requires BLM to work with tribes at the beginning of the Proposal Development Stage to establish a timeline for the consultation process. The Tribal Consultation Policy also requires BLM to work with Tribes as "collaborative partners."

First, at the start of the Proposal Development Stage, BLM is required to work with tribes to develop an appropriate schedule for the consultation. The Tribal Consultation Policy specifically states that:

The Bureau or Office shall develop a process . . . that maximizes the opportunity for timely input by Indian Tribes and is consistent with both Tribal and Bureau or Office schedules. The Bureau or Office will solicit the views of affected Indian Tribes regarding the process timeline to consult on a Departmental Action with Tribal Implications. The Bureau or Office should work with Indian Tribes to structure a process, to the extent feasible, that considers specific Indian Tribal structures, traditional needs, and schedules of the Indian Tribes. The Bureau or Office should make all reasonable efforts to comply with the expressed views of the affected Indian Tribes regarding the process timeline at this Stage, taking into account the level of impact, the scope, and the complexity of the issues involved in the Departmental Action with Tribal Implications, along with the other factors driving the schedule. The process will be open and transparent. . . .

Tribal Consultation Policy § VII.E.2. BLM has not developed a consultation process or timeline with tribes.

Hydraulic fracturing and the potential impact of the proposed regulations on tribal resources, Indian energy and economic development are significant—especially in areas of high demand for oil and gas resources. A regulation of this magnitude requires a more extensive timeline and process to fully engage tribes in the development of draft regulations. To comply with the Department's Tribal Consultation Policy during the Proposal Development Stage, BLM

needs to develop a consultation timeline with tribes that takes into account the level of impact, the scope, and the complexity of the issues involved.

Second, the Proposal Development Stage requires that BLM work with tribes as collaborative partners. While the January 2012 Regional Tribal Consultations included disclosure of the Department's proposed action, BLM did not involve tribes as collaborative partners or engage tribes in a meaningful dialogue about the substance of the regulations. These meetings were merely informational.

For example, BLM arrived at two of the four meetings with draft regulations already completed. BLM should not present tribes with completed regulations at this stage, rather BLM should work with tribes to develop the regulations from the ground up. This never occurred. BLM also did not engage tribes in a meaningful dialogue about the substance of the regulations. Of course, this would have been difficult as tribes were not provided an opportunity to review the regulations ahead of the meeting.

Moreover, soon after the January 2012 Regional Tribal Consultations, BLM submitted its draft regulation to OMB for review. OMB review is typically the last step before publication of a draft regulation in the Federal Register. BLM's actions foreclosed meaningful consultation and did not provide any opportunity for collaboration with tribes as required by the Department's Tribal Consultation Policy.

After extensive efforts to contact BLM, a few tribes met with BLM in Washington, D.C. on March 26, 2012, to discuss the lack of tribal consultation and finally provide some feedback to BLM on the draft regulations. This meeting represented the first time that BLM and tribes were prepared to have a dialogue on the draft regulations. Unfortunately, because of BLM's actions to date, the majority of the meeting was spent discussing the lack of consultation. Towards the end of the meeting, there was a little time for tribes to provide some comments on the details of the draft regulations, but there was no substantive exchange of information, no development of the required consultation timeline, and no discussion of ideas and concerns as required in meaningful consultation.

The Department's Tribal Consultation Policy also requires that tribal consultation be conducted with Departmental officials who are knowledgeable about the matters at hand, are authorized to speak for the Department, and can exercise delegated authority in the disposition and implementation of an agency action. Tribal Consultation Policy § II. In contrast, BLM officials who attended the March 26th meeting made clear throughout the meeting that they could only listen to tribal suggestions, could not provide any responses during the meeting, and would need to discuss any responses with their superiors. Similarly, BLM's suggestion that tribes meet with their local Field Offices for consultation does not comply with the Department's Tribal Consultation Policy since BLM has made no indication that the local Field Offices are authorized to speak for the Department or exercise delegated authority. BLM "Dear Tribal Leader" letter (Dec. 9, 2011).

Finally, it is not the responsibility of tribes to seek out meetings to discuss the contents of a draft regulation. The BLM must comply with the Department's Tribal Consultation Policy on its own initiative when proposing to develop regulations that will affect tribal resources.

Implementation of Final Federal Action Stage

The Department's Tribal Consultation Policy includes a third stage regarding a post-consultation review process. While this third stage is not mandatory, its inclusion in the Department's Tribal Consultation Policy suggests that these efforts are encouraged, support the federal trust responsibility, and would result in more effective Departmental actions and regulations. If BLM eventually decides that a hydraulic fracturing regulation that includes Indian lands is needed, BLM should include an Implementation of Final Federal Action Stage in its consultation process. Given the complexity of hydraulic fracturing, the magnitude of potential impacts to tribes and the need for adequate BLM staff to oversee any regulatory process, post-consultation review and training is likely to be needed.

Conclusion

BLM skipped most of the Initiate Planning Stage of the Department's Tribal Consultation Policy and is not complying with the requirements of the Proposal Development Stage. Consequently, BLM must withdraw the draft hydraulic fracturing regulations from OMB or should exclude the application of these regulations to any permits on Indian lands until proper and meaningful consultation with tribes can occur. Also, the Department's TGO, the Assistant Secretary for Indian Affairs and BLM should work with tribes to develop an appropriate consultation protocol and timeline for consultation on the development of any hydraulic fracturing regulation.

In sum, BLM must restart its consultation process to properly engage tribes. If BLM does not take these steps, BLM's proposed regulations on hydraulic fracturing would be developed in violation of the Department's four-month old Tribal Consultation Policy. This is nothing like the meaningful role in federal decision-making promised to tribes when the policy was announced.

37361 outgoing



THE SECRETARY OF THE INTERIOR
WASHINGTON

MAY 03 2012

The Honorable Tex "Red Tipped Arrow" Hall
Chairman, Three Affiliated Tribes
Mandan, Hidatsa & Arikara Nation
404 Frontage Road
New Town, North Dakota 58763

Dear Chairman Hall:

Thank you for your letters of March 9 and April 3, 2012, regarding the Bureau of Land Management's development of a draft rule on hydraulic fracturing. I appreciate you taking the time to share your concerns about the effects that this kind of regulation could have on drilling operations in Indian country.

I assure you that the BLM places a high priority on government-to-government consultation. The BLM initiated formal government-to-government consultation on the proposed hydraulic fracturing rule in January 2012. The BLM invited over 175 tribal entities to sessions that were held in Tulsa, Oklahoma; Billings, Montana; Salt Lake City, Utah; and Farmington, New Mexico. Eighty-four tribal members representing 24 tribes attended these 4 meetings.

At these consultation meetings, tribes received an early working version of the draft hydraulic fracturing rule and a detailed explanation regarding the need for a new updated rule. The BLM received many comments throughout the conversation with the attendees, and notified all the participants that individual consultation is available for interested tribes.

Since January, the BLM has met with the United South and Eastern Tribes (USET) to provide information to the 25 assembled member tribes regarding hydraulic fracturing and the impacts it may pose to their lands. In March and April, the BLM met with the Coalition of Large Tribes (COLT) and the Mandan, Hidatsa and Arikara Nation (MHA Nation) to discuss hydraulic fracturing. In the near future, the BLM will be meeting with representatives from several tribes in Montana, including the Blackfeet, Chippewe Cree, Fort Belknap, and Flathead regarding hydraulic fracturing.

In the spirit of Secretarial Order No. 3317 and the Department's policy on consultation with Indian tribes, the BLM is committed to working closely with tribes throughout the development of this rule. Government-to-government consultation between appropriate tribal and BLM officials will continue as an ongoing process. In addition, the rulemaking process provides several other opportunities for input from affected parties. Following publication of the proposed rule, there will be a 60-day public comment period during which we will concurrently continue tribal consultations. Should there be significant changes to the draft rule as a result of

comments, additional consultation opportunities would be available. This good faith effort of open and transparent communication will ensure a process that reflects comprehensive tribal participation and input.

I look forward to working with you as we continue to improve the way we manage energy resources on tribal lands.

Sincerely,

A handwritten signature in black ink that reads "Ken Salazar". The signature is written in a cursive style with a large, sweeping "K" and "S".

Ken Salazar

Unconforming
Hard copy
ES0 37297

EXECUTIVE BRANCH OF THE APSÁALOOKE NATION

Post Office Box 159 –BACHEEITCHE Avenue
Crow Agency, Montana 59022
P: 406.638.3700/3715 F: 406.638.3881



Crow Country

Cedric Black Eagle, Chairman
Calvin Coolidge Jefferson, Vice-Chairman
Scott Russell, Secretary
Darrin Old Coyote, Vice-Secretary

The Honorable Ken Salazar
Secretary
United States Department of Interior
1849 C Street N.W.
Washington, DC 20240

March 22, 2012

RE: Proposed BLM Regulations on Hydraulic Fracturing in Indian Country

Dear Secretary Salazar:

I am writing to express my concern regarding the Bureau of Land Management (BLM) proposed regulations for hydraulic fracturing, insofar as they are intended to apply to Indian lands. The BLM has not engaged in meaningful consultation with tribal governments, and the regulations as proposed could negatively impact development of Crow Tribal trust assets.

The BLM has hosted meetings in Oklahoma, Montana, Utah, and New Mexico to date, and has planned an additional meeting in Washington, D.C. next week. Unfortunately, many tribal leaders did not receive adequate notice of the past meetings and were unable to attend. Additionally, the meetings were structured as informational, rather than as a consultation with meaningful discussion of issues impacting tribal resources. Indeed, the draft regulations were not provided until the end of the meetings, and there was not adequate time provided to review the draft, comment, or ask questions during the meetings. Tribal consultation must consist of more than an opportunity to participate in the “notice and comment” period after draft regulations are published, especially when tribal trust assets are impacted.

Additionally, we do not agree with the inclusion of tribal lands as part of BLM’s statutory authority over “public lands”. Tribal lands are not “public lands”, and we dispute that BLM has authority to regulate Indian lands as contemplated in the draft regulations.

The Crow Nation has seen the impact that short-sighted regulatory decisions have had on our oil and gas development efforts. Producers have left Crow Reservation projects to work on state fee lands adjacent to the Reservation because of the regulatory hurdles and inequitable fees required for permitting drilling on Indian lands under federal law. This continues to restrict the Crow Tribe’s ability to provide services to the citizens of the Crow Nation, and to other members of the communities on the 2.4 million-acre Crow Indian Reservation. We are struggling to create new jobs in the energy development sector, and currently face an unemployment rate of around

Letter from Chairman Black Eagle to Secretary Salazar

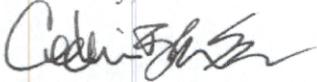
March 22, 2012

Page 2 of 2

45% on the Crow Indian Reservation. The proposed hydraulic fracturing regulations will exacerbate a situation that has already been extremely detrimental.

I strongly believe that the BLM must engage in meaningful government-to-government consultation with Indian tribes, in conformity with Secretarial Order No. 3317, issued on December 1, 2011, before draft regulations on hydraulic fracturing are published. Thank you for your efforts to work collaboratively with tribal governments. I look forward to working with you and your able staff on this and other issues of concern to the Crow Nation.

Sincerely,



Cedric Black Eagle
Chairman, Crow Nation

Cc: Senator Max Baucus
Senator John Tester
Congressman Denny Rehberg

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THE SECRETARY OF THE INTERIOR
WASHINGTON

MAY 03 2012

The Honorable Cedric Black Eagle
Chairman, Crow Nation
P.O. Box 159
Crow Agency, Montana 59022

Dear Chairman Black Eagle:

Thank you for your letter dated March 22, 2012, regarding the Bureau of Land Management's development of a draft rule on hydraulic fracturing. I appreciate you taking the time to share your concerns about the effects that this kind of regulation could have on drilling operations in Indian country.

I assure you that the BLM places a high priority on government-to-government consultation. The BLM initiated formal government-to-government consultation on the proposed hydraulic fracturing rule in January 2012. The BLM invited over 175 tribal entities to sessions that were held in Tulsa, Oklahoma; Billings, Montana; Salt Lake City, Utah; and Farmington, New Mexico. Eighty-four tribal members representing 24 tribes attended these 4 meetings.

At these consultation meetings, tribes received an early working version of the draft hydraulic fracturing rule and a detailed explanation regarding the need for a new updated rule. The BLM received many comments throughout the conversation with the attendees, and notified all the participants that individual consultation is available for interested tribes.

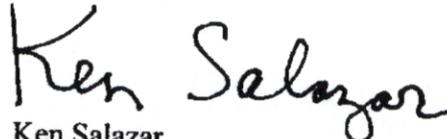
Since January, the BLM has met with the United South and Eastern Tribes (USET) to provide information to the 25 assembled member tribes regarding hydraulic fracturing and the impacts it may pose to their lands. In March and April, the BLM met with the Coalition of Large Tribes (COLT) and the Mandan, Hidatsa and Arikara Nation (MHA Nation) to discuss hydraulic fracturing. In the near future, the BLM will be meeting with representatives from several tribes in Montana, including the Blackfeet, Chippewa Cree, Fort Belknap, and Flathead regarding hydraulic fracturing.

In the spirit of Secretarial Order No. 3317 and the Department's policy on consultation with Indian tribes, the BLM is committed to working closely with tribes throughout the development of this rule. Government-to-government consultation between appropriate tribal and BLM officials will continue as an ongoing process. In addition, the rulemaking process provides several other opportunities for input from affected parties. Following publication of the proposed rule, there will be a 60-day public comment period during which we will concurrently continue tribal consultations. Should there be significant changes to the draft rule as a result of

comments, additional consultation opportunities would be available. This good faith effort of open and transparent communication will ensure a process that reflects comprehensive tribal participation and input.

I look forward to working with you as we continue to improve the way we manage energy resources on tribal lands.

Sincerely,


Ken Salazar

37296 - Unconforming

NAVAJO NATION OIL & GAS COMPANY

A Federal Corporation

Post Office Box 4439 • Window Rock, Arizona • 86515

Telephone (928) 871-4850 • FAX (928) 871-4862



March 20, 2012

Hon. Ken Salazar
Secretary, U.S. Department of the Interior
1849 C Street, NW
Washington, D.C. 20240

Re: Bureau of Land Management's Proposed Hydraulic Fracturing Rule

Dear Secretary Salazar:

On behalf of the Navajo Nation Oil and Gas Company (NNOGC), I am writing to express my concerns with the Bureau of Land Management's (BLM) evident decision to propose a rule to regulate the practice of hydraulic fracturing on public and Indian lands. This decision was confirmed yesterday when BLM Director Bob Abbey testified to the Senate Appropriations Committee that his agency will propose a rule on hydraulic fracturing in April 2012.

As you know, the NNOGC is a corporation wholly-owned by the Navajo Nation, and is a significant producer of oil and natural gas from Navajo Nation lands. With the largest reservation and tribal population in the U.S., NNOGC's energy-related activities represent a major source of revenues to the Navajo Nation and significant employment and income opportunities to Navajo people.

Tribal oil and gas producers around the country, including the Southern Ute Indian Tribe, the Ute Tribe of the Uintah and Ouray Reservation, the Mandan Hidatsa and Arikara Nation, use hydraulic fracturing and believe the practice necessary for the future development of their mineral resources. The NNOGC agrees with these sentiments, particularly with respect to the future development recently-acquired lands and mineral resources.

Should the department proceed with a rule regarding hydraulic fracturing, I strongly suggest it be guided by the following guideposts and suggestions.

- (1) The expressed justification for the rule is to "protect the larger public's interest in the public domain," and as Indian lands cannot remotely be considered "public lands," the rule should not apply to Indian lands in the first instance.
- (2) If the department, nevertheless, decides to proceed with a rule and intends the rule to have application in Indian Country, the rule should not include reference to state and local rules or jurisdiction over activities and persons on Indian tribal lands, see e.g., 25 CFR 1.4.
- (3) Departmental officials have cited environmental protection, and specifically water quality measures, as justifying the need for a Federal rule to regulate activities related to hydraulic fracturing. The reality is that best management practices have been successfully developed in

the oil and gas industry relating to the hydraulic fracturing process, the construction and monitoring of wells and wellbore integrity, groundwater sampling and protection, and others, all of which minimize the types of environmental degradation that is at the heart of the argument for a Federal rule.

(4) Unlike all other landowners in the U.S., Indian tribes and their development corporations such as NNOGC face unique hurdles in their efforts to identify and develop conventional energy resources. These hurdles include significant delays in securing Federal approvals for land leasing and related permitting, an untimely Federal appraisal process, fees for applications for permits to drill and other Federal fees, NEPA compliance, and other challenges which, taken together, result in under-investment in energy resource development on tribal lands.

A new rule relating to hydraulic fracturing, will result in additional and extraordinary delays in getting tribal projects moving because the need for new BLM approvals will likely foster appeals that could take the IBLA a year or two to decide.

(5) Imposing a new and burdensome rule on tribal energy producers is contrary to the essential thrust of legislation now pending in the House of Representatives and the Senate that are intended to remove unreasonable, uneconomic, or anachronistic barriers to more vigorous energy production on Indian lands and to promote tribal self-determination and self-sufficiency. The BLM's proposed HF regulation will place additional burdens on an already over-regulated industry and will harm Indian tribes, their members and surrounding communities, many of which depend on energy production to drive the regional economies.

To-date, the BLM has held four regional meetings to discuss a draft rule informally shared with tribes earlier this year. I am reliably informed that a second draft rule has been developed but has not been circulated to any tribes. Given there is a second draft rule extant, and as various Indian tribes, the National Congress of American Indians, and Members of Congress have already noted in correspondence to you, the breadth and depth of BLM outreach and consultation with Indian Country has been insufficient given the potential impact the rule could have on tribal energy resources and economic development.

I urge you to undertake a more vigorous consultation with the tribal community consistent with President Obama's pledge and Secretarial Order 3317, in which you announced a policy of "enhanced communication" when it comes to decisions that impact Indian tribes and their members.

Thank you for your consideration of my request and your ongoing support of Indian Country.

Sincerely,



WILSON GROEN
President and CEO

Attachments Southern Ute Indian Tribe Letter, Jan. 18, 2012
State of North Dakota Governor Letter, Feb. 8, 2012
Reps. Don Young Dan Boren Letter, Feb. 8, 2012
Ute Indian Tribe Letter, Feb. 9, 2012
Energy Industry Associations Letter, Feb. 15, 2012
State of Utah Dept. of Natural Resources Letter, Feb. 21, 2012
NCAI Letter, Mar. 7, 2012, and Resolution #ECWS-12-005
Mandan, Hidatsa & Arikara Nation Letter, Mar. 9, 2012

end

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OFFICE OF THE
EXECUTIVE DIRECTOR

37296 out going



THE SECRETARY OF THE INTERIOR
WASHINGTON

MAY 03 2012

Mr. Wilson Groen
President and CEO
Navajo Nation Oil & Gas Company
P.O. Box 4439
Window Rock, Arizona 86515

Dear Mr. Groen:

Thank you for your letter dated March 20, 2012, regarding the Bureau of Land Management's development of a draft rule on hydraulic fracturing. I appreciate you taking the time to share your concerns about the effects that this kind of regulation could have on drilling operations in Indian country.

I assure you that the BLM places a high priority on government-to-government consultation. The BLM initiated formal government-to-government consultation on the proposed hydraulic fracturing rule in January 2012. The BLM invited over 175 tribal entities to sessions that were held in Tulsa, Oklahoma; Billings, Montana; Salt Lake City, Utah; and Farmington, New Mexico. Eighty-four tribal members representing 24 tribes attended these 4 meetings.

At these consultation meetings, tribes received an early working version of the draft hydraulic fracturing rule and a detailed explanation regarding the need for a new updated rule. The BLM received many comments throughout the conversation with the attendees, and notified all the participants that individual consultation is available for interested tribes.

Since January, the BLM has met with the United South and Eastern Tribes (USET) to provide information to the 25 assembled member tribes regarding hydraulic fracturing and the impacts it may pose to their lands. In March and April, the BLM met with the Coalition of Large Tribes (COLT) and the Mandan, Hidatsa and Arikara Nation (MHA Nation) to discuss hydraulic fracturing. In the near future, the BLM will be meeting with representatives from several tribes in Montana, including the Blackfeet, Chippewa Cree, Fort Belknap, and Flathead regarding hydraulic fracturing.

In the spirit of Secretarial Order No. 3317 and the Department's policy on consultation with Indian tribes, the BLM is committed to working closely with tribes throughout the development of this rule. Government-to-government consultation between appropriate tribal and BLM officials will continue as an ongoing process. In addition, the rulemaking process provides several other opportunities for input from affected parties. Following publication of the proposed rule, there will be a 60-day public comment period during which we will concurrently continue tribal consultations. Should there be significant changes to the draft rule as a result of

comments, additional consultation opportunities would be available. This good faith effort of open and transparent communication will ensure a process that reflects comprehensive tribal participation and input.

