



IPAMS
Independent
Petroleum
Association
of
Mountain
States

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November 12, 2009

Sent via facsimile: (202) 225-5657

The Honorable Diana DeGette
2335 Rayburn House Office Building
Washington, D.C. 20515

Re: Efforts to Advance the Fracturing Responsibility and Awareness of Chemicals (FRAC) Act (H.R. 2766)

Dear Congresswoman DeGette:

As you know from our meeting in late September, the Independent Petroleum Association of Mountain States (IPAMS) represents over 400 companies engaged in environmentally-responsible exploration and production of natural gas and oil in the Rocky Mountain West. Because your District is such a regional hub for industry, natural gas and oil contributes \$11.3 billion in economic activity and provides 54,000 jobs in the Denver metro area alone, according to the Colorado School of Mines. We feel that we are a valuable part of your constituency, which is why we are puzzled by your recent effort to add co-sponsors to your FRAC Act.

When we met with you in late September, you told us that your intent for the legislation was to produce a scientific study so that regulators have the data they need to ensure fracking remains a safe activity while still enabling development of American natural gas and oil. While we were puzzled that you would introduce a bill that would add an onerous and expensive layer of regulation onto a safe procedure, we took away the message that you were not going to actively advance your bill at this time.

However, we were surprised to see a Dear Colleague letter from you encouraging other Members of Congress to co-sponsor your bill. We are left wondering if you are working for a scientific study, or are you actively promoting the bill? We continue to be confused about the inaccurate information from your office on fracking, even though we and many other members of our industry have tried to explain the process. We feel that the rhetoric coming from groups with a clear agenda to stop responsible natural gas and oil development is affecting the legislation.

Your Dear Colleague letter was based on a New York Times editorial written with a clear agenda but devoid of factual accuracy. Your letter contained three inaccurate statements from the editorial. Please allow me to set the record straight.

Your letter echoes the statement “Hydraulic fracturing has been implicated in a growing number of water pollution cases across the country. . . . The safety of the nation’s water supply should not have to rely on luck or the public relations talents of the oil and gas industry.” The sixty year safety record of fracking has nothing to do with our public relations, but rather with our engineering talents. That record continues to this day. The incidents being blamed on fracking by environmental groups and a media mainly uninterested in trying to understand complex regulatory issues have not been attributed to fracking. In fact, in response to scare tactics impugning state’s effectiveness in regulating fracking, state regulators, including the Colorado Department of Public Health and Environment (COGCC), issued the attached statements on the lack of any cases of contamination of drinking water by fracking. We were encouraged in our meeting with you when you said your goal is to get credible, scientific data about fracking. You can imagine our dismay at seeing your letter use anecdotes and innuendos to solicit sponsors.

Another statement used in your letter is: “[The FRAC Act] would close the loophole and restore the E.P.A.’s rightful authority to regulate hydraulic fracturing. It would also require the oil and gas industry to disclose the chemicals they use.” The EPA has never had the ability, responsibility, or authority to regulate fracturing – the states have. In fact, the exemption of fracking from the Underground Injection Control (UIC) program under the Safe Drinking Water Act (SDWA) has been in place since 1974 when the SDWA was passed. The Energy Policy Act of 2005 merely clarified the intent of the SDWA. While we have tried to explain this to your staff, perhaps it is better coming from former EPA administrator and current energy czar Carol Browner who said “EPA does not regulate – and does not believe it is legally required to regulate – the hydraulic fracturing of methane production wells . . . Moreover, given the horizontal and vertical distance between the drinking water well and the closest methane gas production wells, the possibility of contamination or endangerment of [drinking water] in the area is extremely remote.”

As to the second part of the statement quoted in your letter, states have the authority to require chemical disclosure. Six states already do, including Colorado. Rather than impose the EPA and federal regulation over states rights on the issue, Congress could step back and support efforts by the Interstate Oil and Gas Compact Commission and the Groundwater Protection Council, both bodies of state regulators, to encourage effective state regulation of fracking and natural gas and oil development.

The final statement used in your letter is: “The industry argues that the chemicals are proprietary secrets and that disclosing them would hurt their competitiveness. It also argues that the process is basically safe and that regulating it would deter domestic production. But if hydraulic fracturing is as safe as the industry says it is, why should it fear regulation?” The natural gas and oil industry is one of the most heavily regulated, which is why we are sensitive to new regulations on top of that burden. Our list of regulations includes: the National Environmental Policy Act; National Historic Preservation Act; Clean Air Act; Clean Water Act; Resource Conservation and Recovery Act; Endangered Species Act; Occupational Health and Safety Act; Comprehensive Environmental Response Compensation and Liability Act; state and local laws; and yes, the Safe Drinking Water Act. Regulations already add hundreds of thousands of dollars to the cost of each well in the Rockies. The Independent Petroleum Association of America estimates that regulating fracking

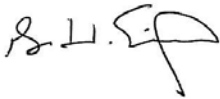
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under the UIC program of the SDWA would add about \$100,000 to the cost of each well. The higher the cost, the fewer wells drilled, and the less natural gas America has to heat our homes and address climate change. In addition, further regulating fracking would take limited state and federal resources away from higher risk activities and focus them on a safe activity that has resulted in no cases of contamination of drinking water in over sixty years. That is why the decision to regulate is an important one with very real consequences. Unlike the unaccountable editorial staff at the New York Times with no fiduciary or public health responsibilities, legislators must balance the costs and benefits of any decision to regulate. The long safety record of fracking and the energy security that results clearly show that the benefits gained from natural gas development far outweighing the extremely low risk of fracking.

Thank you for your consideration of these points. We welcome the opportunity to discuss further with you and your staff.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Solich". The signature is stylized with a large, sweeping flourish at the end.

George Solich
President, IPAMS
Cordillera Energy Partners III, LLC

Encl.