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

**Statement of the Hon. Don Young**  
**Chairman**  
**Subcommittee on Indian and Alaska Native Affairs**

**At the Oversight Hearing on**  
**The Bureau of Land Management's Hydraulic Fracturing Rule's Impacts**  
**on Indian Tribal Energy Development**  
**1324 Longworth House Office Building**  
**April 19, 2012 11:00 a.m.**

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Today's hearing was scheduled in response to a violation of the Department of the Interior's tribal consultation policy instituted by Secretary Ken Salazar.

Pursuant to this policy, an agency within the Department must undertake comprehensive, meaningful consultation with tribal leaders whenever the agency proposes a rule or takes any action that affects the lands, rights, or interests of the tribes they represent.

The policy was not scribbled on the back of an envelope. It is not a suggestion or an aspiration.

It is a formal *policy* established by Secretarial Order following a lengthy "consultation on consultation," which was launched after President Obama in 2009 issued a White House Memorandum on Tribal Consultation. It expands on an Executive Order issued in 2000 by President Bill Clinton.

To develop the tribal consultation policy, more than 200 federal officials participated in regional consultation sessions in seven cities with 300 tribal representatives. Based on these extensive meetings, a draft consultation policy was given to tribes for their review and comment in January 2011. At the time, Secretary Salazar said, "We must have a policy that embodies the best consultation practices available, responds to the needs of Tribal leaders to be more engaged in policy development and promotes more responsible decision-making on issues affecting American Indians and Alaska Natives."

When the final policy was installed on December 1, 2011, the Secretary noted that, "The new framework institutionalizes meaningful consultation so that tribal leaders are at the table and engaged when it comes to the matters that affect them."

Indeed, the significance of the consultation policy was such that it was a central feature of the third White House Tribal Nations Conference, where President Obama remarked, "You have an administration that understands the challenges that you face and most importantly you have a president that's got your back."

Unfortunately, in light of the testimony I reviewed prior to this hearing, I have to say that while the Department of the Interior earns an “A” for its promises to consult with tribes, it gets an “F” for promises actually kept.

For while tribes were told they would have a seat at the table with federal agencies, the Bureau of Land Management excluded them from the process of drafting a rule with a potentially devastating impact on their sovereignty, and their economies. Tribes were not afforded an opportunity to provide input on, let alone the time to analyze, the draft rule. In fact, it is my understanding this rule may be at OMB today for a final review – again, without tribal leaders at the table.

The draft rule concerns a common well stimulation technique used by the oil and gas industry known as hydraulic fracturing. The rule will impose duplicative paperwork, red tape, and additional delays and costs beyond what tribes and oil and gas operators already endure when Indian land is developed for oil and gas production. It is a rule that wrongly treats land held in trust for the *exclusive use and benefit* of Indians as *public* land.

This is not a minor issue. It is a violation of tribal sovereignty. In terms of dollars alone, the rule will be dramatic because the fossil fuel industry in Indian Country could rival that of Indian gaming.

A number of Indian reservations suffer jobless rates ranging from 50 to 80 percent. Oil and gas leasing can make a positive dent in these horrible numbers. New jobs – especially year-round, high wage jobs available in the oil and gas industry – can and will have a dramatic effect on reducing unemployment and poverty on Indian reservations.

But if the BLM rule goes into effect, kiss these tribal jobs good-bye. Many reservations are checkerboarded, so oil and gas operators can move a few feet across the reservation boundary line to private and state lands where the rule will not apply. Thanks to the Department of the Interior, while non-Indian landowners will prosper, the tribes will lose.

This would be nothing less than another breach of the United States’ trust responsibility to Indians.

I look forward to hearing the testimony of tribal leaders today to discuss the impact of the draft rule, and what steps we can take to address it.