I look forward to working with you as we continue to improve the way we manage energy resources on tribal lands.

Sincerely,


Ken Salazar

37255. Incoming



BLACKFEET NATION

P.O. BOX 850 BROWNING, MONTANA 59417
Telephone (406) 338-7521 Fax: (406) 338-7530

EXECUTIVE COMMITTEE
T. J. SHOW - CHAIRMAN
PETER D. TATSEY - VICE CHAIRMAN
REIS J. FISHER - SECRETARY
KENNETH AUGARE - TREASURER

March 21, 2012

BLACKFEET TRIBAL BUSINESS COUNCIL
T.J. SHOW
PETER D. TATSEY
REIS J. FISHER
HENRY BUTTERFLY
WILLIE A. SHARP JR.
PAUL MCEVERS
SHANNON J. AUGARE
WOODROW "JAY" WELLS
JESSE "JAY" ST. GODDARD

The Honorable Ken Salazar
Secretary of the Interior
United States Department of the Interior
1849 C Street, NW
Washington, D.C. 20240

Re: **Proposed BLM Rule on Hydraulic Fracturing**

Dear Secretary Salazar:

This letter comes to you on behalf of the Blackfeet Tribal Business Council as a request for your Finding that the current proposed BLM Rule on Hydraulic Fracturing does not apply to Indian Tribes, and more especially to the Blackfeet Tribe. This rule is set up to apply to "public lands" not to Indian lands, which, as you are aware, are not public in nature, but rather lands set aside specifically for Indian Tribes and their members.

We also ask that once you make the Ruling that this particular BLM Rule does not apply to Indian Tribes that you set up a meaningful and transparent government-to-government consultation on the issue of hydraulic fracturing on Indian lands. Here, there may be brought to bear the expertise of your department as well as the input from various affected Indian Tribes as to the proper rules which should govern this type of drilling, allowing for expedient development while at the same time protecting the land and the people who live on the land.

The present rule has many problems for the Blackfeet Tribe. First and foremost is the requirement that State and other local laws be complied with when certificate of compliance are signed by the oil producer. The State has absolutely no jurisdiction over Indian land, and this provision, we view, as a direct incursion into the sovereignty of the Blackfeet Tribe. We also take exception to the additional burdens imposed upon the oil producer for repetitious paperwork, unreasonable weight and measurement requirements for the fracturing fluid, and the possible use of an appeal by outside persons which would disrupt the entire oil production process for months and possibly years.

This proposed rule seems to fly in the face of your edict some months ago to lessen the "red tape" that applied only to Indian lands in the development of tribal natural resources.

Letter to Secretary Ken Salazar
March 21, 2012
Page Two

In your statements, you seemed to grasp the fact that this type of development by Indian Tribes is stymied because of the excess of regulations, most of which are not required on lands off of Indian Reservations. This type of regulation only serves to hold down our Tribe, just at a time when we are in the very beginning stages of successful and profitable oil and gas development. To an outsider, it might appear as if the Federal Government wants to keep Indian Nations in poverty and therefore continues to have an assault on Tribal sovereignty and Tribal development.

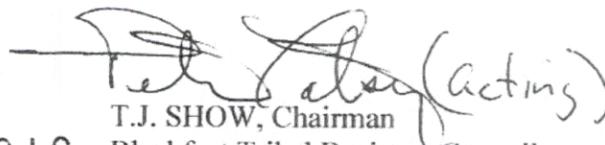
We believe this Rule should not apply to our Tribal lands. We want the ability, and have begun to proceed forward with the making of our own Blackfeet Rules on oil and gas development, including rules on hydraulic fracturing. We would like the assistance of your Department and Agencies with their technical expertise so we can develop our own Rules which allow for expeditious drilling and also protect the land and its inhabitants.

We understand your trust responsibility toward Indian Tribes and individual Indian allottees. However, that responsibility should not be used to keep us crippled and living in poverty. Rather, Secretary Salazar, please see that such onerous rules as the proposed BLM Rule on Hydraulic Fracturing are not foisted onto Indian Tribes and Indian Lands. Let us have a meaningful government-to-government consultation without the fear of the imminent threat of some constricting, binding rule being brought down on our heads, just when our Tribe is beginning to see the fruits of our resource development.

The revenue generated from the royalties of oil and gas development will allow us to expand our function as a nation; giving us the ability to fund our own police force and courts, to train our own people for skilled jobs both on and off the Reservation; to educate our young and to provide for the health and safety of our people and fix our crumbling infrastructure, all without having to go "hat in hand" to the government for a grant or a loan. Finally, we will be able to take advantage of our sovereignty for the first time since our Treaty of 1855.

We are putting our trust in you, as our trustee, to see that we can go forward, regulating our resource development on our own terms, always being the careful stewards of our land. We will await your response to this letter. Our Resolution is attached to this letter.

Sincerely yours,


T.J. SHOW, Chairman
Blackfeet Tribal Business Council

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THE SECRETARY

Letter to Secretary Ken Salazar

March 21, 2012

Page Three

cc: Senator Max Baucus, Senator from Montana
Senator Jon Tester, Senator from Montana
Congressman Denny Rehberg, Representative for Montana
✓ Larry Echohawk, Assistant Secretary for Indian Affairs, DOI



BLACKFEET NATION

P.O. BOX 850 BROWNING, MONTANA 59417
Telephone (406) 338-7521 Fax: (406) 338-7530

EXECUTIVE COMMITTEE
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JESSE "JAY" ST. GODDARD

EXECUTIVE RESOLUTION

No. EX140-2012

- WHEREAS,** The Blackfeet Tribal Business Council is the duly constituted governing body within the exterior boundaries of the Blackfeet Indian Reservation; and
- WHEREAS,** The Blackfeet Tribal Business Council has been organized to represent, develop, protect and advance the views, interests, education, and resources of the Blackfeet Indian Nation; and
- WHEREAS,** Pursuant to the Constitution for the Blackfeet Tribe, Article VI, Section 1(g) and 1(h) respectively, the Blackfeet Tribal Business Council is empowered to manage all tribal enterprises and tribal affairs in an acceptable and businesslike manner and to regulate all businesses within the Blackfeet Reservation; and
- WHEREAS,** The Blackfeet Tribal Business Council has been advised that there is currently pending the approval of a regulation from the Bureau of Land Management (BLM) regarding Hydraulic Fracturing which is intended to apply to the Blackfeet Reservation as well as all other Indian Tribes; and
- WHEREAS,** The Blackfeet Tribal Business Council was not made aware of this proposed regulation until recently, since there was only one informational meeting in Montana, held in Billings, Montana, and even then, was not certain that it had the correct version of such regulation; and
- WHEREAS,** The Blackfeet Tribal Business Council is now conversant with this proposed BLM regulation on Hydraulic Fracturing and believes that it does not apply to the Blackfeet Tribe, since it refers to "public lands" and not Tribal lands; and
- WHEREAS,** The Blackfeet Tribal Business Council also finds this proposed regulation deficient in many ways, the first and foremost problem being that it does not recognize Tribal sovereignty, but rather incorporates the mandate to follow State and local laws, without taking into consideration that State and other local laws have no applicability within the exterior boundaries of the Blackfeet Reservation; and

WHEREAS, The Blackfeet Tribal Business Council also finds that this proposed regulation puts up even more impediments to the eventual drilling for oil than is now mandated, resulting in longer delays, unrealistic demands, and an even greater amount of paperwork which will result in oil and gas producers deciding to take their business off the Blackfeet Reservation to other areas in the State of Montana where such crippling regulations do not apply; and

WHEREAS, The Blackfeet Tribe is just now embarking on an extensive program of oil and gas development, and that this proposed BLM regulation on Hydraulic Fracturing will severely impact such development and cause the oil producers with whom the Blackfeet Tribe is now doing business to abandon the Tribal lands within the Reservation for other fee lands which will not be under this regulation; and

WHEREAS, The Blackfeet Tribe and its members have the expectation of receiving substantial revenue from oil and gas royalties from the drilling on Indian Land within the Reservation, which revenue, from the standpoint of the Tribal government will be used to fund the governmental operations of the Tribe, including all law enforcement and court services as well as job training and funds for needed infrastructure, all of which can enhance the Blackfeet Reservation which has been the victim of grinding poverty; and

WHEREAS, The additional and cumbersome regulations in this proposed BLM regulation on Hydraulic Fracturing can result in the loss of anticipated revenue from those oil producers who are currently spending large sums of money on the Blackfeet Reservation, leaving the Blackfeet Tribe without any means to create meaningful revenue for its governmental functions;

WHEREAS, The BLM has not engaged in any true government-to-government consultation with the Blackfeet Tribe or any of the other Indian Tribes prior to its push to finalize this regulation; now

THEREFORE BE IT RESOLVED as follows:

1. That the Blackfeet Tribal Business Council hereby states its disapproval of the proposed 2012 BLM Rules on Hydraulic Fracturing.
2. That the Blackfeet Tribal Business Council hereby demands a Ruling by the Secretary of the Interior that the proposed BLM Rules on Hydraulic Fracturing which are promulgated for public lands do not apply to Indian and Tribal lands which are not "public lands".

3. That the Blackfeet Tribal Business Council hereby requests an immediate and meaningful government-to-government consultation with the BLM on Hydraulic Fracturing within the Blackfeet Reservation, which recognizes the sovereignty of the Blackfeet Tribe and which will assist the Tribe to create its own regulatory scheme for this procedure which is now used consistently in the drilling for oil and gas.

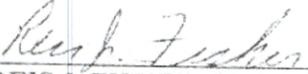
4. That in the event this proposed BLM Rule on Hydraulic Fracturing goes forward with the plan to apply it to the Blackfeet Reservation, than the Blackfeet Tribal Business Council hereby demands that there be Congressional Hearings on this Rule since it impacts an industry through Indian Country which has, to this point generated over \$425,000,000 in the past fiscal year, thus requiring such a hearing before final approval and implementation.

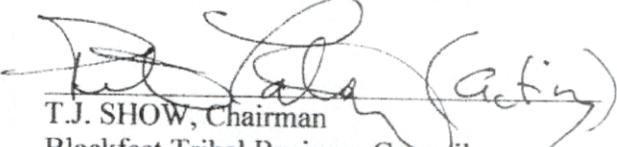
5. That a copy of this Resolution be sent immediately to Secretary of the Interior, Ken Salazar, to the Montana Delegation which includes Senators Max Baucus and Jon Tester and Congressman Denny Rehberg, and to Larry Echohawk, Assistant Secretary for Indian Affairs in the Department of the Interior.

6. That the Chairman or Vice-Chairman in the Chairman's absence, and the Secretary of the Blackfeet Tribal Business Council shall have the authority to sign this Resolution on behalf of the Blackfeet Tribal Business Council.

ATTEST:

**THE BLACKFEET TRIBE OF THE
BLACKFEET INDIAN RESERVATION**

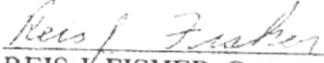

REIS J. FISHER, Secretary
Blackfeet Tribal Business Council


T.J. SHOW, Chairman
Blackfeet Tribal Business Council

CERTIFICATION

I hereby certify that the foregoing Executive Resolution was adopted by the Blackfeet Tribal Business Council during a duly called, noticed and convened Executive Session assembled for business the 21st. Day of March, 2012, with Four (4) members present to constitute a quorum, and Four (4) members voting FOR, Zero (0) members OPPOSED, and Zero (0) members ABSTAINING.

SEAL


REIS J. FISHER, Secretary

37255-outgoing



THE SECRETARY OF THE INTERIOR
WASHINGTON

MAY 03 2012

The Honorable T.J. Show
Chairman, Blackfeet Tribal Business Council
P.O. Box 850
Browning, Montana 59417

Dear Chairman Show:

Thank you for your letter dated March 21, 2012, regarding the Bureau of Land Management's development of a draft rule on hydraulic fracturing. I appreciate you taking the time to share your concerns about the effects that this kind of regulation could have on drilling operations in Indian country.

I assure you that the BLM places a high priority on government-to-government consultation. The BLM initiated formal government-to-government consultation on the proposed hydraulic fracturing rule in January 2012. The BLM invited over 175 tribal entities to sessions that were held in Tulsa, Oklahoma; Billings, Montana; Salt Lake City, Utah; and Farmington, New Mexico. Eighty-four tribal members representing 24 tribes attended these 4 meetings.

At these consultation meetings, tribes received an early working version of the draft hydraulic fracturing rule and a detailed explanation regarding the need for a new updated rule. The BLM received many comments throughout the conversation with the attendees, and notified all the participants that individual consultation is available for interested tribes.

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In the spirit of Secretarial Order No. 3317 and the Department's policy on consultation with Indian tribes, the BLM is committed to working closely with tribes throughout the development of this rule. Government-to-government consultation between appropriate tribal and BLM officials will continue as an ongoing process. In addition, the rulemaking process provides several other opportunities for input from affected parties. Following publication of the proposed rule, there will be a 60-day public comment period during which we will concurrently continue tribal consultations. Should there be significant changes to the draft rule as a result of

comments, additional consultation opportunities would be available. This good faith effort of open and transparent communication will ensure a process that reflects comprehensive tribal participation and input.

I look forward to working with you as we continue to improve the way we manage energy resources on tribal lands.

Sincerely,


Ken Salazar

36722-coming

NATIONAL CONGRESS OF AMERICAN INDIANS

March 7, 2012

The Honorable Ken Salazar
Secretary of the Interior
United States Department of the Interior
1849 C Street, NW
Washington, D.C. 20240

The Honorable Wilma Lewis
Asst. Secretary for Land & Minerals
U.S. Department of the Interior
1849 C Street, NW
Washington, DC 20240

RE: Tribal Consultation on BLM Hydraulic Fracturing Regulations

Dear Secretary Salazar:

On behalf of the National Congress of American Indians, I am writing to request that the Department of Interior and the Bureau of Land Management engage in government-to-government consultation with Indian tribes regarding the BLM's proposed hydraulic fracturing ("HF") regulations.

On December 1, 2011, Secretary Salazar issued Secretarial Order No. 3317 announcing the "Department of the Interior Policy on Consultation with Indian Tribes." This policy updated and expanded the Department's long-standing and ongoing commitment to consultation with Indian tribes. We urge that the BLM engage in consultation with tribal governments on the HF regulations.

Over the past couple of months, BLM hosted four meetings in Tulsa, Oklahoma; Billings, Montana; Salt Lake City, Utah; and Farmington, New Mexico. Many tribal leaders became aware of these meetings after they took place, but we understand that BLM is describing these meetings as a starting point for tribal consultation. Indeed, much more needs to be done.

The content of these meetings was purely informational. Tribal leaders were not engaged in a meaningful discussion, instead they were informed of what the BLM plans to do. A draft of the proposed regulations was not available at all of the meetings, and when the draft regulations were available, they were handed out at the end of the meeting with no time to review or ask questions. This falls short of the "exchange of information" and "enhanced communication" that the Secretarial Order requires.

At these meetings, BLM stated that the consultation process would continue through the public comment period, but the consultation policy and the federal government's trust responsibility requires more than merely allowing tribes to participate in the public comments period. Outreach to Indian country is needed. BLM stated that its field offices would be the lead for further consultation. While we are pleased that field offices would be involved, consultation with tribal governments should occur at policymaker levels. In addition, BLM State Directors should engage the tribes in their states so that tribes can be assured that their comments and concerns will reach policymakers in Washington, D.C.



EXECUTIVE COMMITTEE

PRESIDENT

Jefferson Keel
Chickasaw Nation

FIRST VICE-PRESIDENT

Juana Majel Dixon
Panama Band of Mission Indians

RECORDING SECRETARY

Edward Thomas
*Central Council of Tlingit & Haida
Indian Tribes of Alaska*

TREASURER

W. Ron Allen
Arreston S Klallam Tribe

REGIONAL VICE-PRESIDENTS

ALASKA

Bill Martin
*Central Council of Tlingit & Haida
Indian Tribes of Alaska*

EASTERN OKLAHOMA

S. Joe Crittenden
Cherokee Nation

GREAT PLAINS

Robert Shepherd
Sisseton Wahpeton

MIDWEST

Matthew Wesaw
Pokagon Band of Potawatomi

NORTHEAST

Lance Gumbs
Shinnecock Indian Nation

NORTHWEST

Fawn Sharp
Quinalt Indian Nation

PACIFIC

Don Arnold
Scotts Valley Band of Pomo Indians

ROCKY MOUNTAIN

Scott Russell
Crow Tribe

SOUTHEAST

Larry Townsend
Lumbee Tribe

SOUTHERN PLAINS

Robert Tippeconnie
Comanche Nation

SOUTHWEST

Joe Garcia
Ohkay Owingeh

WESTERN

Ned Norris, Jr
Tohono O'odham Nation

EXECUTIVE DIRECTOR

Jacqueline Johnson Pata
Tlingit

NCAI HEADQUARTERS

1516 P Street, N.W.
Washington, DC 20005
202 466 7767
202 466 7797 fax
www.ncai.org



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #ECWS-12-005

TITLE: Seeking Meaningful Tribal Consultation on the Bureau of Land Management's Proposed Hydraulic Fracturing Regulations

EXECUTIVE COMMITTEE

PRESIDENT
Jefferson Keel
Chickasaw Nation

FIRST VICE-PRESIDENT
Juana Majel Dixon
Pauma Band of Mission Indians

RECORDING SECRETARY
Edward Thomas
*Central Council of Tlingit & Haida
Indian Tribes of Alaska*

TREASURER
W. Ron Allen
Jamestown S'Kallam Tribe

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Tohono O'odham Nation

EXECUTIVE DIRECTOR
Jacqueline Johnson Pata
Tlingit

NCAI HEADQUARTERS
1516 P Street, N.W.
Washington, DC 20005
202-466-7767
202-466-7797 fax
www.ncai.org

WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, the NCAI seeks meaningful tribal consultation on the Bureau of Land Management's (BLM) proposed regulatory scheme regarding Hydraulic Fracturing (HF); and

WHEREAS, the BLM hosted only four informational meetings throughout the West and is describing these meetings as tribal consultations; and

WHEREAS, the BLM's proposed HF regulations were only available at one of these informational meetings; and

WHEREAS, the BLM proposes conducting tribal consultation through its field offices while Indian tribes should address policy makers in Washington, D.C. for true government-to-government consultation; and

WHEREAS, Indian lands are not "public lands" therefore, the tribes deserve a regulation that deals with Indian lands only; and

WHEREAS, tribes are also interested in consultation on the impacts of hydraulic fracturing on the environment, land and human health; and

WHEREAS, the BLM should consider that oil and gas operators seeking permits to drill on lands held in trust by the federal government already undergo an extensive environmental review process before they can begin drilling activities; and

WHEREAS, the BLM should consider that the permitting process has become lengthy, time consuming and costly, so much so that there is a backlog of hundreds, if not thousands, of applications for permits to drill that have not been processed by the BLM; and

WHEREAS, the proposed BLM regulations will require oil and gas operators to seek another round of permits for all well stimulation activities leading to further delay; and

WHEREAS, this added delay will cause oil and gas operators to leave Indian lands for state and private lands, a fact that is occurring under the Application for Permit to Drill scheme; and

WHEREAS, the BLM should balance regulatory concerns with the needs of Indian tribes to develop their energy resources to provide long-term economic resources for tribal communities; and

WHEREAS, oil and gas royalties from drilling on Indian lands are significant sources of revenue for the tribes and tribal members and the proposed BLM HF regulations will severely and disproportionately impact tribal economies because of their greater reliance on oil and gas development for economic growth and sustainability.

WHEREAS, the NCAI requests that BLM engage in true government-to-government consultation with the tribes regarding the HF regulations.

NOW THEREFORE BE IT RESOLVED, that NCAI seeks meaningful government-to-government consultation on the Bureau of Land Management's proposed Hydraulic Fracturing regulations so that the regulations will better meet the needs of the tribes.

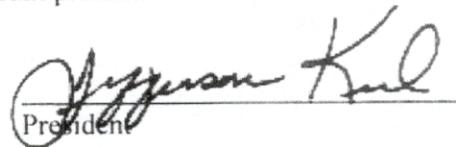
BE IT FURTHER RESOLVED, that the Secretary of the Interior should declare that the proposed BLM Hydraulic Fracturing regulations do not apply to Indian lands because Indian lands are not "public lands" and are for the use and benefit of the tribes and tribal members.

BE IT FURTHER RESOLVED, that NCAI supports the Bureau of Land Management proposing a rule specifically for the Indian lands which should be developed with input from the tribes.

BE IT FURTHER RESOLVED, that this resolution shall be the policy of NCAI until is withdrawn or modified by subsequent resolution.

