



INDUSTRIAL COMMISSION OF NORTH DAKOTA

Jack Dalrymple
Governor

Wayne Stenehjem
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Agriculture Commissioner

July 28, 2015

Office of Environmental Information (OEI)
Docket (Mail Code: 28221T)
Docket ID No. EPA-HQ-OA-2015-0245
U.S. Environmental Protection Agency
1200 Pennsylvania Ave. NW.
Washington, DC 20460

Dear Sirs:

Thank you for the opportunity to comment on the Draft Assessment on the Potential Impacts to Drinking Water Resources from Hydraulic Fracturing Activities.

First, the North Dakota Industrial Commission (NDIC) remains in agreement with the position taken by the NDIC and the Interstate Oil and Gas Compact Commission (IOGCC) as stated by Mr. Lynn Helms at the time the study was initiated. "As the head regulator of oil and natural gas development in the State of North Dakota and an officer of the IOGCC representing all oil and natural gas producing state regulators, I can assure you that we have no higher priority than the protection of our states' water resources," said Lynn Helms, Director of North Dakota's Department of Mineral Resources in a House Energy and Mineral Resources Subcommittee hearing in June of 2009. "It is my firmly held view and that of the IOGCC that the subject of hydraulic fracturing is adequately regulated by the states and needs no further study."

Second, while the NDIC agrees with the conclusions and the mechanisms/vulnerabilities identified in the draft assessment, it is the opinion of the NDIC that the draft assessment would be far more useful to stakeholders if it included quantitative information on how many instances of each mechanism were identified as well as the geological and geographical circumstances of each instance.

Third, the NDIC wants to make certain that the following information regarding applicability of the mechanisms/vulnerabilities to North Dakota is documented. Information below includes the mechanisms discussed in the Draft Assessment along with the regulations that the State of North Dakota has in place to reduce these vulnerabilities:

Water withdrawals in areas with low water availability

The North Dakota Water Commission <http://www.swc.nd.gov/4dlink9/4dcgi/redirect/index.html> began regulating water appropriations in 1905 and has a well-established process for managing water withdrawals for hydraulic fracturing. The water needs, policies, and process for regulating water withdrawals for hydraulic fracturing in North Dakota have been continually updated since the Bakken resource development began in 2006.

Hydraulic fracturing conducted directly into formations containing drinking water resources

This mechanism does not exist in North Dakota due to the geological conditions of the Williston

Basin. The North Dakota Geological Survey (NDGS) <https://www.dmr.nd.gov/ndgs/> has studied the ground water and hydrocarbon producing formations of North Dakota extensively. These published studies demonstrate that drinking water resources in North Dakota do not contain oil and gas resources that would utilize hydraulic fracturing for production.

Inadequately cased or cemented wells resulting in below ground migration of gases and liquids

The state of North Dakota has had regulations in place since 1941 requiring proper casing and cementing of oil and gas wells to prevent gas and liquid migration. Those rules were enforced by the NDGS prior to 1981 and by the NDIC Oil and Gas Division 1981-present. All modern wells are required to demonstrate with cement evaluations tools that gases and liquids are isolated prior to hydraulic fracturing (NDAC 43-02-03-27.1).

<https://www.dmr.nd.gov/oilgas/rules/rulebook.pdf>

Inadequately treated wastewater discharged into drinking water resources

This mechanism does not exist in North Dakota due to the geological conditions of the Williston Basin. The NDIC has required since 1981 (NDAC 43-02-03-53) that all wastewater produced with oil and natural gas be processed, stored, and disposed of without pollution of freshwater supplies by underground injection in accordance with NDAC 43-02-05.

<https://www.dmr.nd.gov/oilgas/rules/rulebook.pdf>

Spills of fluids and hydraulic fracturing wastewater, including flowback and produced water

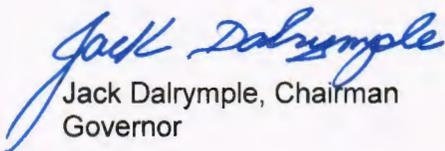
The NDIC has required since 2000 (NDAC 43-02-03-49) that dikes be erected and maintained around tanks at any production facility built or rebuilt on or after July 1, 2000. However, the number of gathering pipelines and surface locations in North Dakota have been increasing. The NDIC is actively involved in studies to identify solutions and plans to engage in additional rule-making to address this mechanism/vulnerability in 2015-2016. <https://www.dmr.nd.gov/oilgas/rules/rulebook.pdf>

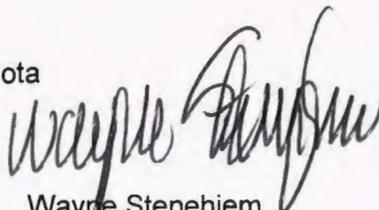
In summary, while the NDIC agrees that EPA's draft assessment is the most complete compilation of scientific data to date and will give state regulators, tribes and local communities and industry around the country a critical resource to identify how best to protect public health and their drinking water resources, NDIC hopes that the Science Advisory Board will add quantitative information on how many instances of each mechanism/vulnerability were identified, the geological and geographical circumstances of each instance, and recognition of effective regulatory processes that have been created by states like North Dakota to address those mechanisms/vulnerabilities.

Please address any questions related to this letter to Mr. Lynn Helms, Director of the NDIC Department of Mineral Resources, 600 E Boulevard Avenues-Dept. 405, Bismarck, ND 58505-0840, (701)328-8020, lhelms@nd.gov

Sincerely,

Industrial Commission of North Dakota


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