

Alan Olson  
Montana State Senator

Before the  
House Natural Resources Committee

Testimony on “*DOI Hydraulic Fracturing Rule: A Recipe for Government Waste, Duplication and Delay.*”

May 8, 2013

Chairman Hastings, Ranking Member Markey, and Members of the Committee, thank you for the opportunity to appear before you today. For the record I am Alan Olson, a Montana State Senator from Senate District 23, in Central Montana. I have been in the State Legislature for 12 years. Having Chaired the House Energy Committee for four years I am now serving as Chairman of the Senate Energy and Telecommunications Committee.

Since Montana’s legislature is a citizen legislature, meeting for ninety days every odd numbered year you need to know a little about my work history. I have over 35 years’ experience in the oil and gas industry. Currently I am a field representative for an international oil and gas service company. In addition I spent 19 years as a field inspector for the Montana Board of Oil and Gas Conservation. The Board regulates the oil and gas industry and I am very familiar with the regulations in Montana, including regulations governing hydraulic fracturing.

States have successfully regulated more than 1.2 million hydraulic fracturing (HF) operations spanning sixty years; new federal mandates are not necessary given their exemplary safety record. State rules specifically tailored to each state’s unique geologic and hydrologic conditions better protect the environment and groundwater than a one-size-fits-all federal rule. Despite the fact that states have been regulating HF for over six decades with no cases of contamination of underground sources of drinking water, the federal government feels the need to step in with redundant regulations. The Department of the Interior (DOI) cannot point to any incidents on public lands that would compel it to add duplicative regulations. Even the Environmental Protection Agency (EPA) is waiting to determine if federal regulations are necessary for HF until it completes a scientific study, due for completion in 2014. Why DOI feels compelled to move forward with regulation that is uninformed by those scientific findings is not clear.

In 2011 the Montana Board of Oil and Gas Conservation promulgated some of the most comprehensive HF disclosure rules in the country. These rules included notice of the fracturing treatment as well as disclosure of all the constituents of the treatment after the treatment is complete. However unlike the proposed Bureau of Land Management’s (BLM) rule, Montana allows estimates in advance notice of the treatment. So while interested parties know in advance that a well will be fracture treated, there is no possibility of delay, and no possibility that the operator will be in non-compliance because the advance notice was not exactly followed. With the pre-approval requirements of the BLM rule, we could be put in the awful position of having a well ready for treatment, a crew ready to do the treatment, and waiting on some approval from the BLM. This potential for delay is untenable. The rule imposes an entire redundant regulatory

process that will exacerbate existing delays. While states efficiently process permits in an average of thirty days, the federal government can take as long as 228 days. The rule could likely add another 100 days.

From 2000 through 2008 there have been 101 wells per year averaged, started on Federal lands in Montana. In 2011 there were 23 Federal drilling permits issued. Last year the State of Montana issued 329 permits on private lands while only 29 Federal permits were issued. These additional rules will make federal lands that much more unattractive. At a time when we could use the jobs and the US treasury could use the revenue, the BLM response seems to add more delay and redundant rules on federal lands. Why is this necessary?

I am particularly disappointed at the failure of the BLM to recognize FracFocus as a legitimate tool to file data. FracFocus is a product of the Interstate Oil and Gas Compact Commission (IOGCC), a congressionally ratified compact of 31 States, and the Ground Water Protection Council (GWPC), an association of states with enforcement authority under the Safe Drinking Water Act. IOGCC and GWPC developed FracFocus to provide a single means of reporting across state boundaries, FracFocus makes it easier for companies to comply with hydraulic fracturing regulations because they do not have to enter data in multiple formats. FracFocus was designed by and is managed by state regulator members of the two associations. This system however appears not good enough for the BLM, so they are proposing to develop their own system. In 1992 the State of Montana and the BLM signed a memorandum of understanding that fostered joint collaboration on other regulatory processes like well spacing, well locations and hearings processes. In 2012 however it would appear that collaboration will not work with hydraulic fracturing. Not only will industry have to make redundant filings but our taxpayers are going to have to shoulder the financial burden to build another computer system and provide the ongoing personnel and maintenance costs to manage it. At a time when the current administration is reducing mineral royalty payments to states for minerals developed on federal land, money that addresses the impacts of local governments and funds our schools, building additional bureaucracy is atrocious.

State jurisdiction regarding water rights appears to be another issue of conflict. There's an old saying out west that goes, "whiskey's for drinking, and water's for fighting". As proposed, the rule appears to allow BLM staff to direct operators to use, or not use, water from various sources without explaining from where the federal government's authority comes to impose water access limitations or requirements. This proposed requirement will not work.

The proposed BLM rules grossly underestimate the cost of their rule on an industry trying to offer the American public domestic oil and gas resources. The BLM estimates that the additional cost per well will be approximately \$11,000.00, however an economic analysis done by John Dunham & Associates estimates the cost to be about \$253,800.00 per well. I submit to you that these intrusions by the federal government into actions that the States already adequately regulate will also cost taxpayers millions in additional expenses. These unnecessary, redundant regulations will cost industry over a billion dollars in additional expenses, it will drive up the costs of inputs for transportation fuels, and it will reduce revenues to Federal, State and Local governments.