CERTIFICATION

The foregoing resolution was adopted by the Executive Committee at the 2012 Executive Council Winter Session of the National Congress of American Indians, held at the L'Enfant Hotel and Conference Center in Washington, DC, with a quorum present.



President

ATTEST:



Recording Secretary

Cannuscio, Lisa M

From: Iudicello, Fay
Sent: Tuesday, March 13, 2012 9:21 AM
To: Cannuscio, Lisa M
Cc: Howarth, Robert
Subject: FW: NEED YOUR ACTION: National Congress of American Indians and hydraulic fracturing
Attachments: NCAI Letter Regarding Hydraulic Fracturing Regulations.pdf; ECWS-12-005 Final.pdf
Importance: High

Lisa...

Pls task for Sec response ... 10 day turn around

Fay S. Iudicello
Director, Office of the Executive
Secretariat and Regulatory Affairs
1849 "C" Street NW MS-7328
Washington, DC 20240-0001
(202) 208-3181 office
(202) 219-2100 fax
(202) 251-0135 cell

From: Hayes, David
Sent: Tuesday, March 13, 2012 7:51 AM
To: Iudicello, Fay
Subject: FW: NEED YOUR ACTION: National Congress of American Indians and hydraulic fracturing
Importance: High

David J. Hayes
Deputy Secretary
U.S. Department of the Interior
1849 C Street., NW
Washington, D.C.
202-208-6291

From: Jacqueline Johnson [mailto:Jacqueline_Johnson@NCAI.org]
Sent: Tuesday, March 13, 2012 1:12 AM
To: Hayes, David
Cc: Nketia Agyeman; John Dossett; Katie Hoyt
Subject: NEED YOUR ACTION: National Congress of American Indians and hydraulic fracturing
Importance: High

David -

Our board met last week and requested we send the enclosed letter from NCAI to the Department of the Interior regarding hydraulic fracturing with the resolution they also passed. I would appreciate it if you would not only review this request but forward to Secretary Salazar and Assistant Secretary Wilma Lewis? As always I appreciate your assistance on this important issue.

Thank you,

Jackie

Jacqueline (Johnson) Pata
Executive Director
National Congress of American Indians
1516 P Street NW
Washington DC 20050
202-466-7767
jpata@ncai.org

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THE SECRETARY OF THE INTERIOR
WASHINGTON

MAY 03 2012

The Honorable Jefferson Keel
President, National Congress of American Indians
1516 P Street, NW
Washington, DC 20005

Dear Mr. Keel:

Thank you for your letter dated March 7, 2012, regarding the Bureau of Land Management's development of a draft rule on hydraulic fracturing. I appreciate you taking the time to share your concerns about the effects that this kind of regulation could have on drilling operations in Indian country.

I assure you that the BLM places a high priority on government-to-government consultation. The BLM initiated formal government-to-government consultation on the proposed hydraulic fracturing rule in January 2012. The BLM invited over 175 tribal entities to sessions that were held in Tulsa, Oklahoma; Billings, Montana; Salt Lake City, Utah; and Farmington, New Mexico. Eighty-four tribal members representing 24 tribes attended these 4 meetings.

At these consultation meetings, tribes received an early working version of the draft hydraulic fracturing rule and a detailed explanation regarding the need for a new updated rule. The BLM received many comments throughout the conversation with the attendees, and notified all the participants that individual consultation is available for interested tribes.

Since January, the BLM has met with the United South and Eastern Tribes (USET) to provide information to the 25 assembled member tribes regarding hydraulic fracturing and the impacts it may pose to their lands. In March and April, the BLM met with the Coalition of Large Tribes (COLT) and the Mandan, Hidatsa and Arikara Nation (MHA Nation) to discuss hydraulic fracturing. In the near future, the BLM will be meeting with representatives from several tribes in Montana, including the Blackfeet, Chippewa Cree, Fort Belknap, and Flathead regarding hydraulic fracturing.

In the spirit of Secretarial Order No. 3317 and the Department's policy on consultation with Indian tribes, the BLM is committed to working closely with tribes throughout the development of this rule. Government-to-government consultation between appropriate tribal and BLM officials will continue as an ongoing process. In addition, the rulemaking process provides several other opportunities for input from affected parties. Following publication of the proposed rule, there will be a 60-day public comment period during which we will concurrently continue tribal consultations. Should there be significant changes to the draft rule as a result of

comments, additional consultation opportunities would be available. This good faith effort of open and transparent communication will ensure a process that reflects comprehensive tribal participation and input.

I look forward to working with you as we continue to improve the way we manage energy resources on tribal lands.

Sincerely,


Ken Salazar

36680- concerning
no outgoing

PO Box 1291
Paonia, CO 81428
February 12, 2012

We must face the prospect of changing our basic ways of living. This change will either be made on our own initiative in a planned way, or forced on us with chaos and suffering by the inexorable laws of nature. Jimmy Carter (1976)

Secretary of the Interior, Ken Salazar
BLM Director, Bob Abbey

Gentlemen:

I know it is difficult to get a letter from an angry person, and I also believe there comes a time when righteous indignation is appropriate. We in Paonia, Co. have been writing letters for the past eight weeks following the announcement by the BLM Uncompahgre Field Office (UFO) in Montrose, Colorado, that 22 parcels consisting of approximately 30,000 Acres, mostly in our county, have been nominated for the August 2012 Oil and Gas Lease Sale in Denver. These acres sit next to (and often in) our towns, schools, our domestic water springs, The North Fork of the Gunnison River, our irrigation water, next to our organic farms and orchards, (the largest organic producing area in Colorado), our 12 vineyards and wineries, our recreation areas, our Paonia Reservoir, and on and on. This is happening not just all over Colorado, but in communities all across the country. What on earth is going on in Washington!! Mr. Salazar, you grew up in Colorado, you say you farmed in Colorado. Surely you know the value of water!! Water is Life, plain and simple. Mr. Abbey, perhaps you grew up in a city or have always been in Washington, but surely someone in your position has an idea of what water means. Not only is water being threatened by the millions of gallons of toxins being pumped into the ground, but billions of gallons of water is being lost from watersheds to put down fracking holes, to be polluted for generations if not 'forever' in terms of human existence. How can this be going unnoticed? What is happening?

With air quality declining rapidly including the increase of ground ozone, the release of Volatile Organic Compounds into the atmosphere as soon as drilling starts, the injection of all manner of toxic fluids into the Earth for "fracking", the evaporation of "processed water" filled with these toxic chemicals, diesel equipment spewing nitrogen oxides... Most recently please note the recent NOAA investigation of high Ground Ozone levels in Utah gas and oil fields. I am sure that you are both aware that ground ozone kills or decreases the health of (depending on the severity) plants, animals, and humans.

In 2005, oil man, Dick Cheney spearheaded legislation to exempt the oil and gas industry from the Clean Air Act, The Safe Drinking Water Act and more. It's now 2012 and these exemptions still exist.

"Under the name of the 'free market' ideology, we have gone through two decades of an energy crisis without an effective energy policy... We have no adequate policy for the development of use of other, less harmful forms of energy. We have no adequate system of public transportation." --Wendell Berry 1992. So here we are, now nearly 4 decades after President Carter's attempt to wake us up, and 2 decades after Mr. Berry's pronouncement, still with no Clean Energy Policy in sight. We have reached the point, as Mr. Carter foretold, where the inexorable laws of nature are upon us.

We Americans are the most wasteful people on the planet. *By conservative estimates, we could save 25% by conservation alone! Then look at how much energy is being put into the processing and extraction of these fossil fuels. The tar sands sometimes come out in the negative category! At best they have an approximate 2:1 ratio of recovery to input, with environmental destruction the "byproduct".*

The lobbyists pulling the strings for BIG MONEY seem to believe that We The People are ignorant, gullible, clueless people who deserve to be exploited---it is time for you to make a stand. We know why fossil fuels are continuing to rob us of clean air, pollute our water, and foul our land as if there is no other way. We The People know why we don't have a Clean Energy Policy in this country. **You are in a position to make something different happen. The time is NOW.** If it takes jumping up and down on the desks of Congress people to get across the reality of where our country is so that we get a Clean Energy Policy enacted, then please be willing to do that. Communities across the West---people, animals, plants, water, air, and land---are dying because your BLM meets out death sentences by allowing Big Gas and Oil to run over us. People are dying---their life support is being poisoned.

Somewhere out beyond the willful greed and the gluttony of the corporations and the bankers, and uninformed people, sanity can be found. Please, please play your part in creating that sanity. From our own area, The Rocky Mountain Institute is a voice of reason and surely one that has been heard as far as the White House. Mr. Salazar, you do remember what it is like to see the snow against the blue sky on the West Elk peaks, and on the Raggeds and the San Juans? How can this not matter? Please speak out---the time has come to let the "leaders" know that our current policy is not acceptable to We The People. The time has come to change course. *The Earth's gifts of clean air, water, and land will not be given forever.* With the current policies of the BLM, its legacy, if there are future generations, will not be one anyone would be proud of. Be part of the CHANGE!

Time has run out.


Phyllis Swackhamer

364104- vicornig

STATE OF UTAH

GARY R. HERBERT
GOVERNOR

OFFICE OF THE GOVERNOR
SALT LAKE CITY, UTAH
84114-2220

GREG BELL
LIEUTENANT GOVERNOR

February 29, 2012

The Honorable Ken Salazar
Secretary
United States Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

Dear Secretary Salazar:

I am writing to express the concern of the State of Utah regarding the draft rule proposed by the Bureau of Land Management (BLM) to unnecessarily regulate hydraulic fracturing of oil and gas wells, commonly referred to as "fracking", on BLM-managed lands in the western United States, and to request you to direct the BLM to reconsider and reject the need for new regulatory requirements in this arena.

Hydraulic fracturing is not a new technology, but a process that has been responsibly used for over 60 years. The process has been a standard and routinely employed technique used to initiate and restimulate production from over one million wells. Over these years, state regulation assured the integrity of well operations, and state and federal revenues have benefitted greatly from the important production that followed. The proposed rule would add a redundant, burdensome and costly layer of federal approval for routine oil and gas operations on federal public lands, and threatens to usurp state authority in a field already well-managed by state regulators.

The process to receive approval to drill and produce an oil or gas well in the Western States is very complex and time consuming for federal agencies. During the approval process initiated by an Application for Permit to Drill (APD), operators must juggle BLM and state regulatory approval processes for many environmental and operational integrity requirements, including well-bore safety, blow-out prevention, production rates designed to maximize recovery of the resource, construction and work-over timing related to the needs of various species, and the like. Operators must compete for expensive and scarce field equipment, such as drill and workover rigs, and need to plan to minimize the idle time of such equipment. Operators report they often will complete six to eight workover well-stimulation processes a week.

The draft rule released by BLM would add a new regulatory requirement for BLM approval for any proposed well stimulation programs at least 30 days prior to beginning any such program, and to disclose the composition of all materials used downhole in the operation. Although the draft rule currently speaks only to well operations subsequent to initial well completion, the engineering techniques involving fluids down the wellbore are the same at initial completion.

Importantly, this new approval requirement would be separate from, and in addition to, the BLM's APD process. Operators are already experiencing an eight month delay between application and approval, compared with a 30-day state approval time for non-federal lands. The proposed regulation will simply add to the BLM's work burden, and delay the work, either at the APD or later operation, with no significant environmental benefit in return. In addition, it is very common for operators to adjust the composition of the fluids in the wellbore during a single workover operation. The new regulations would not allow for this flexibility without significant delay.

In terms of the materials used in the operation, industry, under careful state regulatory review, has already moved to voluntarily disclose these materials. As an example, FracFocus, a national online registry created by the Groundwater Protection Council and the Interstate Oil and Gas Compact Commission, is already in place, allowing companies to disclose the materials used in the hydraulic fracturing process. The Secretary of Energy Advisory Board Subcommittee on Natural Gas, in its report dated November 10, 2001, recommended the Department of Interior use FracFocus as its disclosure instrument. This is a clear example of voluntary measures eliminating the need for additional federal regulation.

I also ask you to consider whether the proposed regulation is antithetical to President Obama's remarks in the 2012 State of the Union address, promising a commitment to "take every possible action to safely develop" domestic natural gas. Because hydraulic fracturing has been safely used for decades in the responsible development of oil and gas in this nation, and the proposed regulation does nothing but add unnecessary red tape, decrease investment and jobs in rural western states, and increase the amount of energy the United States imports from foreign energy sources, we are hard-pressed to understand how the draft regulation supports the President's statement.

I hope you will reconsider this proposed regulation, reject it as an unnecessary burden on the operations of the industry with no benefit in return, and direct the BLM to cease consideration of the proposed regulation any further. Secretary, I appreciate your consideration. Please feel free to contact me to discuss this critical matter.

Sincerely,



Gary R. Herbert
Governor

Cc: Congressman Rob Bishop
Congressman Jim Matheson
Congressman Jason Chaffetz
Senator Orrin Hatch
Senator Mike Lee
Bob Abbey, Bureau of Land Management Director
Samantha Julian, Director of the Office of Energy Development
Amanda Smith, Energy Advisor to the Governor
Kathleen Clarke, Director of Public Lands Policy Coordination Office

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THE SECRETARY OF THE INTERIOR
WASHINGTON

MAR 29 2012

The Honorable Gary R. Herbert
Governor of Utah
Salt Lake City, Utah 84114

Dear Governor Herbert:

Thank you for your letter of February 29, 2012, regarding hydraulic fracturing and the Bureau of Land Management's ongoing efforts to produce a draft rule on well stimulation. I appreciate you taking the time to share your concerns about the effects that this kind of regulation could have on the public lands.

As you may know, the BLM's hydraulic fracturing regulatory framework dates from 1982 and does not reflect the significant technological advances that have occurred over the past 30 years. Today, hydraulic fracturing occurs on nearly 90 percent of all wells drilled on public lands. The BLM invited tribal representatives to engage in government-to-government consultation by attending meetings in Oklahoma, Montana, Utah, and New Mexico. Additional public forums were held in North Dakota, Arkansas, Colorado, and Washington, D.C. During these sessions, the Department of the Interior received a clear message from the public and tribal representatives that they would like the BLM to update its regulations on well stimulation and that more information about post-drilling stimulation operations on public lands should be provided to the public. This message and our efforts to develop a draft rule that will provide for the disclosure of the chemicals used during hydraulic fracturing are in keeping with related efforts in States like Texas, Wyoming, and Colorado.

I appreciate and share your thoughts about the importance of robust oil and gas development in the United States. Strong domestic production is critical to our efforts to reach energy independence. I am confident that by providing the public with more information about drilling activities on public lands – in addition to strengthening well bore integrity standards and water management practices – that we can ensure a bright future for this important energy source.

As we move forward, we will continue to work closely with industry, Federal and state agencies, tribal representatives, and the public to evaluate how best to update our requirements to help assure robust development of our domestic energy resources while also protecting the important resource values of our public lands.

I look forward to working with you as we continue the pursuit of balanced stewardship of America's public lands and resources.

Sincerely,

Ken Salazar

36287. Ute County



UTE INDIAN TRIBE
P. O. Box 190
Fort Duchesne, Utah 84026
Phone (435) 722-5141 • Fax (435) 722-5072

February 9, 2012

The Honorable Ken Salazar
Secretary
U.S. Department of the Interior
1849 C Street, N.W.
Washington DC 20240

Dear Secretary Salazar:

The Ute Tribal Business Committee (UTBC) on the behalf of the Ute Indian Tribe (the "Tribe") of the Uintah and Ouray Indian Reservation (Reservation) writes to express its concern with the Bureau of Land Management's (BLM) decision to persist with rule and regulations for hydraulic fracturing (Fracing) activities on Indian (Federal) lands. We are not only concerned with the process by which the BLM plans to develop the rule but also the impact it will have on the oil and gas industry on the Reservation.

To date, the BLM has hosted a handful of informational meetings throughout the West and describing that as tribal consultation. An informational meeting describing to tribes what the BLM plans to do is not tribal consultation. Effective tribal consultation is sitting down at the table with tribes to discuss the proposed rule and its effects on the tribal economy and the social structure of the tribe. This has not happened.

According to the draft regulations the BLM handed out in Salt Lake City, UT, the BLM plans to look at three key issues pertaining to the Fracing process: wellbore integrity, disclosure, and flowback water. We know of no incidents on Tribal lands that would precipitate federal regulation.

Oil and gas operators seeking permits to drill on "public lands" already undergo an extensive environmental review process before they can begin drilling activities. This process has become lengthy, time consuming and costly, so much so that there is a backlog of hundreds of permits to drill applications not having been acted upon by the BLM Field Office.

The Environmental Protection Agency, as well as other federal agencies, are currently conducting scientific studies on Fracing. BLM regulation is premature in advance of the EPA study, and BLM has offered no justification for proceeding with this new regulation without the benefit of these studies. Without clear demonstration of a problem with the Fracing process and without providing Tribes and states an opportunity

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to respond to any identified deficiencies, we feel the BLM regulation is putting the horse before the cart.

According to BLM, Fracing is used in more than ninety percent of the oil and gas wells drilled on "public lands." Oil and gas royalties from drilling on public lands are significant revenue source for the federal government, the Tribe and Utah. Adding additional burdens for the development on Tribal lands could have an adverse effect of forcing operators to shift investment away from our Reservation, thus depriving the Tribe of needed revenue.

A significant effect in Utah would fall on the significant acres of trust lands managed by the Tribe on our Reservation. After many years of economic hardship, the Tribe and its members are finally seeing improved economic conditions on the Reservation due to the oil activity on the Reservation. New BLM rules on Hydraulic Fracturing would disproportionately impact the Tribe due to our greater reliance on oil and gas development for economic growth and sustainability.

For these reasons, the Ute Indian Tribe requests that BLM not move forward at this time with the development of regulations for Hydraulic Fracturing on public lands and more specifically Reservation lands.

Sincerely,

A handwritten signature in black ink, appearing to read "Irene C. Cuch", with a horizontal line drawn through it.

Irene C. Cuch, Chairwoman
Ute Tribal Business Committee

36287- out going



THE SECRETARY OF THE INTERIOR
WASHINGTON

MAY 03 2012

The Honorable Irene C. Cuch
Chairwoman, Ute Tribal Business Committee
P.O. Box 190
Fort Duchesne, Utah 84026

Dear Chairwoman Cuch:

Thank you for your letter dated February 9, 2012, regarding the Bureau of Land Management's development of a draft rule on hydraulic fracturing. I appreciate you taking the time to share your concerns about the effects that this kind of regulation could have on drilling operations in Indian country.

I assure you that the BLM places a high priority on government-to-government consultation. The BLM initiated formal government-to-government consultation on the proposed hydraulic fracturing rule in January 2012. The BLM invited over 175 tribal entities to sessions that were held in Tulsa, Oklahoma; Billings, Montana; Salt Lake City, Utah; and Farmington, New Mexico. Eighty-four tribal members representing 24 tribes attended these 4 meetings.

At these consultation meetings, tribes received an early working version of the draft hydraulic fracturing rule and a detailed explanation regarding the need for a new updated rule. The BLM received many comments throughout the conversation with the attendees, and notified all the participants that individual consultation is available for interested tribes.

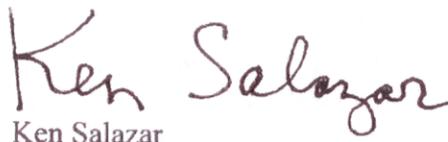
Since January, the BLM has met with the United South and Eastern Tribes (USET) to provide information to the 25 assembled member tribes regarding hydraulic fracturing and the impacts it may pose to their lands. In March and April, the BLM met with the Coalition of Large Tribes (COLT) and the Mandan, Hidatsa and Arikara Nation (MHA Nation) to discuss hydraulic fracturing. In the near future, the BLM will be meeting with representatives from several tribes in Montana, including the Blackfeet, Chippewa Cree, Fort Belknap, and Flathead regarding hydraulic fracturing.

In the spirit of Secretarial Order No. 3317 and the Department's policy on consultation with Indian tribes, the BLM is committed to working closely with tribes throughout the development of this rule. Government-to-government consultation between appropriate tribal and BLM officials will continue as an ongoing process. In addition, the rulemaking process provides several other opportunities for input from affected parties. Following publication of the proposed rule, there will be a 60-day public comment period during which we will concurrently continue tribal consultations. Should there be significant changes to the draft rule as a result of

comments, additional consultation opportunities would be available. This good faith effort of open and transparent communication will ensure a process that reflects comprehensive tribal participation and input.

I look forward to working with you as we continue to improve the way we manage energy resources on tribal lands.

Sincerely,

Handwritten signature of Ken Salazar in black ink, written in a cursive style.

