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Testimony before the

House Natural Resources Committee
Subcommittee on Energy and Mineral Resources
Oversight Hearing on

Economic job and energy security implications of federal hydraulic fracturing regulation

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Mr. Chairman and Members of the Committee:

My name is Kathleen Clarke, and I am the Director of the Public Lands Policy Coordination Office for the State of Utah. As such, I work directly with the Governor of Utah, Gary Herbert, on issues related to the public lands, specifically to assist the Governor in the effort to encourage a robust and healthy energy industry in Utah. I have worked many years on public lands and natural resources issues and previously served as National Director of the Bureau of Land Management.

The subject of today's hearing is a proposal by the BLM to create regulatory authority over a long standing practice in the oil and gas industry known as hydraulic fracturing, or "fracking." The State of Utah is very concerned about these proposed regulations, for several reasons, but primarily because they appear entirely unnecessary and duplicative of state programs, and therefore are not worth the costs of implementation. The criticism against fracking appears to be focused on two points: (1) leakage of substances from the well into the environment, and (2) the nature of the substances included in the fracking operation. Significant and proven state programs exist to protect the environment from the effects of beneficial oil and gas drilling, and sufficient voluntary mechanisms exist to address the public need for disclosure of the substances themselves. There is absolutely no need for a duplicate federal program.

The fundamental points to consider as you review this, and similar, regulatory proposals, include the following:

"What is the federal interest in the topic considered for regulation?" and

"What incremental benefits would be derived from the additional federal regulations?"

Hydraulic fracturing is a standard operational practice in the oil and gas business and has been for decades. Fracking is a conceptually simple process of pumping a fluid mixture, which is 98 to 99.5 percent water and sand, deep into a well, then increasing the pressure until the rock in the target zone fractures. The sand props the fracture open, and the oil and gas is freed to move up the wellbore to the surface. Rock fracturing of this relatively small scale does not travel to the surface, and such fractures eventually collapse under the great pressures found at these depths. Many wells undergo several fracking operations during their productive life.

The well must be engineered to prevent contamination of the surrounding environment and to provide a channel for the desired products to move to the market. The well bore must be isolated from the surrounding rock, primarily through the use of cement and steel pipe casing. Fluids and product flow up and down the casing, and cement holds the pipe in place, and prevents any fluids from escaping into the surroundings.

One of the primary issues with any drilling program is the protection of useable aquifers of water. Any well, as it is drilled, is likely to travel through one or more potable water aquifers on its way to the deeper oil and gas targets, or other mineral targets. The State of Utah has great experience in permitting wells which meet the stringent requirements necessary to protect the environment, and has been regulating the hydraulic fracturing process since 1955. In all the records of the state's Division of Oil, Gas and Mining, there has never been a verified case of fracking causing or contributing to contamination of water resources within the environment. I also note that there does not appear to be any verified examples of contamination on a national level, with the EPA backpedaling on several alleged examples of contamination.

The geology and geography of the state of Utah contribute to this fact. Most useable aquifers are found at depths less than 1000 feet, and most oil and gas wells are deeper than that. In calendar year 2011, only 3.5 percent of oil and gas wells were drilled to a depth less than 5,000 feet. Further, in Utah, there is no drilling for oil and gas near the major population center of the Wasatch Front. Instead, most of it occurs in the sparsely populated areas in Eastern Utah.

Another reason for the successful drilling program in Utah is the robust inspection program of the state. In 2011, nearly 7,200 on-site inspections were performed by field staff, covering about 3,300 non-plugged wells on state and private lands.

There is simply no federal interest in this type of operation, and no benefit to be gained by a federal regulatory program. State personnel have the local knowledge and expertise to address the technical and scientific challenges of production in Utah's environment. A national rule will simply have negligible additional impact on the ability to protect the environment. On the other side, a national rule will involve a great deal of reporting and other effort, including duplicate inspections, at great cost to the operators. This expense will be simply wasted, as the federal rule will not produce any better protection of the environment.

The Committee must understand that a lot of noise is being made recently about the process of fracking because of the increase in domestic drilling operations and alleged contamination issues. However, the only activity which renders itself available for potential regulation by the federal agencies actually has nothing to do with an individual fracking

operation itself, but has to do with programs that assure the integrity of the well and well bore, which engineering is well known and for which more-than-adequate state regulatory programs exist.

Another point of controversy for the extensive use of fracking lately is the type and nature of substances used in the fracking operation, other than water and sand. These materials are alleged to include various detergents, biocides, substances which are listed as carcinogens, and, for example, diesel fuel. The State of Utah is concerned about the use of these substances as well. Therefore, the state's Division of Oil, Gas and Mining, which is the entity charged with safety and the responsible operation of these type of wells, has asked industry to voluntarily post a list of the substances used in any individual fracking operation on the website known as FracFocus. FracFocus was created by the Interstate Oil and Gas Compact Commission and the Groundwater Protection Council, entities whose mission it is to encourage the responsible development of oil and gas, and to protect the groundwater resources of the nation. The website is designed to reveal the identity of substances used in an individual operation by well. So any person who is concerned may look for the well on the website, and receive the information desired.

Given this background, the state is very concerned to read a proposal by the Bureau of Land Management to engage in a rulemaking designed to federalize these issues. The proposed regulation which was released publicly would require operators to receive permission for every combination of chemicals used by the operator, and to receive permission for this even if the combination is altered in the course of a single fracking operation. The proposed regulation would also require the full disclosure of all substances used, the total volume used in each individual fracking operation, and to describe and get prior approval for the entire sequencing of the operation. These are onerous requirements, which serve no purpose after the disclosure of the substances used. Fracking is an operational aspect of the well history. Once the well is sited and drilled, there is no purpose to further detailed review of fracking, other than to list the substances used. Again, the operation of the well is a well-integrity issue, which is already well managed by state programs. Further regulation of this type will only serve to stymie the efficient and cost-effective operation of the well.

As Governor Herbert said in his letter to Secretary Salazar, the state is hard pressed to understand what the need for a federal presence in this regulatory arena, especially given its parallel and duplicative nature to state regulation. The cost of the regulation is simply not covered by the benefits, and the state would ask the Congress to insure non-necessary, ineffective regulations, like the one currently proposed by the BLM, be stopped in their tracks.

Thank you for the opportunity to speak to you today. I am available for any questions you may have.