



INTERSTATE OIL AND GAS COMPACT COMMISSION

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March 18, 2003

The Honorable W.J. (Billy) Tauzin
Chairman, Energy and Commerce Committee
U.S. House of Representatives
Washington, DC 20515

The Honorable John D. Dingell
Ranking Member, Energy and Commerce Committee
U.S. House of Representatives
Washington, DC 20515

Gentlemen:

I am writing this letter today as Chairman of the Interstate Oil and Gas Compact Commission (IOGCC) on behalf of the governors of the 30 member states of the IOGCC. The member states of the IOGCC account for virtually all of this country's onshore production of crude oil and natural gas. Our states are the primary regulators of oil and natural gas exploration and development on state and private lands in the United States and do a superb job of protecting human health and the environment.

The purpose of this letter is to enunciate the clear position of the IOGCC and its member states on the issue of hydraulic fracturing.

Hydraulic fracturing is an important part of completing a huge percentage of the oil and gas wells drilled in the United States every year. It is a technology that makes wells more productive. Indeed in many cases the wells would not be economical without hydraulically fracturing the well. Without hydraulic fracturing the United States would be producing a fraction of the oil and natural gas it is currently producing and would be even more dependent on foreign oil than we are today. The ability of producers to hydraulically fracture their wells is critically important to this country's ability to maximize the amount of oil and natural gas we produce domestically to supply our critical domestic needs. In the decades during which this technique has been employed by industry under the supervision of state regulators, it has proved an extremely safe and environmentally benign technology.

Until the LEAF vs. EPA case in 1997 held that hydraulic fracturing constituted an "underground injection" for purposes of the Safe Drinking Water Act (SDWA), hydraulic fracturing had always been considered by EPA, the states and the oil and natural gas industry to be covered by the SDWA's oil and natural gas drilling and production exemption. In the 1997 LEAF case, with no finding of harm to the groundwater, the 11th Circuit Court of Appeals found that hydraulic fracturing constituted underground injection and mandated that it be regulated by the State of Alabama under its EPA-approved Underground Injection Control (UIC) program. As a consequence, additional unnecessary burdens have been placed on oil and natural gas producers in Alabama and additional administrative responsibilities placed on the State of Alabama. Our concern is that the LEAF case will be applied beyond Alabama and impact production in every state with severe economic ramifications – all for no environmental purpose. There has never been a case of contamination of fresh groundwater resources caused by hydraulic fracturing.

MEMBER STATES Alabama • Alaska • Arizona • Arkansas • California • Colorado • Florida • Illinois • Indiana • Kansas • Kentucky • Louisiana • Maryland • Michigan • Mississippi • Montana • Nebraska • Nevada • New Mexico • New York • North Dakota • Ohio • Oklahoma • Pennsylvania • South Dakota • Texas • Utah • Virginia • West Virginia • Wyoming **ASSOCIATES** Georgia • Idaho • Missouri • North Carolina • Oregon • South Carolina • Washington **INTERNATIONAL AFFILIATES** Alberta • British Columbia • Egypt • Republic of Georgia • Newfoundland and Labrador • Nova Scotia • Venezuela

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and
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Supporting this conclusion is a recently-released EPA draft study entitled Evaluation of Impacts to Underground Sources of Drinking Water by Hydraulic Fracturing of Coalbed Methane Reservoirs. The study states that it “*is the most thorough effort conducted to review any impacts to public health as a result of underground sources of drinking water (USDW) contamination from hydraulic fracturing. If risks from hydraulic fracturing of CBM wells were significant, we would expect to find instances of water well contamination from the practice. Instead, thousands of CBM wells are fractured annually and yet EPA did not find persuasive evidence that any drinking water wells had been contaminated by CBM hydraulic fracturing.*” EPA also concluded that the threats posed by hydraulic fracturing of CBM wells to USDWs are low and do not justify additional study.

The bottom line is that regulations are in place in every state that produces oil and natural gas to protect groundwater from all oil and natural gas drilling activity, including hydraulic fracturing. Additional regulation at the national level would not result in cleaner water but merely additional operating costs. The states of the IOGCC are supportive of a legislative solution to this issue that makes clear that the definition of “underground injection” under the Safe Drinking Water Act (SDWA) does not include hydraulic fracturing – arguably what Congress intended when it originally passed the SDWA.

I strongly urge Congress to pass simple legislation to remove the regulatory uncertainty facing hydraulic fracturing – regulatory uncertainty that could unnecessarily reduce our country’s ability to produce the natural gas our economy so desperately needs.

Please do not hesitate to be in contact with me or the Interstate Oil and Gas Compact Commission should you have any additional questions on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "John Hoeven". The signature is fluid and cursive, with the first name "John" being more prominent than the last name "Hoeven".

John Hoeven
Governor of North Dakota
Chairman of Interstate Oil and Gas Compact Commission