Ken Salazar

36171 - incoming
no outgoing
FS



Industrial Energy Consumers of America
The Voice of the Industrial Energy Consumers

1155 15th Street, NW, Suite 500 • Washington, D.C. 20005
Telephone 202-223-1420 • Fax 202-530-0659 • www.ieca-us.org

February 23, 2012

The Honorable Ken Salazar
Secretary
U.S. Department of the Interior
1849 C Street, NW
Washington D.C. 20240

Dear Secretary Salazar:

On behalf of the Industrial Energy Consumers of America (IECA), we urge you to not introduce new hydraulic fracturing related regulation on federal lands. Western states with federal lands already have regulations in place that protect the environment. New federal regulation is not needed and will slow natural gas and oil production just when it is needed most – impacting manufacturing jobs and competitiveness. Furthermore, gasoline prices are projected to reach \$5.00 per gallon this summer. Ample supplies of domestic oil will help to reduce the increases and prevent U.S. economic growth from stalling.

The Industrial Energy Consumers of America is a nonpartisan association of leading manufacturing companies with \$700 billion in annual sales and with more than 650,000 employees nationwide. IECA membership represents a diverse set of industries including: chemicals, plastics, cement, paper, food processing, brick, fertilizer, steel, glass, industrial gases, pharmaceutical, aluminum and brewing.

IECA member companies have good reason to be concerned. In the period from 2000 to 2005 natural gas prices doubled and tripled because demand exceeded supply. We remember that the Bureau of Land Management's (BLM) permitting system, heavy with increased bureaucracy and inadequate staffing, resulted in thousands of drilling permit backlogs. Wells did not get drilled, natural gas and oil did not get produced and the manufacturing sector and the economy as a whole suffered. There were plenty of natural gas reserves and the federal government was directly responsible for the failure to allow producers access to the natural gas in order to produce it for us, the consumer.

The manufacturing sector lost 3.0 million jobs from 2000 to 2005 and a great number of these jobs were directly related to the high price of natural gas. Thousands of chemical, plastics, fertilizer, steel, paper, glass and aluminum manufacturing plants shut down. We cannot and should not let this happen again.

In a recent interview you have commented that rules to be proposed by the Department of the Interior will focus on "one, disclosure, two, well bore integrity and three, what happens with respect to flowback water." Mr. Secretary, states, especially states with federal lands, have done an exceptional job in all three of these areas. It is also important to mention that federal

law already covers water quality and wastewater disposal issues. At minimum, we urge you to consult with the States and their regulatory agencies with federal lands, before advancing new hydraulic fracturing-related regulations.

For example, Department of the Interior regulations similar to those that exist under the EPA's Underground Injection Control (UIC) Program would be inappropriate given that the UIC rules are designed to keep injected waste in the ground rather than to allow safe oil and gas extraction. The result would be unnecessary delays of gas and oil production. The draft rules would require filing a hydraulic fracturing fluid disclosure for each well no less than 30 days in advance of operations. Once the disclosure form is submitted, no changes can be made to the stimulation fluid makeup without resubmittal and the start of a new clock.

Clearly, these rules would slow down the production of the gas and oil that we need for economic growth. Federal revenues from such production would slow as would revenue to the States themselves. There are no winners – only losers.

As significant consumers of natural gas, we support disclosure of fluids used in the hydraulic fracturing process. We have reviewed the Groundwater Protection Council and Interstate Oil and Gas Compact Commission national online registry, FracFocus (<http://fracfocus.org/>), and believe it to be a superb example of what is needed and demanded by consumers. We recommend that the Department of Interior implement FracFocus as the vehicle for monitoring and protecting health and the environment.

Since 2000, the manufacturing sector has lost 5.5 million jobs. For the first time in two decades, we have the potential for a manufacturing renaissance because of low natural gas prices. Low natural gas prices provide a strategic advantage over our non-U.S. competitors and companies are beginning to invest in the U.S. We urge you to not impose regulations that are unnecessary – the consequences are too great.

Sincerely,

Paul N. Cicio
President

cc: The Honorable Jeff Bingaman
The Honorable Lisa Murkowski
The Honorable Doc Hastings
The Honorable Edward Markey
The Honorable Fred Upton
The Honorable Henry Waxman

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— State of —
North Dakota
Office of the Governor

Jack Dalrymple
Governor

February 8, 2012

The Honorable Ken Salazar
Secretary
U.S. Department of the Interior
1849 C Street, N.W.
Washington DC 20240

Dear Secretary Salazar;

I am writing to express my concern with the Bureau of Land Management's (BLM) decision to persist with rules and regulations for hydraulic fracturing (HF) activities on federal lands.

As you are aware, North Dakota currently regulates HF on state, federal, and private lands. According to draft regulations we have seen, your agency plans to look at three key issues pertaining to the HF process: wellbore integrity, disclosure, and flowback water. I know of no incidents on public lands in North Dakota that would precipitate federal regulation redundant with our state procedures managed by the North Dakota Industrial Commission.

Oil and natural gas operators seeking permits to drill on public lands already undergo an extensive environmental regulatory process before they can begin drilling activities – a process that has become lengthy, time consuming, and costly. In addition, North Dakota is currently permitting wells and managing the environmental risks associated with oil and natural gas production. I believe additional regulations regarding these issues are unnecessary and redundant in an area that is already effectively regulated by the states.

Similarly, disclosure of HF chemicals used on public lands is already underway. North Dakota has recently updated its HF rules, including new standards for disclosure. We have been successfully regulating wellbore integrity and other aspects of the drilling and completions process for decades.

The Environmental Protection Agency, as well as other federal agencies, are currently conducting scientific studies of HF. BLM regulation is premature in advance of the EPA study, and BLM has offered no justification for proceeding with new regulations without the benefit of these studies. Without a clear demonstration of inadequacy in the states' regulatory systems, along with an opportunity for the states to

Honorable Ken Salazar
February 8, 2012
Page 2

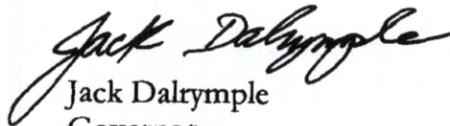
respond to any identified deficiencies, the states should not be expected to accept federal usurpation of state regulation.

According to the BLM, HF is used in more than ninety percent of oil and gas wells drilled on public lands. Oil and natural gas royalties from drilling on public lands are a significant revenue source for the federal government, the Tribes and North Dakota, and additional burdens for development on public lands could have the adverse effect of forcing operators to shift investment away from public lands, thus depriving the government of needed revenue.

A significant effect in North Dakota would fall on the 484,000 acres of trust lands managed for the Three Affiliated Tribes and individual allottees on the Fort Berthold Reservation. After many years of economic hardships, the Tribe and its members are finally seeing employment opportunities and economic development due to the oil activity on the reservation. New BLM rules on hydraulic fracturing would disproportionately impact the Tribe due to its greater reliance on oil development for economic growth.

For these reasons, I respectfully request that BLM not move forward at this time with the development of rules for HF on public lands.

Sincerely,


Jack Dalrymple
Governor

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THE SECRETARY OF THE INTERIOR
WASHINGTON
MAR 29 2012

The Honorable Jack Dalrymple
Governor of North Dakota
Bismarck, North Dakota 58505

Dear Governor Dalrymple:

Thank you for your letter of February 8, 2012, regarding hydraulic fracturing and the Bureau of Land Management's ongoing efforts to produce a draft rule on well stimulation. I appreciate you taking the time to share your concerns about the effects that this kind of regulation could have in North Dakota.

As you may know, the BLM's hydraulic fracturing regulatory framework dates from 1982 and does not reflect the significant technological advances that have occurred over the past 30 years. Today, hydraulic fracturing occurs on nearly 90 percent of all wells drilled on public lands. The BLM invited tribal representatives to engage in government-to-government consultation by attending meetings in Oklahoma, Montana, Utah, and New Mexico. Additional public forums were held in North Dakota, Arkansas, Colorado, and Washington, D.C. During these sessions, the Department of the Interior received a clear message from the public and tribal representatives that they would like the BLM to update its regulations on well stimulation and that more information about post-drilling stimulation operations on public lands should be provided to the public. This message and our efforts to develop a draft rule that will provide for the disclosure of the chemicals used during hydraulic fracturing are in keeping with related efforts in States like Texas, Wyoming, and Colorado.

I appreciate and share your thoughts about the importance of robust oil and gas development in the United States. Strong domestic production is critical to our efforts to reach energy independence. I am confident that by providing the public with more information about drilling activities on public lands – in addition to strengthening well bore integrity standards and water management practices – that we can ensure a bright future for this important energy source.

As we move forward, we will continue to work closely with industry, Federal and state agencies, tribal representatives, and the public to evaluate how best to update our requirements to help assure robust development of our domestic energy resources while also protecting the important resource values of our public lands.

I look forward to working with you as we continue the pursuit of balanced stewardship of America's public lands and resources.

Sincerely,

Ken Salazar

35624-Wilming

DOC HASTINGS, WA
CHAIRMAN
DON YOUNG, AK
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LOUIE GOHMERT, TX
ROB BISHOP, UT
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COLLEEN W. HANABUSA, HI

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515
February 8, 2012

JEFFREY DUNCAN
DEMOCRATIC STAFF DIRECTOR

TODD YOUNG
CHIEF OF STAFF

The Honorable Ken Salazar
Secretary
U.S. Department of the Interior
1849 C Street, NW
Washington, D.C. 20240

Dear Secretary Salazar:

It is our understanding that the Bureau of Land Management (BLM) is currently drafting regulations governing the production of oil and natural gas on Federal lands, including lands managed for the benefit of Indian tribes and their members. We further understand that as part of this regulatory process, the BLM is currently undergoing formal tribal consultations on the proposed rule which would further regulate and condition the use of hydraulic fracturing on Federal and Indian lands. As Chairman and Ranking Member of the Subcommittee on Indian and Alaska Native Affairs, we are committed to ensuring that tribal stakeholders with existing or potential interest in mineral development have a meaningful opportunity to be heard and, at the same time, receive from the Department of the Interior a clearly articulated demonstration of how the proposed regulations would impact their communities.

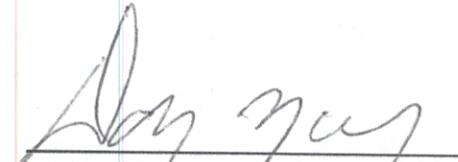
We recently received a copy of the draft regulation and our cursory review indicates that its contents could, on numerous levels, severely restrict the ability to effectively use hydraulic fracturing, a critical technology deployed at an overwhelming majority of all oil and natural gas exploration operations around the country. Furthermore, the additional data submission requirements and approval certification demanded by the rule will undoubtedly add significant delay to well operations, duplicate existing state regulations that effectively manage environmental risks, and in some cases could make it even more uneconomic for a tribe to develop a mineral resource on its own tribal lands.

We are committed to promoting tribal political sovereignty and more robust economic growth for all federally recognized tribes. No group of Americans has continually experienced more unwanted interference in their lives through layer after layer of laws, regulations, and policies than Native Americans. This is why we must give careful consideration to the unique

government-to-government relationship, and be diligent in enacting laws respecting each tribe's inherent sovereign powers over their own members and territory. We believe placing additional undue barriers and obstacles on top of the comparative disadvantages that already serve as major disincentives for tribal energy development is unwise and counterproductive.

For these and other reasons, and to ensure that each tribal stakeholder has an adequate opportunity to review and understand all aspects of the draft regulation, we respectfully request a comprehensive list of all tribes that you have approached during the current tribal consultation process as it relates to this rule, a copy of the documents you provided to them, and your proposed plan, including time frames, for moving forward in accommodating tribal concerns. We look forward to working with you to ensure that Indian tribes are being consulted in an appropriate and meaningful way.

Sincerely,



Don Young
Subcommittee Chairman
Indian and Alaska Native Affairs



Dan Boren
Subcommittee Ranking Member
Indian and Alaska Native Affairs



THE SECRETARY OF THE INTERIOR

WASHINGTON
MAR 29 2012

35624. out going

The Honorable Don Young
Chairman, Subcommittee on Indian
and Alaska Native Affairs
Committee on Natural Resources
House of Representatives
Washington, DC 20515

Dear Representative Young:

Thank you for your letter of February 8, 2012, regarding the Bureau of Land Management's ongoing efforts to produce a draft rule on hydraulic fracturing. I appreciate you taking the time to share your concerns about the effects that this kind of regulation would have on drilling operations on Federal and Indian lands.

The BLM places a high priority on tribal consultation and in January 2012 held consultation sessions on the proposed hydraulic fracturing rule in Tulsa, Oklahoma; Billings, Montana; Salt Lake City, Utah; and Farmington, New Mexico. Additional public forums were held in North Dakota, Arkansas, Colorado, and Washington, D.C. During these sessions, the Department of the Interior received a clear message from tribal representatives and the public that they would like the BLM to update its regulations on well stimulation and that more information about post-drilling stimulation operations on tribal lands and public lands should be provided. I am providing a copy of the BLM's invitation letter to tribes, as well as the list of addressees, and the documents distributed at the tribal consultation sessions. You will find all of these items on the enclosed disk. The BLM is committed to working closely with the tribes throughout the development of this rule.

I look forward to working with you as we continue to improve the way we manage energy resources on public lands. A similar letter has been sent to Representative Dan Boren.

Sincerely,

Ken Salazar

Enclosure



THE SECRETARY OF THE INTERIOR
WASHINGTON

MAR 29 2012

The Honorable Dan Boren
Ranking Member, Subcommittee on Indian
and Alaska Native Affairs
Committee on Natural Resources
House of Representatives
Washington, DC 20515

Dear Representative Boren:

Thank you for your letter of February 8, 2012, regarding the Bureau of Land Management's ongoing efforts to produce a draft rule on hydraulic fracturing. I appreciate you taking the time to share your concerns about the effects that this kind of regulation would have on drilling operations on Federal and Indian lands.

The BLM places a high priority on tribal consultation and in January 2012 held consultation sessions on the proposed hydraulic fracturing rule in Tulsa, Oklahoma; Billings, Montana; Salt Lake City, Utah; and Farmington, New Mexico. Additional public forums were held in North Dakota, Arkansas, Colorado, and Washington, D.C. During these sessions, the Department of the Interior received a clear message from tribal representatives and the public that they would like the BLM to update its regulations on well stimulation and that more information about post-drilling stimulation operations on tribal lands and public lands should be provided. I am providing a copy of the BLM's invitation letter to tribes, as well as the list of addressees, and the documents distributed at the tribal consultation sessions. You will find all of these items on the enclosed disk. The BLM is committed to working closely with the tribes throughout the development of this rule.

I look forward to working with you as we continue to improve the way we manage energy resources on public lands. A similar letter has been sent to Representative Don Young.

Sincerely,

Ken Salazar

Enclosure

35623- incoming

DOC HASTINGS, WA
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BILL JOHNSON, OH
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TODD YOUNG
CHIEF OF STAFF

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

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RANKING DEMOCRATIC MEMBER
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JOHN GARAMENDI, CA
COLLEEN W. HANABUSA, HI

JEFFREY DUNCAN
DEMOCRATIC STAFF DIRECTOR

February 8, 2012

The Honorable Ken Salazar
Secretary
Department of the Interior
1849 C Street, NW
Washington, DC 20240

Dear Secretary Salazar:

We write to urge you to revise your enforcement strategies and drilling regulations in light of an analysis prepared by the House Natural Resources Committee's Democratic staff at our request (a copy of which is attached). This staff study indicates that significant violations relating to oil and gas drilling are occurring on federal lands without consistent and adequate federal oversight and enforcement. As industry expands the use of hydraulic fracturing to tap into more oil and gas reserves across the nation, including on federal lands, it is imperative that the process is performed in a safe and environmentally sound manner that protect surface and subsurface resources. A strong and consistent approach to oversight and enforcement of drilling practices on federal lands is important in advancing that goal.

To aid in our oversight responsibilities, as Ranking Members of the Natural Resources Committee and its Energy and Mineral Resources Subcommittee, we requested data and other materials from you regarding the practice and oversight of oil and gas drilling activities on federal lands, including information concerning safety-related and other violations that have occurred over the last decade. We are writing to share our staff's analysis and findings of the documents provided to us by the Department of the Interior (DOI) in response to our request. In short, the analysis shows that:

- There were a total of 2,025 safety and drilling violations that were issued to 335 companies drilling in seventeen states between February 1998 and February 2011. Of these, 27 percent were classified by Committee staff as a major environmental or safety violation, 20 percent as a minor safety violation and 53 percent as a minor drilling or operational violation.

- Oil and gas drilling activities on public lands may endanger drinking water. Approximately one-third of a random sample chosen by the DOI to represent oil and gas wells on federal lands was hydraulically fractured in, near or below an underground source of drinking water. The widespread use of this drilling practice at such locations underscores the importance of ensuring that hydraulic fracturing operations be conducted in a fashion which will not threaten drinking water supplies. Anecdotally, and through a casual conversation that occurred with the operator after the well had already been fractured, the DOI was made aware of one case in which diesel fluid was used during hydraulic fracturing in a well in Wyoming that was completed in 2008, without a permit and without prior knowledge of the agency- in potential violation of the Safe Drinking Water Act.
- There were many violations that could endanger health and safety of workers and the environment. An evaluation of the data found many examples of major environmental or safety violations reported during this period, including a 2008 blowout of a well in North Dakota that was not immediately reported to the DOI; an operator in Mississippi that did not install a blowout preventer or any other safety equipment to control the well in the event of a blowout; and an improper casing and cement job in Wyoming that led to leaks of water and gas through the cement of the well.
- There were 549 violations classified as "major" by Committee staff, 53 percent of which (293 violations) were related to non-functional blowout preventers. In addition, 25 percent of what were classified as minor safety violations (104 out of 410 violations) were issued because of minor problems with the blowout preventer or other device that could impact well control. In all, problems with blowout preventers or other devices responsible for well control constituted 20 percent (397 out of 2,025 violations) of all violations.
- Some operators fail to get approval from DOI prior to drilling on federal lands. In fifty-four instances, operators were given written citations for violations related to drilling on federal lands before they received the appropriate approval. In many instances, according to DOI staff, these violations were given because an operator began drilling on federal lands before the permit to drill was fully processed and approved by the DOI.
- More than one-fifth of major violations involved a compromise of vital casing and cementing. Twenty-one percent of the 549 major cited environmental or safety violations were issued because of deficiencies in casing and cementing programs. Appropriate casing and cementing is the first line of defense in protecting underground sources of drinking water.

- Operators frequently violate safety testing, record-keeping and notification requirements. The majority (628 out of 1,066 total or 60 percent) of the minor drilling or operational violations were issued for safety testing, record-keeping and notification violations. These included written violations for failing to comply with requirements to keep records of operations and to notify the Department of significant activities. Failure to keep such records or reports when required to do so could potentially conceal significant safety issues, and makes it more difficult for the agency to conduct effective oversight on drilling operations occurring on federal lands.
- Monetary penalties are almost never issued and when issued amount to very little. Despite the fact that many of these violations were issued for serious safety and environmental reasons, only 125 (six percent) of all the violations were levied a monetary fine. Although the violations that occurred were spread across 17 states, eight states (AK, AR, LA, ND, NV, OH, SD, and WV) never issued a monetary fine of any amount during the entire period examined. Additionally, only 64 out of the 335 operators with violations were ever levied a monetary fine. The fines that were levied also amounted to very little. In fact, fines issued on all federal lands dating from February 1998-February 2011 amounted to a total of just \$273,875. For example, in 2003 an operator was found to be discharging fluids directly from the rig into the Washita River in Oklahoma. As a penalty for this, the operator was issued a monetary assessment of only \$2,500, which is less than what some of the largest oil and gas companies can earn in a minute.¹
- The issuance of monetary fines is inconsistent. There were frequent incidences in which a specific activity led inspectors to issue a monetary penalty against one operator, but not against another when the second operator was found to have committed the identical violation. This occurred even within the same state, even though each state presumably has uniform inspection and enforcement processes and protocols. Even among those operators that were frequent repeat violators, there were four companies that never once received a fine, despite the fact that companies with even fewer violations did receive a fine. This lack of consistency in the issuance of monetary penalties calls into question the adequacy and effectiveness of the oversight of onshore oil and gas drilling operations and the ability of the DOI to ensure safety and environmental performance of hydraulic fracturing as this practice expands on federal lands.

¹ In its 2011 3rd quarter financial report the 3 top U.S. Oil and Gas Companies (Exxon Mobil, ConocoPhillips and Chevron Corporation) each reported earnings of over \$7 billion. See for example: http://www.chevron.com/chevron/pressreleases/article/10282011_chevronreportsthirdquartermetincomeof78billionupfrom38billioninthirdquarter2010.news

Secretary Salazar
February 8, 2012
Page 4

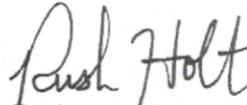
To improve the Department's approach to drilling safety, we urge you to direct the BLM to: 1) update and publish drilling safety regulatory and enforcement policies that reflect the increase in oil and gas drilling on federal lands and the use of advanced technologies such as hydraulic fracturing, 2) enhance the deterrent for non-compliance by increasing the dollar amount of monetary penalties, expanding the infractions for which penalties can be issued and ensuring that inspectors are trained to consistently apply them, 3) ensure information collected by BLM field officers during inspections is accurate and complete and provides necessary information about compliance issues, so that appropriate enforcement actions can be taken, and 4) define circumstances under which DOI will cancel permits for repeat or particularly egregious drilling safety violators.

