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COMMITTEE ON NATURAL RESOURCES
“The Future of Hydraulic Fracturing on Federally Managed Lands”

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Chairman Lamborn, Ranking Member Lowenthahl and Members of the Committee: thank you for the opportunity to appear before you today.

I serve as a Commissioner on the Wyoming Oil and Gas Conservation Commission as well as Chairman of the Wyoming Enhanced Oil Recovery Commission. When not serving in these roles, I provide expert witness testimony in business and technical matters concerning the oil and gas industry. Prior to my involvement in the state commissions, I was actively involved in fracturing several hundreds of oil and gas wells as a producer and service provider. I have over 32 number years in the oil and gas industry in Wyoming, Montana and across the west.

The State of Wyoming, through the Wyoming Oil and Gas Conservation Commission (hereinafter WOGCC), has in place a comprehensive and time-tested hydraulic fracturing regulatory program. Implemented in 2010, Wyoming’s Hydraulic Fracturing rule has been modelled by other state regulatory agencies and has been referred to by the Secretary of the Interior as a “standard” for other states to follow. The Bureau of Land Management (BLM) hydraulic fracturing rule that was set to become effective last month is unnecessary and is a threat to our state’s economy.

State Agencies are Best Suited to Manage Hydraulic Fracturing

Successful regulatory oversight hinges upon a focused approach. As mentioned, Wyoming’s rule on hydraulic fracturing is comprehensive. From the Rule’s inception, it was designed to be robust. It requires disclosure and covers many aspects of well stimulation including, but not limited to, ground water protection through downhole design and testing and baseline groundwater testing for chemical additives. In addition, the WOGCC governs the recovery of resources so that oil and gas is optimally developed with the guiding principle and legislative mandate to avoid waste.

Wyoming’s cohesive team of industry experts reside in a single office overseen by the Commissioners, located in the center of Wyoming. The team, led by Oil and Gas Supervisor, Mark Watson is experienced, and efficient. The Wyoming team understands the regional oil and gas potential made possible through technologies such as enhanced oil recovery while balancing the needs of the environment and responsible development. In contrast, the BLM has 10 field offices located across many miles in Wyoming – each staffed to serve a wide variety of needs – but not focused to regulate hydraulic fracturing. This is not a condemnation of BLM staff, but rather an insight of the value in allowing the

states to apply a focused, local approach to regulation as opposed to disjointed federal agency lead by Washington DC that promotes a “one size fits all approach”.

BLM’s draft resource management plan for the Big Horn Basin contained, in my opinion, had two critical flaws when it was released. The flaws were: 1) the pipeline corridor infrastructure was not tied to adjoining basin pipeline corridors; and 2) the BLM failed to recognize almost 2.0 billion barrels of reserve potential through enhanced oil recovery. These flaws were errors of omission due to lack of focus, time and industry expertise in the agency at every level.

The lack of focus and expertise within the BLM results in long delays in the permitting process. Although the cost of permitting for a federal APD is 190 times higher than the cost of a state permit, it still takes two to five times longer to approve a federal APD. With the addition of the BLM’s Hydraulic Fracturing rule, we can only expect permitting delays to increase even more. Further, the lack of regulatory focus has many operators shifting their investment to fee and state managed minerals. As mentioned above the legislative mandate of the WOGCC is to minimize waste. Sparse development on federal minerals will result in waste. Promoting waste through developing more unnecessary bureaucratic “red tape” through unnecessary rules is not the way to best develop America’s abundance of oil and natural gas or maximize revenue for the federal government for the benefit of all American citizens.

Confusion in Regulatory Authority Results in Avoidance of Mineral Development

Michael Madrid (BLM Deputy State Director for Minerals) testified before the Legislature’s Select Committee on Federal Natural Resource Management on July 9, 2015 in Cheyenne, WY. Mr. Madrid conceded that it would be very difficult to manage Hydraulic Fracturing rules by two agencies on the same well. We should listen to the people who are on the front line of this issue. Overlapping rules complicates development when the permitting and the reporting process are doubled. Other challenges that create confusion include;

The possibility exists for the BLM to disapprove a hydraulic fracture stimulation already approved by the WOGCC simply because portions of the Wyoming approved procedure may differ from the BLM rule even though certain portions of the Wyoming rule exceeded BLM requirements.

When it comes to chemical disclosure and trademark protection, Wyoming has a well-thought-out approach that allows service companies to prequalify their trade secret products before being used on a fracture treatment. Wyoming’s single application process is efficient for both the state and the industry. In contrast, the BLM process presents a risk to service companies that their proprietary information may be compromised if the trade secret status is rejected after the fact, leaving no recourse other than litigation to protect proprietary information.

Further, the BLM rules will require that the operator submit a new and complete trade secret request for each hydraulic-fracture-treatment, in which a trade secret protected product is used, even if they

have previously submitted numerous trade secret requests for that same product. This requirement places an unnecessary data management burden on all involved with no additional benefit. The objective of this requirement could be managed more efficiently. All of this uncertainty results in fewer companies willing to risk their investment on development of federal minerals. The economic impacts to the State of Wyoming and its cities, towns and counties will be profoundly negative and can be avoided.

Prevention of Waste is Vital

The Wyoming Oil and Gas Conservation Commission is well known for its transparency of lease, production and well data presented on an easy to use web platform. This platform allows oil and gas operators to evaluate other offset wells and thus improve their practices. For example, this transparency enables an engineer to learn from competitors and improve well performance which results in higher ultimate recovery from future wells. The BLM's hydraulic fracturing rule fails to consider the need for combining fracture treatment data with production performance. This oversight will make it nearly impossible to analyze the large volumes of data associated with production and well construction.

HF Regulation Should be at State Level

For all these reasons, the members of the Wyoming Oil and Gas Conservation Commission believe it has effective hydraulic fracturing regulations in place that are carried out by highly skilled professionals who solely focus on these important matters as public servants. Wyoming's state regulations aim to protect our environment, maximize recovery of resources and promote responsible development. In addition, our baseline water testing requirements and chemical additive disclosure regulations help ensure public safety. The BLM rule is unnecessary, lacks focus and fails to adequately promote responsible development. Wyoming has been a leader in the regulation of Hydraulic Fracturing. Wyoming's state rules were developed by industry, government, conservationists as well as other stakeholders working side by side to find the right balance. It is critical that the federal government defers jurisdiction to states with rules similar to Wyoming's to ensure timely development with reduced waste and confusion.

Thank you for the opportunity to appear before you today and I look forward to your questions.

Respectfully,

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