

August 23, 2013

U.S. Department of Interior
Director (630)
Bureau of Land Management
Mail Stop 2134 LM
1849 C St. NW
Washington, DC 20240
Attention 1004-AE26

Re: Comments of the Institute for Energy Research on Supplemental Notice of Proposed Rulemaking and Request for Comment Published in the May 24, 2013, *Federal Register* (78 FR 31636)

Our comments on the Bureau of Land Management (BLM) proposal to institute a federal regime of regulation of hydraulic fracturing on Indian and Federal Lands where the government has failed to demonstrate the rule's necessity are simple and in the commonsense American tradition: "If it ain't broke, don't fix it."

There is no problem, and therefore no solution is warranted. Save the taxpayers some money, restore peoples' faith that their government is not out of control, and leave the states to do what they have successfully done without federal government interference for decades by withdrawing this regulation. The rule and its genesis without cause make a mockery of our Constitution, which was designed to limit the powers of the federal government and preserve the rights of the people and the States.

The BLM draft rule to regulate hydraulic fracturing on federal and Indian Lands is duplicative, costly, and unnecessary. There is no need for the federal government to regulate hydraulic fracturing, as it is already regulated in the states where it is occurring. Furthermore, excessive red tape imposed by federal regulations has already led to falling oil and natural gas production on federal lands. New hydraulic fracturing regulations further imperil energy production.

Hydraulic fracturing has been used safely on more than one million wells for over 60 years without one confirmed case of groundwater contamination. Interior Secretary Sally Jewell echoed this point when she remarked that "fracking has been done safely for decades."¹ Former EPA Administrator Lisa Jackson also admitted, "I am not aware of any proven case where the fracking process has affected water, although there are investigations ongoing." Just last week, EPA ended one of these investigations in Pavillion, Wyoming after once again it failed to find proof that hydraulic fracturing had contaminated groundwater.

In addition to the excellent safety record of hydraulic fracturing, its use on federal lands is already regulated by the states in which the wells are located. These state regulations reflect local knowledge of geological and hydrological conditions with the added benefit that the state regulators would stand to lose the most if a problem did occur. This keeps

them ever vigilant. Adding an additional and unresponsive federal layer of bureaucracy in Washington is unwarranted and wasteful of taxpayers' money and can only hinder domestic oil and natural gas production.

Technological advances in hydraulic fracturing and horizontal drilling have unlocked previously unavailable energy resources, leading to the greatest boom in oil and gas production in U.S. history. But due to federal regulations, this oil and natural gas boom is not occurring on federal lands, but instead on private and state lands.² According to a recent report from the Congressional Research Service, from 2007 through 2012, oil production fell 4 percent and natural gas production fell 33 percent on federal lands.³ Over the same time period, oil production on private and state lands grew by 35 percent and natural gas production grew by 40 percent.

This increased production on private and state land would be occurring on federal land, but for federal red tape. For example, in 2012 it took an average of 228 days for the BLM to process a permit to drill on federal lands, compared to 10 days for North Dakota, 14 days for Ohio, and 27 days for Colorado to process similar permits to drill on state lands.⁴ Imposing unnecessary, duplicative federal mandates on hydraulic fracturing would cause further delays in processing permits and further curtail oil and natural gas development on federal lands, denying taxpayers the energy and the economic revenues they could use.

If promulgated, the draft rule would impose enormous economic costs and stifle domestic energy production. According to a recent economic analysis, the estimated costs of the BLM's redundant regulations are between \$1.49 billion and \$1.61 billion per year, and will affect more than 5,000 wells.⁵ These costs will not only impact well operators, but also Americans who will suffer from less domestic energy production and less revenue which will have to be made up by higher taxes or larger deficits.

Instead of erecting regulatory roadblocks to energy development, a recent study by the Institute for Energy Research finds enormous economic benefits to opening federal lands to oil and natural gas exploration.⁶ Specifically, unlocking federal lands would generate \$11.7 billion per year in federal leasing revenue for the first seven years and \$13.5 billion annually after that, for a cumulative \$2.7 trillion increase in federal tax revenues over thirty-seven years. Such a policy would also create 552,000 jobs annually over the next seven years and almost 2 million jobs annually after that for the next thirty years.

Given the impressive safety record of hydraulic fracturing and state-level regulations already in place, it makes little sense to impose redundant federal rules. As such, BLM should rescind its draft hydraulic fracturing rule.

Sincerely,



Thomas J. Pyle
President
Institute for Energy Research

CC: Office of Management and Budget, Desk Officer for Interior

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- ¹ The Hill, "Obama administration unveils fracking rules," May 16, 2013, <http://thehill.com/blogs/e2-wire/e2-wire/300231-interior-to-unveil-revised-draft-fracking-rules>.
- ² Institute for Energy Research, "U.S. Oil Production Up, But On Whose Lands?," Sept. 24, 2012, <http://www.instituteforenergyresearch.org/2012/09/24/u-s-oil-production-up-but-on-whose-lands-2/> <http://thehill.com/blogs/e2-wire/e2-wire/300231-interior-to-unveil-revised-draft-fracking-rules>.
- ² Institute for Energy Research, "U.S. Oil Production Up, But On Whose Lands?," Sept. 24, 2012, <http://www.instituteforenergyresearch.org/2012/09/24/u-s-oil-production-up-but-on-whose-lands-2/>
- ³ Marc Humphries, U.S. Crude Oil and Natural Gas Production in Federal and Non-Federal Areas, Feb. 28, 2013, <http://www.instituteforenergyresearch.org/wp-content/uploads/2013/03/CRS-report-on-oil-and-nat-gas-on-federal-lands.pdf>.
- ⁴ Department of Interior, Bureau of Land Management, "Oil & Gas Statistics," http://www.blm.gov/wo/st/en/prog/energy/oil_and_gas/statistics.html.
- ⁵ John Dunham & Associates, "Business Impact of Proposed Changes to Well Completion Regulations," June 11, 2012, <http://westernenergyalliance.org/wp-content/uploads/2009/05/John-Dunham-Associates-Economic-Analysis-of-BLM-Fracing-Regulations-FINAL.pdf>
- ⁶ Institute for Energy Research, "Beyond the Congressional Budget Office: The Additional Economic Effects of Immediately Opening Federal Lands to Oil and Gas Leasing," Feb. 2013, http://www.instituteforenergyresearch.org/wp-content/uploads/2013/02/IER_Mason_ExecSum_V1_NoEMB.pdf.