We request that you provide a specific and complete response detailing how the Department plans on implementing changes to improve upon the deficiencies noted in this report by close of business on Friday March 9, 2012. Should you have any questions about this report, please have your staff contact Dr. Avenel Joseph of the Committee's Democratic Staff at 202-225-6065 or Dr. Elizabeth O'Hare of Rep. Holt's staff at 202-225-5801.

Sincerely,



Edward J. Markey
Ranking Member
Committee on Natural Resources



Rush D. Holt
Ranking Member
Subcommittee on Energy and
Mineral Resources

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EXECUTIVE SECRETARY

2012 FEB -9 AM 10:09

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THE SECRETARY OF THE INTERIOR

WASHINGTON

MAR 21 2012

The Honorable Edward J. Markey
Ranking Member, Committee on Natural Resources
House of Representatives
Washington, DC 20515

Dear Representative Markey:

Thank you for your letter of February 8, 2012, and the accompanying report on safety and oversight of oil and gas operations.

Over the past 3 years, we have made considerable progress in strengthening safety, enforcement, and oversight of energy operations, both onshore and offshore. We have, for example, taken steps toward ensuring that hydraulic fracturing on Federal and tribal lands is conducted in a safe and environmentally sound manner that protects surface and subsurface resources. Casing and cementing, in particular, are the first line of defense in protecting underground sources of drinking water and — as noted in the report — Onshore Oil and Gas Orders No. 1 and No. 2 provide drilling, surface use plan, and casing and cementing requirements. In addition, conditions of approval may also be attached to individually approved Applications for Permit to Drill to address specific surface or subsurface conditions.

The Department has also held public forums and regional listening sessions and conducted tribal outreach and consultation to discuss the hydraulic fracturing process and to address additional measures including disclosure, well-bore integrity, and fluid management. The Bureau of Land Management is preparing to publish a proposed new regulation that will address disclosure of chemicals used in fracturing fluids, focus on extending existing well-bore integrity standards to hydraulic fracturing operations, and ensure that companies have management plans for fluids that flow back to the surface. We look forward to gathering input on this rule from the public, states, tribes, stakeholders, and members of Congress as this process moves forward.

The BLM is working to strengthen its inspection program for onshore oil and gas activities. For example, inspection activities now focus on higher risk activities. Our Fiscal Year 2013 budget established a priority goal — one of only a handful in the entire budget — to ensure that inspections are undertaken in more than 95 percent of higher risk oil and gas operations. Also, the FY 2013 budget request proposes to further expand and strengthen the oil and gas inspection capability through the imposition of fees on industry. The fee schedule included in the budget would generate an estimated \$48 million in collections, which would offset a proposed reduction of \$38 million in appropriated funds, providing a net increase of \$10 million for this critical BLM management responsibility. I appreciate the Committee's assistance in procuring this dedicated funding source.

Further, there is a demonstrated commitment to levy major fines against non-complying oil and gas operators. In April 2011, the BLM announced the largest civil penalty settlement in the Bureau's history. The \$2.1 million settlement by Berry Petroleum Company resulted from a joint BLM and Office of Inspector General investigation and resolved a proposed civil penalty the BLM issued in July 2009.

In addition, the Department and the BLM are always looking for opportunities to enhance accountability and make greater use of best management practices involving internal control and audits. The BLM will evaluate increasing the dollar amount of assessments under its regulations and expanding the categories of violations that result in automatic assessments. However, the dollar amount of civil penalties is set under the Federal Oil and Gas Royalty Management Act and any change would require an amendment to that law.

I appreciate the work of the Committee Members and their staffs to develop the report you presented. I have asked the BLM to review the report closely and follow up directly with you on any additional questions.

I look forward to our continuing work together to ensure that America's energy resources are developed safely and responsibly. A similar letter has been sent to Representative Rush Holt.

Sincerely,

A handwritten signature in black ink that reads "Ken Salazar". The signature is written in a cursive, flowing style.

Ken Salazar



THE SECRETARY OF THE INTERIOR
WASHINGTON
MAR 21 2012

The Honorable Rush D. Holt
Ranking Member
Subcommittee on Energy and Natural Resources
Committee on Natural Resources
House of Representatives
Washington, DC 20515

Dear Representative Holt:

Thank you for your letter of February 8, 2012, and the accompanying report on safety and oversight of oil and gas operations.

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I look forward to our continuing work together to ensure that America's energy resources are developed safely and responsibly. A similar letter has been sent to Representative Edward Markey.

Sincerely,

A handwritten signature in black ink that reads "Ken Salazar". The signature is written in a cursive, slightly slanted style.

Ken Salazar

34703 - incoming



Senator Pat Toomey

United States Senate • Pennsylvania



OFFICE OF SENATOR PAT TOOMEY

1150 SOUTH CEDAR CREST BOULEVARD

SUITE 101

ALLENTOWN, PA 18103

PHONE: 610-434-1444

FAX: 610-434-1844

FACSIMILE TRANSMITTAL SHEET

TO: Christopher Mancoske FROM: Sarah Bily

FAX NUMBER: 202-208-5583 DATE: 12/19/11

COMPANY: Dept. of the Interior TOTAL NUMBER PAGES: 21

PHONE NUMBER: SENDERS REFERENCE NUMBER

RE: Charles Herlach YOUR REFERENCE NUMBER

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY

2011 DEC 20 PM 3:13

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507748

PATRICK J. TOOMEY
PENNSYLVANIA

COMMITTEES
BANKING, HOUSING, AND
URBAN AFFAIRS
COMMERCE, SCIENCE, AND
TRANSPORTATION
BUDGET
JOINT ECONOMIC COMMITTEE

United States Senate

WASHINGTON, DC 20510

December 19, 2011

Christopher Mansour
Director of Congressional and Legislative Affairs
U.S. Department of the Interior
Fax: 202-208-5533

Dear Mr. Mansour:

Enclosed is a copy of correspondence from my constituent, [non-responsive] regarding his concerns with water contamination caused by hydraulic fracturing. As per [non-responsive] request, I am forwarding his research materials for your review.

I appreciate your consideration of [non-responsive] concerns and respectfully request that you direct your response to the constituent. Thank you for taking the time to review this matter.

Sincerely,



Pat Toomey
U.S. Senator

Enclosure

Dear Senators Casey and Toomey,

Nov. 28 2011

DEC 19 2011

Several weeks ago I watched a C-span meeting on the oil and gas industry. Secretary Salazar was one of the participants on the panel. He was asked if he knew of any confirmed cases of water contamination caused by fracking, his answer was no.

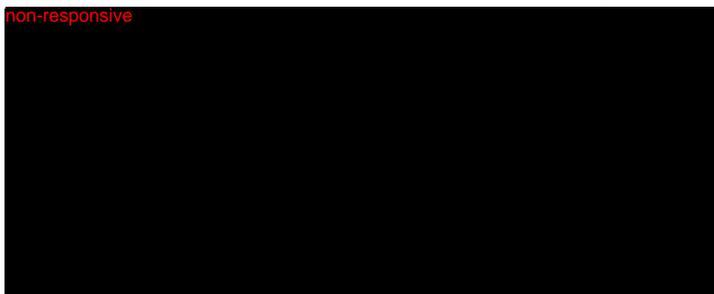
There are cases of water contamination here in Bradford county, PA. Enclosed are some of the people that have been effected.

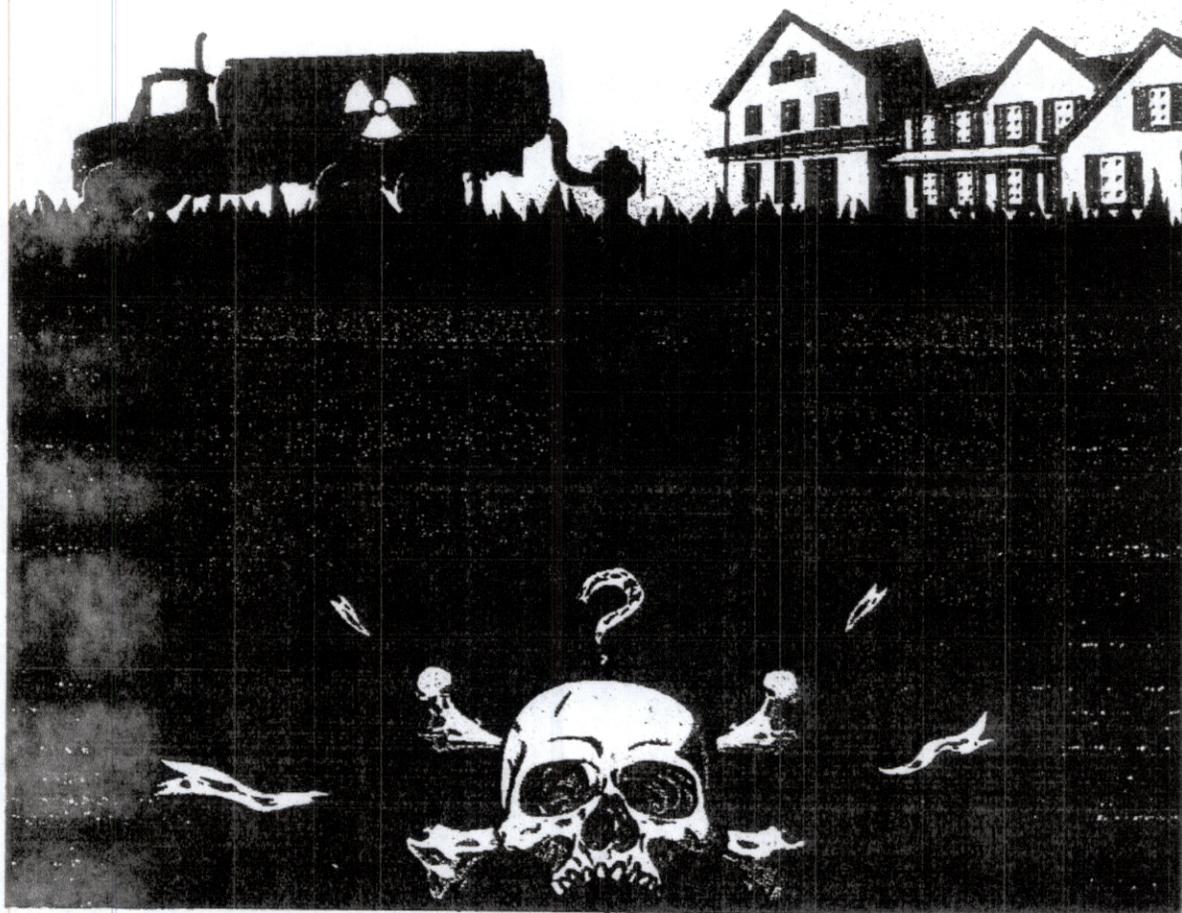
I called the department of the interior with this information, they told me to contact you and you would forward it to them- I hope so!

This industry is destroying our way of life, our environment , our natural beauty and our tourist industry. Should we sacrifice all this for foreign investors and the gas industry ?

Sincerely,

non-responsive





EVIDENCE OF WATER CONTAMINATION

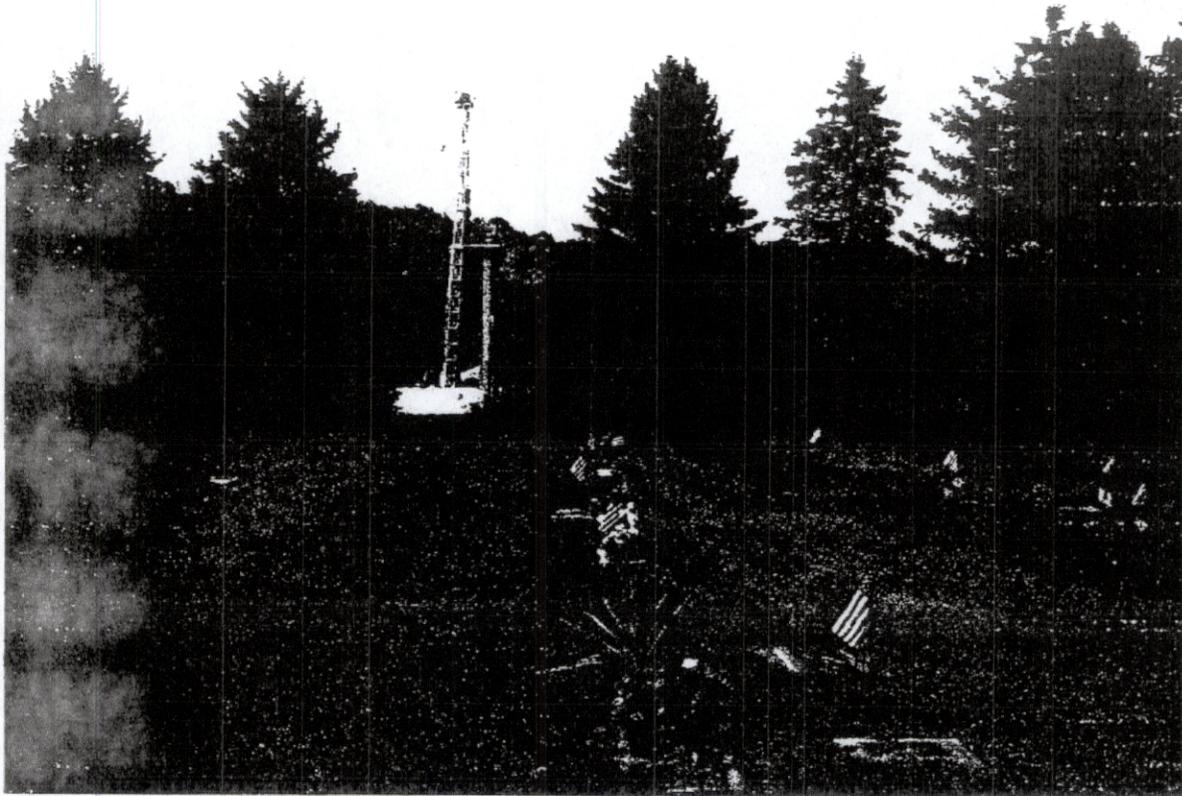
Linked to Shale Gas Production

Prepared November 13, 2011

non-responsive



PERSONAL COMMENTS:



Bradford County Memorial Cemetery – drill rig in background: “Drilling under dead people”

Photo by D. Siegmund

NO RESPECT FOR THE LIVING OR FOR THE DEAD: Despite strong objections from local people, gas production moves forward in Bradford County. Residents stand helpless against a Pennsylvania state politic that affords them only weak, or completely non-existent, regulatory protection. Politicians, with questionable loyalties, stand silent as industry moves in: drilling under dead people, contaminating household water supplies, and overloading the capacity of our local roadways. Homeowners, who now find that they are living with heavy industry next door, have no defense against the loss of their way of life or destruction of their property values. Many are feeling that there is “nowhere to run” – can’t sell their house – can’t drink their water.

THE FOLLOWING PAGES ILLUSTRATE SOME EFFORTS, MADE BY LOCAL PEOPLE, TO PROTECT THEIR COMMUNITY – AS THEY DEFEND AGAINST THE BLIGHT ON THEIR PROPERTY RIGHTS, THE DEGRADATION OF THEIR ESSENTIAL RESOURCES, AND THE DESTRUCTIVE POWER OF GREED AND POLITICAL BETRAYAL.

Pennsylvania does not count how many water supplies are impacted by gas drilling. So, how many water supplies have been impacted by drilling activities? Right now, no one is keeping a complete count!

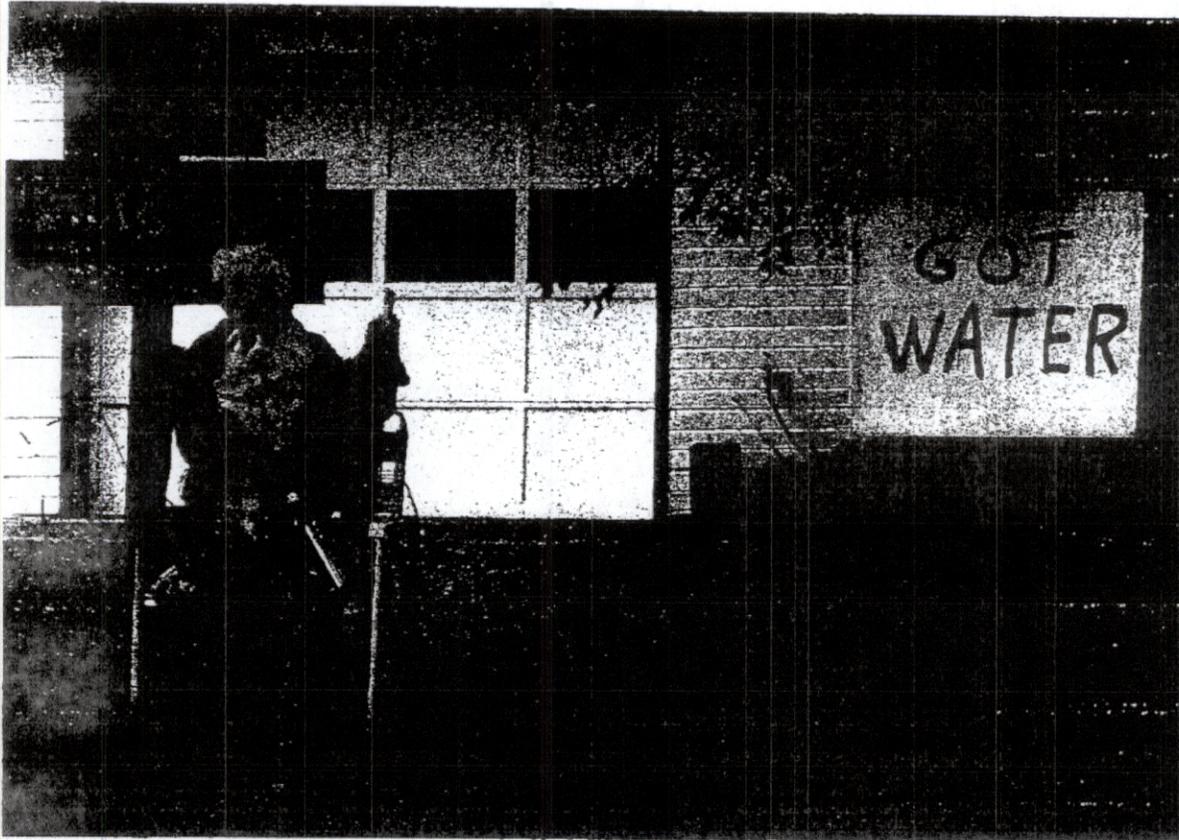
1. The Oil and Gas Act does not require drillers to notify state regulators when landowners alert them that drinking water has been harmed by gas operations.
2. Under current law, the Department of Environmental Protection must look into cases of potential drinking water pollution only when it is asked to investigate a problem by the landowner.
3. The department also does not track how often gas drillers voluntarily replace drinking water supplies, either temporarily or permanently. Homeowners and drillers can work out 'agreements' without involving the DEP.



So, what is the real number of water contamination incidents in Bradford County? Perhaps this is not such a simple question to answer:

As can be seen in the map above, some say the number is around 81. But with the various non-disclosure agreements, lack of a clear and easy way to 'register' contamination, and the politics of asset protection the actual damage numbers are still up for debate.





The Politics and Outrage of Water Wars, July, 2011

Photo by D. Siegmund

The arrival of the gas industry in Bradford County has created many changes. For some residents these changes have been horrific, unwanted and unwelcome. Feelings of anger, sadness, helplessness and frustration are expressed toward a situation that many say has left them suffering and their quality of life destroyed. Residents have endured increased noise, crime, traffic accidents, hopelessly congested roadways, dangerous methane migration and contamination of their household water. Some seem to understand the severity of the issues arising from the invasion of the shale gas industry, others do not.

The following pages document incidents of water contamination around Bradford County. It is only a partial list. Many people who have sustained damage do not wish to speak up. Perhaps it is against their culture to do so – or maybe it is just because they see no way to get it made 'right.' Could be that people grow silent out of a growing loss of confidence in their regulatory agencies. Truly, we are witnessing a failure of government to protect "David from Goliath" and many are beginning to wonder who Pennsylvania government is working for anyway! Out of the hundreds and hundreds of violations related to gas production since 2008 only a small number have ever been enforced or punished in a meaningful way. We are quickly realizing that, if things go wrong, there is little we can do.

