



INDUSTRIAL COMMISSION OF NORTH DAKOTA

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Governor

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U.S. Department of the Interior
Director (630)
Bureau of Land Management
Mail Stop 2134 LM, 1849 C St., NW
Washington, DC 20240
Attention: 1004-AE52
<http://www.regulations.gov>
RE: **COMMENTS**

BLM HF Rule

Dear Bureau of Land Management:

The North Dakota Industrial Commission (NDIC) appreciates the opportunity to offer comments on the Bureau of Land Management's (BLM) Oil and Gas: Hydraulic Fracturing on Federal and Indian Lands; Recession Rule that seeks to rescind the "Oil and Gas; Hydraulic Fracturing on Federal and Indian Lands" (2015 final rule).

Currently, there are 53 rigs operating in North Dakota and oil production has increased to over 1 million barrels per day due solely to hydraulically fractured horizontal wells, a significant amount of which are located on federal and Indian lands. The NDIC believes hydraulic fracturing and horizontal wells are key components of energy security and economic growth for the United States.

The NDIC supports rescission of the 2015 final rule because the NDIC already has comprehensive laws and regulations of hydraulic fracturing that require chemical disclosure, ensure adequate groundwater protection, safe hydraulic fracturing practices, and protect the environment.

The State of North Dakota has an enormous interest in rescission of the 2015 final rule and provides the following comments:

§ 3160.0-3 Authority.

The NDIC supports the proposal to remove reference to the authority under the Federal Land Policy and Management Act of 1976 (FLPMA) because it does not provide BLM with authority to regulate hydraulic fracturing or underground sources of drinking water. FLPMA is a land use planning statute for public lands and requires BLM to abide by state law governing hydraulic fracturing and underground injection.

North Dakota has a large number of "split-estate" tracts where the federal minerals have been severed from the surface estate which is owned by either the State of North Dakota or private parties. The 2015 final rule inappropriately broadened the authority of the BLM to regulate surface operations for hydraulically fractured wells that penetrate federal minerals but where the United States does not own the

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surface. Removing the reference to authority under FLMPA will return the BLM rule to the statutory authority intended by Congress.

Due to North Dakota's unique history of land ownership, it is typical for oil and gas spacing units to consist of a combination of federal, state, and private mineral ownership. Even in circumstances where the federal mineral ownership within a spacing unit is small relative to other mineral ownership, the 2015 final rule would require all the oil and gas operators within the unit, as a practical matter, to conduct operations in accordance with the 2105 final rule applicable to the development of federal minerals. Complying with the federal requirements and permitting timelines imposed by the 2015 final rule will substantially delay operations on any spacing units that contain federal minerals. This delay adversely affects the development of all minerals within the unit, including state and private oil and gas minerals, and substantially frustrates North Dakota's efforts to produce nonfederal minerals within a spacing unit. North Dakota Century Code § 38-08-01 requires the NDIC to support the development, production, and utilization of oil and gas while preventing waste and protecting the correlative rights of all owners.

§ 3160.0-5 Definitions.

North Dakota supports restoring the previous definition of fresh water. This change will make the BLM rule consistent with North Dakota rules that currently require ground water to be protected to a depth below the Pierre Shale.

The NDIC also supports the removal of annulus, bradenhead, cement evaluation log, confining zone, hydraulic fracturing, hydraulic fracturing fluid, isolating or to isolate, master hydraulic fracturing plan, proppant, and usable water from the definitions and from the operating regulations.

§ 3162.3-2 Subsequent Well Operations.

The NDIC supports restoring "perform non-routine fracturing jobs" to the list of activities that require the authorized officer's prior approval and removing the requirement under §3162.3 that all hydraulic fracturing operations be approved by the authorized officer. This amendment will make the revised rule consistent with NDIC rules.

§ 3162.3-3 Other Lease Operations.

The NDIC supports the removal of language added by the 2015 final rule and returning the rule to the exact language it contained prior to the 2015 final rule. This will eliminate unnecessary duplication and interference with enforcement of North Dakota's comprehensive hydraulic fracturing regulations (N.D.A.C. § 43-02-03-27.1).

§ 3162.5-2 Control of wells.

The NDIC supports restoring the term "fresh water bearing" and the phrase "containing 5,000 ppm or less of dissolved solids." North Dakota regulations already require water zones containing 5,000-10,000 ppm tds to be isolated with cement, although the North Dakota regulations allow for waivers and postponement of remedial work upon showing that no contamination will occur.

Additional Comments

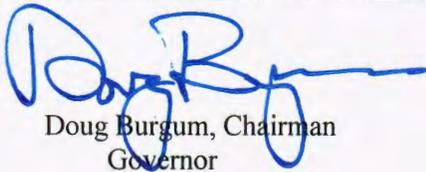
The BLM's rescission of the 2015 final rule is consistent with Executive Orders 12866 and 12563 by giving consideration to the fact that many states, like North Dakota, currently regulate hydraulic fracturing and make the 2015 final rule duplicative and unnecessary. Since each sedimentary basin has

unique deposits and geologic features which result in unique local environmental and geologic conditions regulating oil and gas development is a role best left to the states.

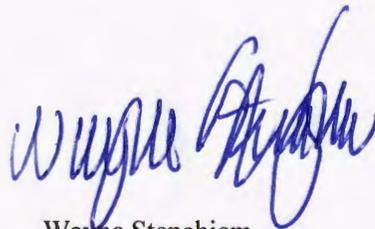
BLM's rescission of the 2015 final rule is also appropriate because there has been no proven case of ground water contamination from hydraulic fracturing in the United States to date; nor has there been any occurrence of mechanical failures in North Dakota since the NDIC's hydraulic fracturing regulations were implemented.

Sincerely,

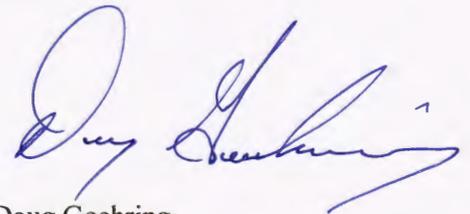
North Dakota Industrial Commission



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