What would you be willing to pay for gas.

TERRY TOWNSHIP, Wyalusing, Pennsylvania

1. [non-responsive] "I returned home one day to find little red flags, like land mine markers in a war zone all around our property." The family property had become a methane field. [non-responsive] believes that Chesapeake's gas wells 4,000 feet away had somehow been sending methane onto her property and into her water. Testing by DEP traced the methane to Chesapeake wells but the company has denied responsibility. The [non-responsive] house, once valued at \$150,000, is now worth \$29,000. There is a methane monitor in the basement, a methane water filtration system in the backyard shed. They leave the door open when they take showers because with no bathroom windows, they are afraid the house could blow up. In the middle of their yard, a shaft vents gas from their wellhead. "We're not asking for a lot and now they're taking it all away. In a million years, I never would have thought that people could do this and get away with it."
2. [non-responsive] "Brown water and high methane levels." The methane present in the [non-responsive] home has been traced back to Chesapeake's gas well. New wells were drilled to try to find potable water, but the water in the new well was also contaminated. Their house was assessed at \$250,000, but now is valued at \$30,000.
3. [non-responsive] "Muddy water and high methane levels." Although their home is located 4,000 feet was the drill site, contaminated water is also linked to the Chesapeake wells.
4. [non-responsive] Welles Mountain, Wyalusing. Family experiencing "bad water." Dead dog, put down because of suspected illness from water. Internal bleeding. Suspected barium. House is vented for radon. Vent near his home releases high levels of methane from the water well he can no longer use.
5. [non-responsive] Water contamination and white substances bubbling up from the ground around the house. April 1st, the water turned cloudy, and then dark brown and her sister's cows refused to drink it. Chesapeake disconnected the well, filled water buffaloes, and plumbed them into the home. [non-responsive] was handed a document and told that he would not "flip the switch" on the system unless she signed a nondisclosure (gag) order.
6. [non-responsive] contaminated water
7. [non-responsive] contaminated water. Water buffalo serves as supply for house since August, 2010. Just two days before their water turned muddy, drilling had started on a gas well just over 500 feet from their home. Chesapeake agreed to provide a buffalo, but wanted the Otis's to sign a form releasing Chesapeake from all responsibility for the water problem. Testing revealed iron, manganese and lead beyond levels recognized as safe for drinking. "All we want is our water back. All we want is our home."
8. Four neighbors near the Hershberger site – want to remain anonymous
9. 10, and 11.....

SUGAR RUN, Pennsylvania

1. [redacted] have abandoned their home in Sugar Run. He left with [redacted] in mid-November 2009, after their blood tests showed high levels of barium and their home had radon levels three times the safe limit. They had been experiencing health problems for months: "I had tremors on my right side, constant headaches, numbness. We both had heart attack symptoms. A hole erupted in their front yard and spewed out a "mysterious froth." A toxicologist in Philadelphia told them to stop drinking their water and leave their home – which they have done. [redacted] says there are many families in Sugar Run with problems such as theirs.
2. [redacted] has reportedly contamination – two affected wells
3. [redacted] – contaminated water. Water buffalo next to their home
4. Five other families in same area – will remain nameless

WYALUSING, Pennsylvania

1. [redacted] Homet's Ferry. Reports of Barium poisoning. Family owns dairy farm and worries that livestock may also be contaminated.

BURLINGTON TOWNSHIP, Pennsylvania

1. [redacted] – grey water, red rashes, flaming faucets. High levels of methane. Live with methane alarm in house. Five horses dead from the water. Dozens of farm animals dead from the water. Illness and fears of explosive levels of gas.
2. [redacted] – drill site constructed 50 feet from property line and less than 200 feet from his home. Grey water and water contamination and barium poisoning.
3. [redacted]
4. [redacted]
5. [redacted]
6. [redacted]

MONROETON, Pennsylvania

1. [non-responsive] owns two rental properties, Brocktown Road. Water contaminated
2. [non-responsive] [non-responsive] Cap flew off his well and across the street. Methane contamination. "I'm not looking for money. I just want things the way they were."
3. [non-responsive] [non-responsive] Explosive levels of methane in water. Contaminated water. Alarm system on home due to high levels of methane. Boyfriend works for gas industry.
4. [non-responsive] Contaminated water. Headaches and diarrhea

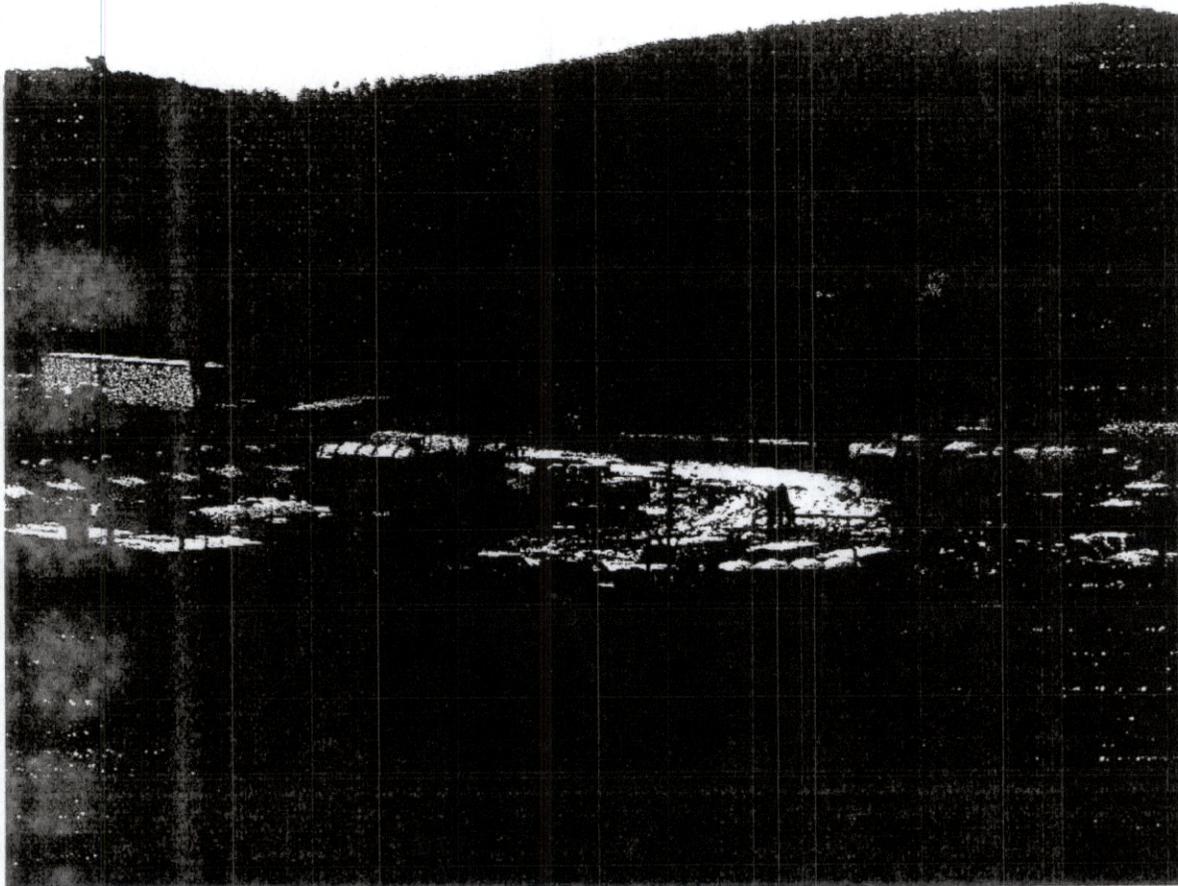
GRANVILLE, Pennsylvania

1. [non-responsive] - Granville Summit. High concentrations of methane. Water lights on fire. Couple signed a 'non-surface rights' lease and thought they would be safe --- but when the water coming from their faucets began to show turbidity and was full of sediment, they knew their worst fears were coming true. Just eighteen months after they first were approached by the drilling company, they and their family could no longer drink, bathe in, cook with or use their original well water for anything. It was contaminated and the methane was "from a deep source." Talisman well.
2. [non-responsive] Granville. Contaminated water. Symptoms of barium poisoning - hair falling out, muscles weak, severe tremors, racing heart, high blood pressure and stomach cramps. Water test shows high levels of lead, strontium, barium, arsenic, radium and other chemicals. Barium blood level registered at 110 - where 0 to 10 is considered 'safe.' (Chief O&G)
3. [non-responsive] Granville. Water contamination. Pond isn't useable. Problems with water in well also. Chesapeake frack tanks leaked hundred thousands of gallons of chemically contaminated fluid into pond behind their house. Hydrochloric acid also spilled into pond.
4. [non-responsive] Water contamination and explosive levels of methane.
5. [non-responsive] Granville Summit. Water contamination.
6. Next three houses on High Bridge Road - water is contaminated.
7. And 8.

LEROY TOWNSHIP, Pennsylvania

1. [redacted] well on their property in Leroy blew, spilling thousands of gallons of flowback fluid into the ground and nearby creek
2. [redacted] water well tests bad. Declined to say what EPA found in his well.
3. [redacted] contaminated water and radiation in water
4. [redacted] trouble began in 2008 (February), when Chesapeake Energy drilled the natural gas well 2,500 feet from his property. When they were just putting the pad in on the 'Jennings' well, my water turned black. Same with my parents' well – which is probably three-tenths of a mile down the road. Then, on August 11, 2009, Chesapeake contracted a company to take a sample of his water. The results showed a methane concentration of 21.9 parts per million. On September 12, the results were 25.8ppm. On October 29, the test showed a methane concentration of 18.2ppm. DEP told Jennings it was his job – “it is important that you promptly follow up and take appropriate action.” [redacted] said “My methane level goes up and they’re still drilling around here. I don’t care what they say; I feel it is their problem. I shouldn’t have to spend the money to fix it.” “I’ll never drink the water again.”
5. A recently released but on-going investigation of the ATGAS well site, Leroy Hill Road, Leroy is a work in progress. Seven wells are under investigation:

“A Marcellus Shale formation natural gas well known as the Chesapeake ATGAS 2H Well site in Leroy, Bradford County, Pennsylvania experienced a well head flange failure and uncontrolled flow-back fluid release on April 19, 2011. This event occurred while the well was undergoing hydraulic fracturing by the Chesapeake Energy Corporation. Chesapeake and the Pennsylvania Department of Environmental Protection and the U.S. Environmental Protection Agency concurrently completed an initial groundwater sampling event for the seven private wells closest to the well site on April 27 and 28, 2011. A comparison of the EPA and PaDEP split samples showed consistency in the analytical results with the exception of the radionuclide results for one well. EPA requested that the Agency for Toxic Substances and Disease Registry evaluate the environmental data collected from the seven private wells in order to determine whether harmful health effects would be expected from consuming and/or using the well water. Treated water or bottled water is currently being provided to three of the seven residences.”



Leroy Blowout, Morse farm

Photo by Lynne Wheldon

The April, 2011 gas blowout emergency at the non-responsive in Leroy Township gave us an opportunity to examine how seriously we understand the challenges and burdens of industrializing Bradford County. Most people probably saw the news. Most of us, however, are likely unaware of the reality of the unreported causalities – the so-called “back story.” With tens of thousands of gallons of produced fluids gushing from the well, it is easy to see how misinformation has programmed our thinking. Neighbors living close to the blowout are quoted as saying, “I will drink my water,” or, “It’s just one of those things,” and, “I have salt water as it is,” and, “We don’t drink the water – we just use it for coffee.” One resigned neighbor stated, “Gotta live with it I guess.” Because waste and spills are routinely characterized as simply “salty,” many of our residents do not yet realize that what they are being exposed to can be seriously dangerous to their health. It may even be years before they do!

Photos were taken of the clean-up on the drilling pad. It is clear that the workers are not wearing protective gear, even though they appear to be ankle-deep in the mess. Where is OSHA? The ‘stuff’ contains dangerous chemicals and most probably radioactive materials. Where are the radiation badges? A statement made by Katy Gresh, spokeswoman for DEP, is rather astonishing. Even though she claims that “it is not possible at this time to determine precisely what chemicals have been released into the environment.... (she goes on to assure us)....”there is no danger to the public from the spill!”

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Methane found in well water in Monroe Twp.

BY JAMES LOEWENSTEIN (STAFF WRITER)

Published: August 12, 2010

ARTICLE TOOLS

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SIGN UP NEWSLETTER



Review Photo/JAMES LOEWENSTEIN
 Monroe Township resident Jani Laws stands on her lawn in front of a water tank, which contains water trucked in from the Towanda Municipal Authority. Chesapeake Energy Corp. began supplying her and her husband with Towanda Municipal Authority water after methane was found in their water well last week. A vent helps to dissipate methane from her well into the atmosphere.

MONROE TOWNSHIP - Chesapeake Energy Corp. initiated remedial action Tuesday at its Dan Ellis natural gas well site in Monroe Township after methane was found six days earlier in three private water wells less than a mile away, according to the Pennsylvania Department of Environmental Protection.

The Department of Environmental Protection is investigating whether methane migrated from a Chesapeake Energy well, such as the Dan Ellis well, to the three private water wells, which are located on Brocktown Road in Monroe Township, said Dan Spadoni, a spokesman for the Department of Environmental Protection. Methane is the main component of natural gas, he said.

Spadoni said he believes the remedial action being done by Chesapeake is to address "the cementing operation" at the Dan Ellis 3H well, which is one of three gas wells that have been dug at the Dan Ellis well pad.

In addition, the environmental agency on Friday issued a notice of violation to Chesapeake Energy related to the DEP's investigation into gas migration in Monroe Township, according to a copy of the notice.

The violations include "failure to prevent the migration of gas ... into sources of fresh groundwater" and "unpermitted discharge of ... natural gas," according to the copy of the notice.

The violations also occurred in Terry Township, the notice says.

The notice of violation requires Chesapeake to provide information to the DEP about the Dan Ellis gas well and other nearby gas wells that are suspected as potential sources for the gas migration, including an explanation of the cause of the migration, information about monitoring that Chesapeake had done of the gas wells, and the specifications of the casing pipe that is used for the gas wells.

The concern about methane is that it can build up in an enclosed, unvented space to the point where explosions can occur, said Tom Rathbun, press secretary for the Pennsylvania Department of Environmental Protection.

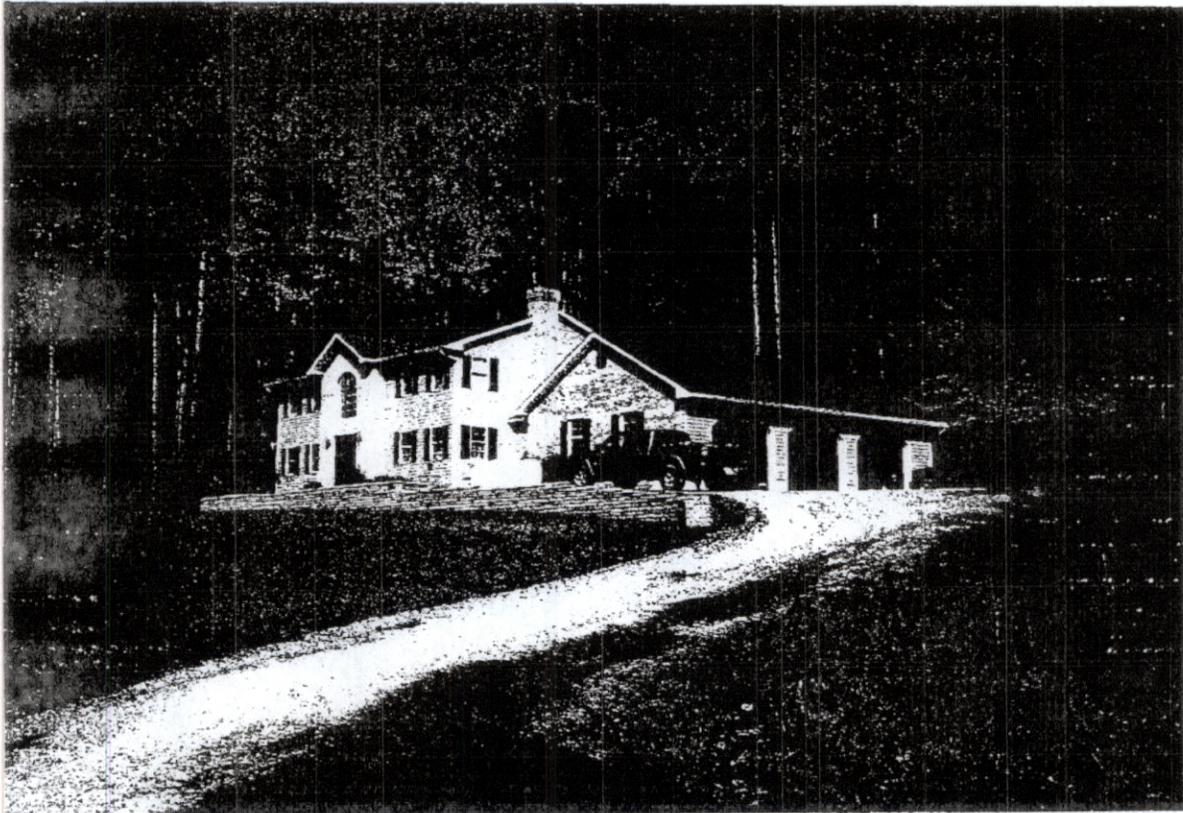


Property Jodie Simons (Burlington Township). "Grey water, red rashes, flaming faucets."

Photo by D. Siegmund

Jodie is a 27-year old woman who lives on Simpson Road in Monroeton with her daughter, Page, her young son, and her boyfriend, Jason Lamphere. The first well near their home was drilled in 2007. Within six months, five of Jodie's horses had died. In 2008, Jodie was pregnant. She went into early labor, and lost her baby. Additional loss and tragedy continued, as Jodie lost a number of ducks, chickens and most of her other livestock.

In 2009, a second well was drilled – and more troubles began. For weeks, Jodie's water was hazy, grey, and dark. But she says she first observed even larger trouble on February 20, 2011. "It was between seven and ten days since the Jennings' well was fracked for the second time." Water was described as "having a milky grey haze....and a haze that rises off of it." After the water changed, both Jodie and her young son began getting severe rashes with oozing blisters. Page developed "torrential" nosebleeds, nausea and severe headaches. Pennsylvania DEP tested and found the following chemicals in her water: chloride, magnesium, calcium, potassium, sodium. They reportedly told her it was safe to drink! Seewald Labs found the following in the water: arsenic, barium, iron, magnesium, manganese and strontium. Jodie reports that the water "stinks awfully; it has a scummy, rotten and nasty smell. She no longer drinks her water. Jodie describes, "We also fear an explosion. There is a methane detector in my bedroom because we have methane migration through the well." Jodie notes, "Leann and Phyllis Jennings; Joe and Bonny Millard; the Sharp's; the Belchers – all are damaged with water contamination too." Jodie says, "This has changed my life. I get no sleep. There is no other place for us to go."



Paradise Road, Wyalusing, PA, McMicken property

Photo by D. Siegmund

Three families on Paradise Road have suffered water contamination from what they believe to be negligent drilling practices on the part of Chesapeake Oil and Gas. According to court papers, Mike and Jonna Phillips, Scott and Cassie Spencer, and Jaren and Heather McMicken, by and through their attorneys petitioned the court for an order and judgment compelling Chesapeake Appalachia, LLC, Chesapeake Energy Corporation and Nomac Drilling, LLC to arbitrate a dispute with them.

The families state that they have suffered water and property contamination caused by the negligent and grossly negligent oil and gas drilling activities of Chesapeake. They also affirm that the industry has "caused the release, spill, discharge, and emission of combustible gases, hazardous chemicals, and industrial wastes from their oil and gas drilling facilities." Harm is further compounded by the ever-present threat of explosion. High levels of methane from methane migration into their homes has left these families with fears of explosion – which they live with 24-hours a day. Additionally, the neighbors say that they have watched the values of their homes plummet by about 90 percent, and, as a result, the homes now are completely unsaleable. "We are trapped in a nightmare – prisoners in our own homes with no way out."



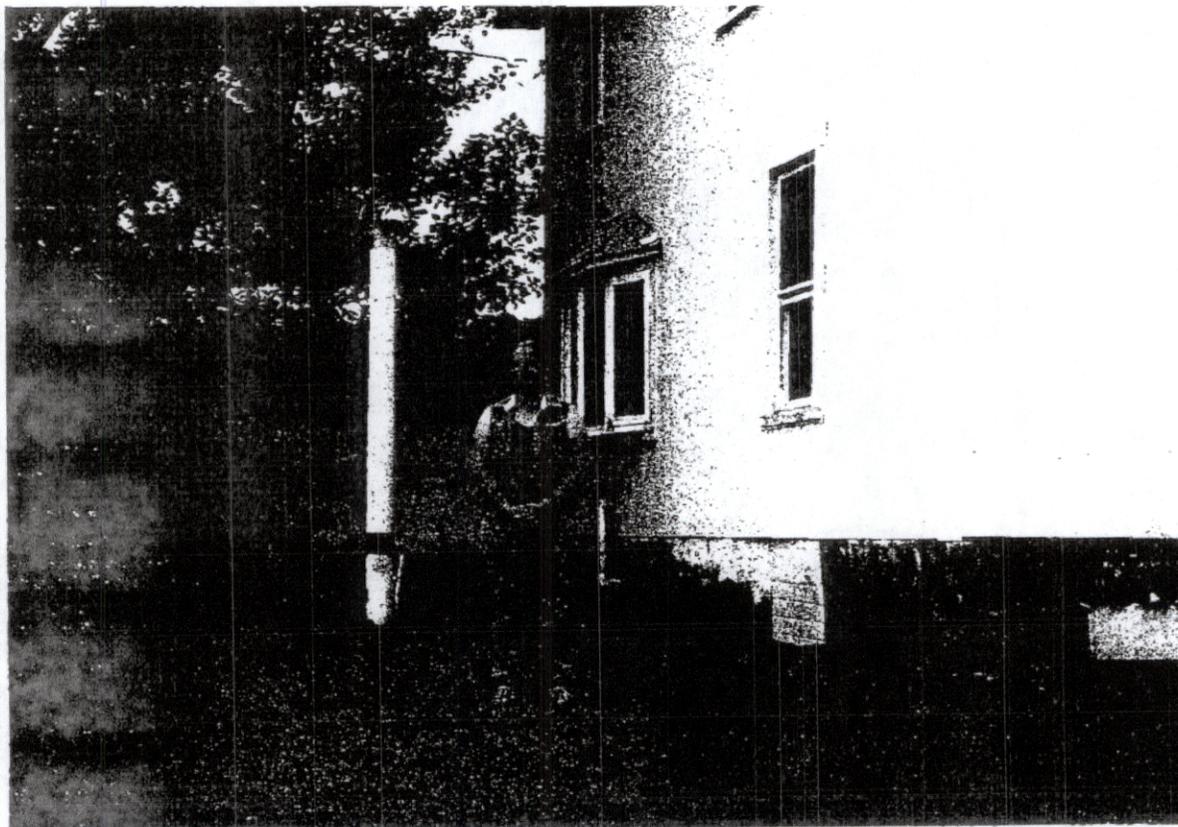
Photo by D. Siegmund

CRYSTAL STROUD: POISONED WATER

Crystal Stroud is a self-described "formerly healthy, 29-year old hairstylist." Of her life in Bradford County, she says, "We were living the American Dream until Monday, April 11, 2011. This is the day we were notified that our water well was contaminated with barium, chloride, strontium, manganese, lead, methane, radiological material and radon from the drilling of the natural gas well 1,200 feet from our property. That is the water that we had been drinking, cooking with and showering in."

"Over three years ago, I, like all my neighbors, leased my two acres of property for \$2,500/acre, to Chesapeake. We used the money to start fixing up our house, thinking we were increasing our property value. Little did we know we were signing life as we knew it away!"

"Three weeks prior to April 11, I became ill. My hair started falling out. I was having heart palpitations, shortness of breath, and stomach cramps. My husband feared that I was having panic attacks and suggested I see a doctor. I went to my family physician and the only thing they could find was that my heart rate and blood pressure were elevated. They sent me for blood work on my thyroid; those test results came back within the normal range. They then recommended I take a medication for anxiety, as they didn't know what else could be afflicting me. Three days went by and my hands began to tremble, and I would lose my balance as I stood from a sitting position. My speech started to become slurred and at that point I made another phone call to the doctor's office. I told them 'something is wrong; this isn't right!' They just told me to continue the medication hoping that it would 'kick in soon.' Then, on Monday, April 11, I received the phone call from Benchmark Analytics. They said my water results were in and they were of a major concern! After many blood tests and research, they found I had extremely high levels of barium in my body at a range of 110mcg/l - normal range being 0 or less than 10." Crystal had what she believes to be barium poisoning.....from industrial contamination. She had been drinking poisoned water.

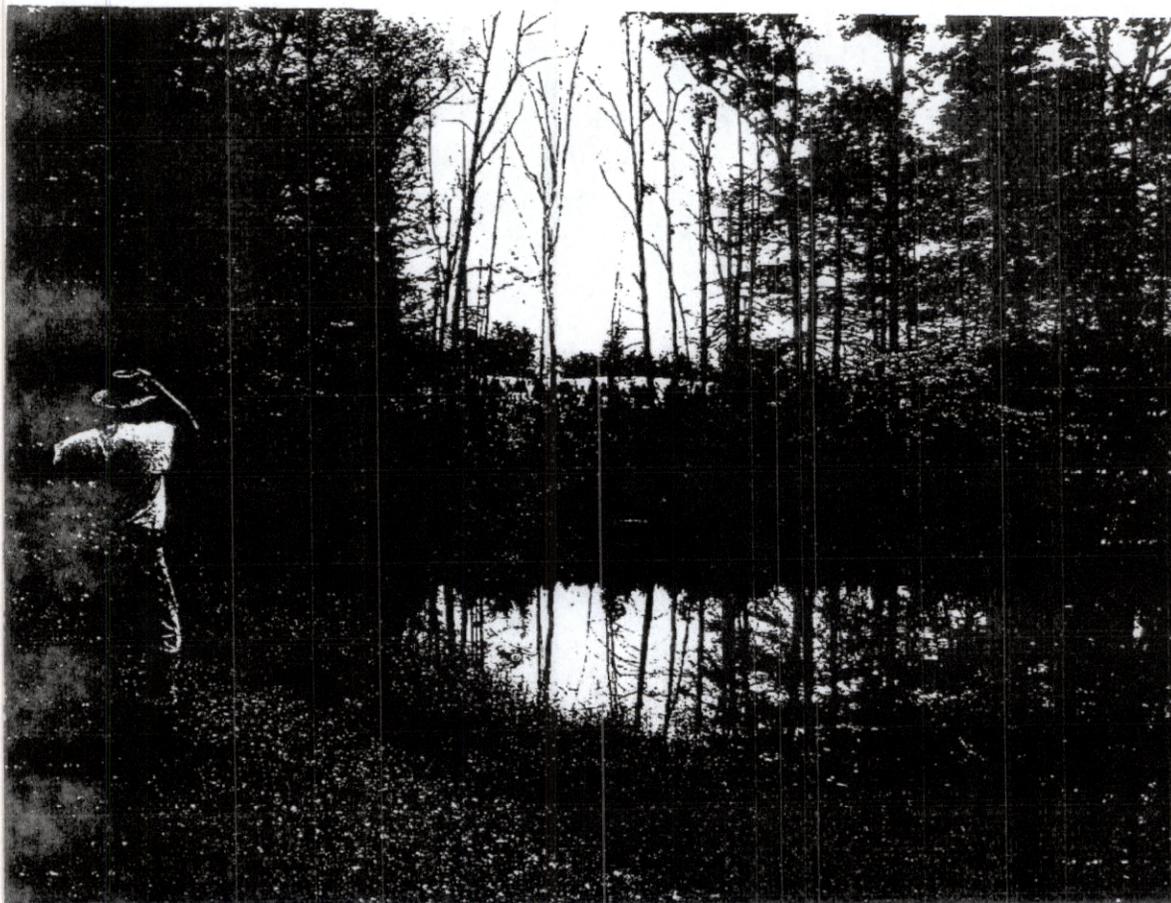


SHERRY VARGSON: 'FIRE WATER' AND EXPLOSIVE LEVELS OF METHANE IN THE HOUSE

"Fire water" is what the Vargson family now lives with. Sherry and her husband signed a lease for \$100 an acre in 2006. But she didn't notice any problem with her water until 2010. By 2010, the well had been drilled and "fracked" and finished. To Sherry's understanding, the company came back to adjust pressure in the gas line. The family became suspicious that something could be wrong when Sherry agreed to board her daughter-in-law's horses. "We had a 20-gallon tub so that the horses had free access to water." "As the weather got colder, we noticed that the water wasn't freezing – so I thought maybe they are just keeping it stirred up or whatnot." Sherry describes that as the winter days went on, and temperatures got below zero, the water still would not freeze. They decided that there had to be something wrong.

So now, gone are the days of the routine life on a dairy farm. "Water bubbles and fizzes and comes out of the tap opaque and smoky." Water reports show high levels of methane and varying levels of heavy metals. Explosive levels are standardized to be around 23mg/l. The Vargson house has been measured with having methane levels as high as 65mg/l. The Vargsons have no other source than the contaminated water for bathing and cleaning. Showers must be taken quickly to avoid fainting or suffocation by methane and/or risk of explosion. Sherry says, "We have to keep the windows open all the time to vent the methane." The potential for explosion is always there.

The Vargsons also got something else they didn't bargain for – a compressor station. A few hundred feet down the driveway from their home, there now sits a compressor station. Additionally, the Vargsons have recently learned that even more production "gathering lines" (gas pipelines) will likely be going through their property.



Truman Burnett, Granville

Photo by D. Siegmund

Truman Burnett says his "pond isn't useable." Additionally, this Bradford County resident "has problems with water in his well also." Mr. Burnett reports that Chesapeake's frack tanks leaked and dumped a couple hundred thousand gallons of water down the hill behind his house and into his pond. "It overflowed into the pond." "Two weeks later, fifty gallons of hydrochloric acid leaked down there also. It killed all the fish. I don't think many people would want to buy such a piece of property."

Truman and his wife, Barbara, used to enjoy this piece of land as their summer getaway place. Now things are very different for the couple. "We can't drink the water or bathe in it. It really took part of my life and my wife's life away." (Note the dead stand of trees where the chemical fluids came through.)



Photo by D. Siegmund

TALISMAN COMPRESSOR STATION: BUCKWHEAT ROAD

Compressor stations are not as 'inert' as they may appear. Concerns abound about potential discharges of unhealthy airborne substances which these industrial sites discharge into local environments. Pictured above is the Talisman compressor station. Below is testimony by a Pennsylvania property owner as to her experience of another compressor station -- near her home in Greene County, Pennsylvania: **Pam Judy writes**.....

"In April, 2006, we built a new home on property originally belonging to my great grandparents. For three years, my family enjoyed the peace and quiet of living in the country. However, in the spring of 2009, that quiet way of life abruptly came to an end when a compressor station was built 80 feet from our home on an adjoining landowner's property. Due to the noise and the fumes from the engines and dehydration unit, we can no longer spend time outdoors. Shortly after operations began, we started to experience extreme headaches, runny noses, sore/scratchy throats, muscle aches and a constant feeling of fatigue. Both of our children are experiencing nose bleeds and I've had dizziness, vomiting and vertigo to the point that I couldn't stand and was taken to an emergency room. Our daughter has commented that she feels as though she has cement in her bones. In November of last year, our son was out on our property scouting for deer. Within one day of being out there, he developed blisters in his mouth and throat, had extreme difficulty swallowing, and on Thanksgiving morning, he ended up in the emergency room of a nearby hospital. In May 2010, I had medical tests performed and the results revealed my body contained measurable levels of benzene and phenol. In June 2010, I was able to convince the PaDEP to conduct an air quality study. The results revealed 16 chemicals -- including benzene, styrene, toluene, xylene, hexane, heptanes, acetone, acrolein, propane, carbon tetrachloride and chloromethane, to name a few. DEP's final report regarding their findings stated that the department "could find no emission levels that would constitute a 'concern.' I have likened the Marcellus industry to that of the asbestos industry years ago. Both government and industry led us to believe then, also, that there was no harm being done!"



Press conference for Dimock residents living with contaminated water: 8/3/11

Photo by D. Siegmund

In 2008 and 2009, a number of private water wells in Dimock went bad after Cabot Oil and Gas began extracting shale gas in the area. According to Cabot's own documentation provided to the Department of Environmental Protection as part of an order, at least 36 Dimock residences have at some point had water supplies replaced or remediated by Cabot, at least temporarily.

In September, 2010, Pennsylvania's DEP Commissioner, John Hanger, told the press, "We've had people living in Pennsylvania without safe drinking water at their home and properties for close to two years. That is totally, totally unacceptable." He was holding Cabot responsible for the contamination in Dimock. Mr. Hanger made the statement when he announced that a 12-mile long water main would be built to provide the impacted families with clean water. Cabot was to pay for the project. But Cabot didn't want to pick up the \$12 million price tag, and DEP backed down! The pipeline was never built, and the families still have no access to clean water in their homes.

In an attempt to attract help for their cause, Dimock residents living with contaminated water wells put up a billboard and called a press conference. The billboard features a photograph of a pitcher of (dirty) water from the Saunters' home – and expresses the sentiment "Fix It." But their hope to muster support for their plight was short-lived. Less than 48 hours of their billboard going up, it came down. Power, money and/or flighty neighbors were the ultimate demise of the effort.

34703 - outgoing



United States Department of the Interior
BUREAU OF LAND MANAGEMENT
Washington, D.C. 20240
<http://www.blm.gov>



In Reply Refer To:
3160 (300)

JAN - 6 2012

non-responsive
[Redacted]

New Albany, Pennsylvania 18833

Dear non-responsive
[Redacted]

Senator Pat Toomey forwarded your November 28, 2011, letter to the Department of the Interior and the Bureau of Land Management (BLM) for response. We understand your concerns regarding environmentally responsible energy development.

The Department of the Interior does administer oil and gas development on Federal lands across the country, and most of this land is located in the 12 Western states. Under the leadership of Secretary of the Interior Ken Salazar, the BLM is undergoing a rulemaking process to regulate the use of hydraulic fracturing. Several forums conducted during 2011 brought together stakeholders and subject matter experts to review the often-controversial practice of hydraulic fracturing, and develop a way forward on safe natural gas development so that the United States can fully realize the benefits of this important energy resource. There is no specific timeline yet for completing the rulemaking process, but when finalized, the rules could serve as a model for states when overseeing natural gas extraction on private lands.

In the meantime, please continue to work with the Environmental Protection Agency regarding water quality protection under the Safe Drinking Water Act and Clean Water Act, as well as the Pennsylvania Department of Environmental Protection, which oversees natural gas drilling, and water usage and disposal in the Marcellus Shale. I hope this information is helpful.

Sincerely,

Michael D. Nedd
Assistant Director
Minerals and Realty Management

cc: Senator Pat Toomey

bc: ES:MIB:7229
LLM:WO300

TYPED:LLM:WO600:MIB5070:VBriggs:12/30/11:ESO-34703:1781
RETYPED:LLM:WO600:MIB5070:VBriggs:1/4/12:ESO-34703:1781

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Official Petition To Ken Salazar, Secretary of The Interior

As both a citizen and a member of The Wilderness Society, I was deeply concerned to learn that toxic chemicals used by the oil and gas industries in the "fracking" process are seeping into our precious groundwater sources on America's public lands. And I was outraged to learn that this danger to our nation's drinking water is currently unregulated by the EPA. Until we can rectify that with the passage of new legislation, I urge you to use your leadership position to protect groundwater on our nation's public lands by directing the Bureau of Land Management to require oil and gas companies to publicly disclose the chemical compounds that they are injecting underground during hydraulic fracturing and other operations. I am counting on you to help protect our precious groundwater from irresponsible drilling practices.

Sincerely,

Ms. Stephanie Mercier, Alexandria VA

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October 11, 2011

JEFFREY DUNCAN
DEMOCRATIC STAFF DIRECTOR

TODD YOUNG
CHIEF OF STAFF

The Honorable Ken Salazar
Secretary
Department of the Interior
1849 C Street NW
Washington, DC 20240

Dear Mr. Secretary:

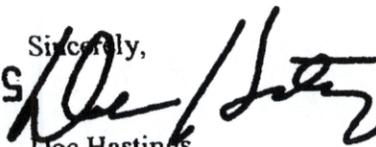
Last week, at an event sponsored by Christian Science Monitor, you announced that the Department of the Interior plans to issue rules regarding hydraulic fracturing on federal lands, within a "month or so." In your comments, you also reiterated your belief in transparency and full disclosure regarding hydraulic fracturing.

In the spirit of transparency and full disclosure, I would like to re-extend my invitation for you to testify on this matter before the House Natural Resources Committee. In a letter sent on December 1, 2010, I requested that prior to the Department of the Interior taking action to unilaterally set forth new regulations regarding energy development on federal lands that you appear before the Committee to provide testimony and answer questions from Committee members. It is our responsibility, as the Committee with jurisdiction on activities on federal lands, to carefully examine this issue and ensure any action proposed by the Department is within the law and takes into consideration the impacts on jobs, communities, revenues, states and our economy.

In your response to my request, you stated that you looked forward to working with Members of Congress on natural gas development and "Should the Department move forward with disclosure requirements...we will do so in a fashion that fully considers public and Congressional concerns."

In accordance with our previous communications, I look forward to you appearing before the Natural Resources Committee prior to the Department issuing any new regulations or requirements governing hydraulic fracturing on federal lands so that we may work together on this important issue.

Sincerely,



Doc Hastings
Chairman

Committee on Natural Resources

505784

OFFICE OF THE
EXECUTIVE SECRETARY

2011 OCT 11 PM 3:1

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34274 - in writing
no outgoing

LAMNIPipe Inc.

159 Lafayette Drive
PO Box 678
Syosset, NY 11791
Tel: 800-656-8075 • Fax: 631-514-3441
Email: don@mailbdm.com
www.lamnipe.com

Keep It Down There. 

502425

RECEIVED

2011 JUN 15 AM 9:16

6/9/2011

Mr. Ken Salazar
Secretary
US Department of the Interior
1849 C Street NW
Washington, DC 20240

CERTIFIED

Dear Secretary Salazar:

I recently read that you have met with Senators Reid, Carper, Collins, Hoeven, Portman, Pryor, and Shaheen in an effort to form a bipartisan coalition to advance energy legislation.

I would like to draw your attention to some new technology which could make the Natural Gas Drilling component of such legislation safer and more environmentally acceptable. The technology is known as Lamnipe and, briefly, it sequesters and isolates radionuclides released in Hydraulic Fracturing and causes them to remain at the base of the drill string deep within the drill site.

This allows the Flowback Water to be simpler to process and also has safety and Homeland Security implications.

Please be good enough to have your staff and the above Senators take a look at www.lamnipe.com so you can see what the technology does in detail.

I would be pleased to discuss this further with you or the DOI.

Very truly yours,



Don M. Nevin
President



"hydraulic fracturing rule"

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Issues & Insight: Interior extends HF comment period - IPAA weig

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to do

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IPAA President & CEO Barry Russell <brussell@ipaa.org>



IPAA Issues & Insight

A weekly update from the Independent Petroleum Association of America

June 6, 2013

Dear IPAA Member:

The following is a brief round-up of what IPAA is focused on this week:

IPAA: U.S. shale is a global game changer. This week, IPAA President



"hydraulic fracturing rule"

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Issues & Insight: Independents Testify on the Hill Inbox x

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IPAA President & CEO Barry Russell <brussell@ipaa.org>



IPAA Issues & Insight

A weekly update from the Independent Petroleum Association of America

May 24, 2013

Dear IPAA Member:

The following is a brief round-up of what IPAA is focused on this week:

Senate holds forums on natural gas policy. The Senate Energy and Nat



"hydraulic fracturing rule"

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IPAA President and CEO Barry Russell <brussell@ipaa.org>



IPAA Issues & Insight

A weekly update from the Independent Petroleum Association of America

May 17, 2013

Dear IPAA Member:

The following is a brief round-up of what IPAA is focused on this week:

IPAA responds to Bureau of Land Management's hydraulic fractu



May 16 -- E&ENews PM is ready

E&E Publishing, LLC <ealerts@eenews.net>
To: ned_farquhar@ios.doi.gov

Thu, May 16, 2013 at 4:26 PM

E&ENews PM

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Username: (b) (6)

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E&ENews PM -- Thu., May 16, 2013 -- Read the full edition

1. HYDRAULIC FRACTURING: New BLM rule might defer to some state regs

The Interior Department proposed a hydraulic fracturing rule today that would allow states to propose their own standards for the controversial oil and gas production technique if they can prove their regulations are as strong as federal rules.

THIS AFTERNOON'S STORIES

2. DOE: Senate unanimously confirms Moniz

3. RENEWABLE ENERGY: BLM moves Ariz.'s largest wind-power project closer to approval

4. AGRICULTURE: Floor vote on Senate farm bill possible by next week

5. ENDANGERED SPECIES: Enviro's prepare new lawsuit over polar bear listing

6. COAL: Greens sue Obama admin over pollution from Tenn. strip mines

7. FEDERAL AGENCIES: Obama taps OMB controller to take IRS helm

8. POWDER RIVER BASIN: Coal, oil companies join forces on planned rail terminal

9. ELECTRIC GRID: Summer power outages possible in Calif., Texas -- FERC

E&ETV's OnPoint

10. RENEWABLE FUELS: DuPont Biofuels' Koninckx says reforming RFS could stymie investments

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E&ENews PM is written and produced by the staff of E&E Publishing, LLC. A late afternoon roundup providing coverage of all the breaking and developing policy news from Capitol Hill, around the country and around the world, E&ENews PM is a must-read for the key players who need to be ahead of the next day's headlines. E&ENews PM publishes daily at 4:30 p.m.



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Wyden calls for common-sense protections in hydraulic fracturing rule

Dave Alberswerth <dave_alberswerth@tws.org>
To: "Farquhar, Ned" <Ned_Farquhar@ios.doi.gov>

Fri, Feb 8, 2013 at 9:35 AM

FYI...

David Alberswerth

Senior Policy Advisor

The Wilderness Society

1615 M Street, NW

Washington, DC 20036

(202) 429-2695 (o); (202) 285-2432 (m)

dave_alberswerth@tws.org

www.wilderness.org



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From: Offerdahl, Samantha (Energy) [mailto:Samantha_Offerdahl@energy.senate.gov]
Sent: Thursday, February 07, 2013 6:20 PM
To: Chu, Keith (Energy)
Cc: Offerdahl, Samantha (Energy)
Subject: UPDATED: Wyden calls for common-sense protections in hydraulic fracturing rule

**UNITED STATES SENATE COMMITTEE ON
ENERGY & NATURAL RESOURCES**



Chairman Ron Wyden (D-Oregon)

energy.senate.gov | @SenateEnergy

FOR IMMEDIATE RELEASE: FEBRUARY 7, 2013

CONTACT: KEITH CHU, 202-224-0537

SAM OFFERDAHL, 202-224-5039

UPDATED: Wyden calls for common-sense protections in hydraulic fracturing rule

WASHINGTON, D.C. — Energy and Natural Resources Committee Chairman Ron Wyden asked the Department of the Interior to ensure oil and natural gas production on public lands is done in an environmentally responsible manner, in a letter sent today to top environmental officials in the Obama Administration.

The Administration is in the process of revising a proposed rule developed by the Bureau of Land Management (BLM) to regulate hydraulic fracturing on public lands. The BLM first proposed the rule in May 2012 and received almost 60,000 comments.

Wyden has strongly supported the use of new supplies of cleaner-burning natural gas to boost U.S. manufacturing, cut greenhouse gas emissions and transition to a low-carbon economy, calling it a “strategic advantage.” However, common-sense protections are also necessary, he wrote.

“It is my hope the Administration will use this opportunity to propose a rule that ensures the protection of public health and the environment when oil and gas is produced on public lands,” Wyden wrote in the letter.

Wyden laid out broad areas Interior should address in the final rule.

“A properly constructed rule with sound requirements for public disclosure, well integrity, and monitoring, will set a standard that both state and international governments can look to as a model for developing oil and gas resources in an environmentally responsible way,” Wyden wrote.

The BLM manages federal energy leasing on more than 750 million acres of federal and Indian subsurface estate. In 2012, the bureau reported having more than 48,000 active oil and gas leases covering nearly 38 million acres in 34 different states.

A copy of the letter is attached.

###

 [Wyden_to_Salazar_HydraulicFracturing_7Feb13.pdf](#)
253K



BLM hydraulic fracturing rule

Dave Alberswerth <dave_alberswerth@twi.org>

Tue, Jan 22, 2013 at 9:32 AM

To: "Hayes, David (David_Hayes@ios.doi.gov)" <David_Hayes@ios.doi.gov>

Cc: "Mike_Pool@blm.gov" <Mike_Pool@blm.gov>, "neil_kornze@blm.gov" <neil_kornze@blm.gov>, "Farquhar, Ned" <Ned_Farquhar@ios.doi.gov>, "Heather Zichal ((b) (6))" >

Hello David –

I was wondering if you-all were planning to brief the conservation community on the proposed changes to the BLM's draft fracking rule?

Good seeing you the other evening.

Thanks,

– Dave

"Interior Secretary Ken Salazar early next week is scheduled to hold a closed-door meeting with officials from major oil and gas companies – including Apache Corp., ConocoPhillips Co., Anadarko Petroleum Corp., Williams Cos. and Statoil ASA – to discuss federal regulatory issues, a source said."

OIL AND GAS:

BLM to release new draft of hydraulic fracturing rule

Phil Taylor, E&E reporter

Published: Friday, January 18, 2013

This story was updated at 5:15 p.m.

The Interior Department today announced it will be revising a controversial draft rule to regulate hydraulic fracturing, the oil and gas production technique used at 90 percent of wells drilled on public lands.

Interior's Bureau of Land Management next week will send the changes to the White House for review and will later release a new proposal for public comment in the first quarter of 2013.

The changes indicate that the rule that drew widespread concern from oil and gas groups, Western governors, and Republican lawmakers after it was released last May is continuing to evolve and will likely not be finalized for several more months.

Interior Secretary Ken Salazar early next week is scheduled to hold a closed-door meeting with officials from major oil and gas companies -- including Apache Corp., ConocoPhillips Co., Anadarko Petroleum Corp., Williams Cos. and Statoil ASA -- to discuss federal regulatory issues, a source said.

It is unclear what changes are being proposed, but Interior said the new rule will still require disclosure of the chemicals companies inject underground, in addition to beefed-up standards ensuring wells do not leak and that wastewater is properly managed.

"As we continue to offer millions of acres of America's public lands for oil and gas development, it is important that the public have full confidence that the right safety and environmental protections are in place," Interior spokesman Blake Androff said. "The BLM is making improvements to the draft proposal in order to maximize flexibility, facilitate coordination with state practices and ensure that operators on public lands implement best practices."

News that Interior was considering changes to its fracturing rule was praised by Jack Gerard, president of the American Petroleum Institute.

"We welcome the administration's decision to reconsider the rules, which we requested, as a positive first step," Gerard said in a statement this afternoon. "However, the real test will be in the substance of the re-proposal. We hope the administration will recognize the strong oversight provided by existing state and federal regulations and take sufficient time to review the many thoughtful comments provided by the oil and natural gas industry and others."

Oil and gas groups complained that the rule would increase the cost of drilling on public lands, gum up the permitting process and duplicate regulations already overseen by states.

But environmentalists, including many Democrats in Congress, have insisted BLM's rules had not been updated since the 1980s, even as the use of fracturing for shale gas and oil rapidly expanded.

"There is consensus that the oil and gas industry should have to comply with the same environmental laws as other industries, that our clean air and clean water should be protected, and that enforcement should be tough," Amy Mall, senior policy analyst with New York-based Natural Resources Defense Council, wrote in a blog post last week, citing polls showing a majority of the public supports tough fracturing regulations.

BLM's draft rule last May would have required companies to disclose the chemicals they use within a month of a fracturing job, rather than before the well is stimulated as proposed by environmentalists (*Greenwire*, May 4, 2012).

BLM estimated the initial rule would cost operators \$11,833 per well, a small portion of the overall cost to drill, though an industry-commissioned report by John Dunham & Associates argued the rule would cost drillers about 25 times that much.

BLM said its new revisions to the rule were informed by the more than 170,000 comments it received on the proposal.

Hydraulic fracturing, in which up to millions of gallons of water are injected at high pressures underground to create new seams for oil and gas, is credited with spurring production booms in North Dakota, Pennsylvania and Texas and helping reduce imports of foreign crude.

David Alberswerth

Senior Policy Advisor

The Wilderness Society

1615 M Street, NW

Washington, DC 20036

(202) 429-2695 (o); (202) 285-2432 (m)

dave_alberswerth@twsw.org

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IPAA President and CEO Barry Russell <brussell@ipaa.org>



IPAA Issues & Insight

A weekly update from the Independent Petroleum Association of America

September 6, 2012

Dear IPAA Member:

The following is a brief round-up of what IPAA is focused on this week:

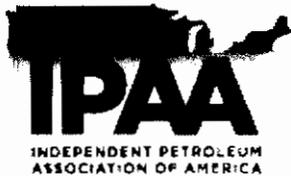
Hydraulic fracturing comments due Monday. Earlier this year, the Bureau



Take Action on BLM Hydraulic Fracturing Regulations

IPAA President Barry Russell <brussell@ipaa.org>
To: "Farquhar, Ned" <Ned_Farquhar@ios.doi.gov>

Wed, Aug 29, 2012 at 10:15 AM



Make Your Voice
Heard to BLM

Earlier this year, the Bureau of Land Management (BLM) issued a proposed rule designed to address well stimulation, including hydraulic fracturing, on federal and Indian lands. The proposed rule has enormous implications for America's oil and natural gas industry and will impact producers that operate on federal and non-federal lands. The proposed rule is unnecessary, excessive and requires actions that no state currently regulating oil and natural gas production deems necessary.

Currently, the BLM is collecting public comments on the proposed hydraulic fracturing rule. The comment period is scheduled to close on **September 10, 2012**. Please make your voice heard on this misguided rule and submit comments to the BLM. We included a draft comment letter for your use. Please feel free to use any or all of the draft letter when you submit your comments.

Thank you for your attention to this matter and helping getting the industry's voice heard on this important issue.

Draft Letter: Make Your Concerns Heard to BLM

The Bureau of Land Management's (BLM) proposed rule for well stimulation, including hydraulic fracturing on federal and Indian lands, will have enormous implications for America's oil and natural gas producers. The proposed rule is unnecessary, excessive and requires actions that no state currently regulating oil and natural gas production deems necessary. The proposed rule will also place undue economic burdens and time delays on independent oil and natural gas producers that will inevitably

independent oil and natural gas producers that will inevitably drive many smaller companies away from exploring for oil and natural gas on federal lands.

America's oil and natural gas professionals remain dedicated to supporting and promoting the safe and responsible development of the nation's oil and natural gas resources. However, this proposed rule is unnecessary and infringes on the current system of state regulation of hydraulic fracturing and other exploration and production activities that has served the nation well. In addition, the rule goes far beyond disclosure of hydraulic fracturing fluids and includes wellbore construction standards and water regulations that directly encroach upon the individual states. The time delays and uncertainty this rule imposes will only further cloud the leasing process on federal lands that is rapidly becoming untenable for America's small oil and natural gas operators. At a time when the federal government should be looking for ways to spur and encourage innovation for oil and natural gas exploration on federal lands, the proposed rule simply adds another layer of regulation on a system that is already overwhelmed.

The BLM's economic analysis and cost estimates contained in the proposed rule are also flawed. The agency estimates the proposed rule will cost approximately \$11,833 per new well and believes the total cost of the rule to producers to be roughly \$37-\$44 million per year. However, an independent economic analysis of the proposed rule completed by John Dunham and Associates found that the additional regulatory costs of the proposed rule for each new well to be more than \$200,000. The study found that when both new wells and work overs are considered, the total aggregated annual cost of the proposed rule is at least \$1.499 billion. Placing massive additional regulatory costs on small producers looking to operate on federal lands hardly seems to be a wise choice for a nation hungry for new energy supplies.

Onshore federal lands hold an opportunity for increased production of American energy. This benefits our nation with greater energy security, increased employment opportunities and higher royalty revenues to the federal government. The proposed rule and efforts to devise a uniform system of regulating well construction, disclosure and water management is excessive and overrides state regulations that have been the backbone of the regulatory process governing oil and natural gas activities for decades. The BLM should look for opportunities to work with the individual states and allow them to do their job, not enact another set of burdensome regulations that will only further drive small oil and natural gas producers from operating on federal lands. I urge the BLM to withdraw this rule and begin working with the states to address any issues the agency feels need to be clarified regarding oil and natural gas exploration activities.

*Sincerely,
[Your Name]*

A one-size-fits-all approach to oil and natural gas development could be detrimental to America's independent producers. It is imperative to make your voice heard. Email BLM today to stop the federalization of hydraulic fracturing.



With BLM's recent decision to federalize hydraulic fracturing on public lands, BLM is threatening the future of independent oil and natural gas production in the United States.



Meeting to discuss Timeline on Hydraulic Fracturing Rule (Dial-In 1-(b) (5), passcode: (b) (5))

Created by: Ned Farquhar · Your response: ✓ Yes, I'm going

Time

3:30pm - 4pm (Eastern Time)

Date

Mon Nov 19, 2012

Where

Room 6616

Guests

- ✓ Barlan, Bryce
- ✓ Boddington, Celia
- ✓ Haugrud, Jack
- ✓ Marcilynn Burke
- ✓ Nedd, Michael D
- ✓ Ned Farquhar
- ✓ Daugherty, Dennis
- ✓ Anderson, Michael D
- Hawbecker, Karen
- Kornze, Neil G
- Brown, Bernadette D
- McNeer, Richard

Description

When: Monday, November 19, 2012 3:30 PM-4:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Room 6616

Note: The GMT offset above does not reflect daylight saving time adjustments.

~~*~*~*~*~*~*~*~*

Mike Nedd will be calling in for meeting.

MEETING WILL TAKE PLACE IN ROOM 6616.
THANKS.



Hydraulic Fracturing Rule Update

(Dial-In (b) (5) , code:

(b) (5))

Created by: Ned Farquhar · Your response: ✓ Yes, I'm going

Time

3:30pm - 4:30pm (Eastern Time)

Date

Tue Oct 23, 2012

Guests

- ✓ Barlan, Bryce
- ✓ Marcilynn Burke
- ✓ Pool, Michael J
- ✓ Ned Farquhar
- ✓ Kornze, Neil G
- ✓ Cardinale, Richard
- ✓ Ishee, Mary K
- ✓ Anderson, Michael D

Where

Room 6616

Description

When: Tuesday, October 23, 2012 3:30 PM-4:30 PM (GMT-05:00) Eastern Time (US & Canada).

Where: Room 6616

Note: The GMT offset above does not reflect daylight saving time adjustments.

~~*~*~*~*~*~*~*~*

FYI: Meeting discussion will be regarding the comments on the hydraulic fracturing rule and its proposed plan for the final rule. Thanks.

Bridge# (b) (5) , code: (b) (5) for MB.



Hydraulic Fracturing Rule

Created by: Tracie Lassiter · Your response: ? I might go

Time

11am - 11:45am (Eastern Time)

Date

Thu Mar 21, 2013

Where

Room 6616

My Notes

Guests

-  ✓ bbarlan@blm.gov
-  ✓ mnedd@blm.gov
-  ✓ Ned Farquhar
-  ✓ nkornze@blm.gov
-  ✓ Tommy Beaudreau
-  ? Michael Anderson
-  ⓧ ted.boling@sol.doi.gov
-  Celina Cunningham
-  Richard Cardinale
-  cbwalker@blm.gov
-  dmlentz@blm.gov
-  kimberly.edwards@sol.doi.gov



RE: Request for meeting: BLM HF rule

Rosen, Rebecca <Rebecca.Rosen@dvn.com>
To: "Beaudreau, Tommy" <tommy.beaudreau@boem.gov>
Cc: "Cardinale, Richard" <Richard_Cardinale@ios.doi.gov>

Tue, Jun 4, 2013 at 4:03 PM

Great, thanks so much.

Richard, please let me know at your convenience what days/times would work best.

Thanks and best,

RR

From: Beaudreau, Tommy [mailto:tommy.beaudreau@boem.gov]
Sent: Tuesday, June 04, 2013 1:38 PM
To: Rosen, Rebecca
Cc: Cardinale, Richard
Subject: Re: Request for meeting: BLM HF rule

Rebecca,

Sorry, I won't be able to meet tomorrow after Bill arrives because my flight leaves early afternoon. I am copying Rich Cardinale, my chief of staff, who can work with the below dates to help find a time for us to meet soon.

Best regards,

TPB

On Mon, Jun 3, 2013 at 2:44 PM, Rosen, Rebecca <Rebecca.Rosen@dvn.com> wrote:

Thank you for getting back to me so quickly – really appreciate it.

Bill will actually arrive this Wed late afternoon, in the event that this Wed at 5:45 or 6pm might work instead? I imagine things are probably hectic if you're headed out of town; if that isn't possible, would any of the following dates work for you?:

Any time on Thurs, June 13

Any time before noon on Fri, June 14

Any time on Wed, June 19

Any time on Thurs, June 20

Any time before noon on Fri, June 21

Thanks so much again, Tommy, for considering this request.

Best Regards,

RR

From: Beaudreau, Tommy [mailto:tommy.beaudreau@boem.gov]

Sent: Monday, June 03, 2013 1:38 PM

To: Rosen, Rebecca

Subject: Re: Request for meeting: BLM HF rule

Rebecca,

It's good to hear from you - hope all's well. I'd like to meet with you and Bill soon. Unfortunately, this Thursday won't work on my end because I am traveling at the end of this week.

Best regards,

TPB

On Mon, Jun 3, 2013 at 10:30 AM, Rosen, Rebecca <Rebecca.Rosen@dvn.com> wrote:

Tommy,

I hope you're well - we met briefly when I worked for Senator Murkowski on the Senate Energy Committee and I am now with Devon Energy.

I know that this is a stretch given how busy you must be, but I wonder if there is any chance that myself and Bill Whitsitt, Devon Energy's EVP of Public and Government Affairs, might meet with you briefly this Thursday?

Following up on a question that I asked at the AXPC annual meeting a week or so ago, we were really hoping to have an opportunity to talk about the "variance process" that BLM proposes in the newly re-proposed hydraulic fracturing rule. It would be incredibly helpful, as we work on our comments and evaluate how the rule will impact our operations, and we would really appreciate the opportunity to chat with you, even if for just a few minutes. Bill will only be in town for the day, and I thought I would take a chance to see if this might be possible.

Sincerest apologies for the short notice and thanks so very much, in advance, for considering this request –

Best regards,

Rebecca

Rebecca Rosen

Vice President, Federal Government Affairs

Devon Energy

Rebecca.Rosen@devon.com

(405) 394-9345

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Meeting to discuss Timeline on Hydraulic Fracturing Rule (Dial-In 1-(b) (5) , passcode: (b) (5))

Created by: Richard Cardinale

Time

3:30pm - 4pm (Eastern Time)

Guests

Anderson, Michael D
Richard Cardinale
Lassiter, Tracie L

Date

Mon Nov 19, 2012

Where

Room 6616

Description

When: Monday, November 19, 2012 3:30 PM-4:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: Room 6616

Note: The GMT offset above does not reflect daylight saving time adjustments.

~~*~*~*~*~*~*~*~*

Mike Nedd will be calling in for meeting.

MEETING WILL TAKE PLACE IN ROOM 6616.
THANKS.



Hydraulic Fracturing Rule Update

(Dial-In (b) (5) , code:

(b) (5))

Created by: Richard Cardinale · Your response: Yes, I'm going

Time

3:30pm - 4:30pm (Eastern Time)

Date

Tue Oct 23, 2012

Where

Room 6616

Description

When: Tuesday, October 23, 2012 3:30 PM-4:30 PM (GMT-05:00) Eastern Time (US & Canada).

Where: Room 6616

Note: The GMT offset above does not reflect daylight saving time adjustments.

~~*~*~*~*~*~*~*~*

FYI: Meeting discussion will be regarding the comments on the hydraulic fracturing rule and its proposed plan for the final rule. Thanks.

Bridge# (b) (5) , code: (b) (5) for MB.

Guests

- Barlan, Bryce
- Marcilynn Burke
- Pool, Michael J
- Farquhar, Ned
- Kornze, Neil G
- Richard Cardinale
- Ishee, Mary K
- Anderson, Michael D
- Lassiter, Tracie L



Hydraulic Fracturing Rule

Created by: Tracie Lassiter · Your response: ? I might go

Time

11am - 11:45am (Eastern Time)

Date

Thu Mar 21, 2013

Where

Room 6616

My Notes

Guests

-  ✓ bbarlan@blm.gov
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-  ✓ nkornze@blm.gov
-  ✓ Tommy Beaudreau
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-  cbwalker@blm.gov
-  dmlentz@blm.gov
-  kimberly.edwards@sol.doi.gov



Hydraulic Fracturing Rule

Created by: Tracie Lassiter · Your response: ? I might go

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11am - 11:45am (Eastern Time)

Date

Thu Mar 21, 2013

Where

Room 6616

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Hydraulic Fracturing Rule

Created by: Tracie Lassiter · Your response: ? I might go

Time

11am - 11:45am (Eastern Time)

Date

Thu Mar 21, 2013

Where

Room 6616

My Notes

Guests

-  ✓ bbaran@blm.gov
-  ✓ mnedd@blm.gov
-  ✓ Ned Farquhar
-  ✓ nkornze@blm.gov
-  ✓ Tommy Beaudreau
-  ? Michael Anderson
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-  Celina Cunningham
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