



June 23, 2011

Tom Richmond and the Board
Montana Board of Oil and Gas Conservation
2535 St. Johns Avenue
Billings, MT 59102

RE: Comments on New Rules I through V regarding oil and gas well stimulation

Mr. Richmond and the Board,

Thank you for the opportunity to comment on the New Rules I through V regarding oil and gas well stimulation as proposed by the Montana Board of Oil and Gas Conservation (BOGC).

Northern Plains Resource Council (Northern Plains) is a grassroots, non-profit that organizes Montana citizens to protect our water quality, family farms and ranches, and unique quality of life. Northern Plains was founded in 1972 because of large-scale impacts from mining and burning coal. The organization has, over the years, expanded its work to include the impacts from oil and gas drilling and more recently the issue of hydraulic fracturing.

Cottonwood Resource Council (CRC) is a non-profit that safeguards Sweet Grass County's high quality of life for future generations. It is an affiliate of Northern Plains and was started in 1989 as a result of hard rock mining issues in the area. Recently with extensive leasing in Sweet Grass County, CRC has begun work on deep gas drilling. A number of our members have leased their minerals, have minerals leased underneath their land, or live near proposed leases. Overall, the county will be greatly impacted by deep gas drilling and the use of hydraulic fracturing.

Northern Plains and CRC strongly believe that *full, public* disclosure of the chemicals used in hydraulic fracturing and other well stimulation methods is necessary in order to ensure gas development does not leave behind a legacy of contaminated water resources and damaged land. We urge the BOGC to be proactive and transparent with these rules. Unfortunately, to us the rules as proposed do not fully meet this standard. Please consider the following comments on the proposed rules.

Deep Gas Drilling in Sweet Grass and Park Counties

Before getting into a line by line analysis of the rules, some background information is necessary. As stated, deep gas drilling in Sweet Grass County and neighboring Park County has potential to be a sizable development. As shown in attachment 1, we estimate that approximately 26%, or more than 300,000 acres, of Sweet Grass County have been leased for deep gas drilling. From talking with landowners in Park County, a similar amount has been leased there as well. A sizable portion of these are private lease with a smaller portion being State leases. Consequently, any rules that the BOGC adopts will apply to large areas of both counties.

As of today, three exploratory wells have been drilled and hydraulically fractured in Sweet Grass County and three in Park County. From our contacts with the landowners who have wells on their property, one of whom is a member, we have heard reports of commercial amounts of gas from the exploratory wells. It is clear to us that this gas field has the possibility to be fully developed and the BOGC should take this under serious consideration.

Disclosure of ALL Chemicals Used in Oil and Gas Drilling

Northern Plains and CRC support the disclosure of all chemicals used in oil and gas drilling, not just those used in the hydraulic fracturing process. The public debate is often narrowed down to only discussing hydraulic fracturing, which is only a step in the life of a well, but other chemicals are used in the drilling process. These chemicals need to be publicly disclosed as well. The proposed rules do not appear to properly address this issue.

New Rule 1 – Well Stimulation Activities Covered by Drilling Permit

To start “wildcat or exploratory wells” discussed in section (2) of Rule I should be defined.

The 24-hour notice period for commencement of well stimulation on wildcat or exploratory wells described in section (2) (a) is insufficient. The 24-hour time frame does not provide adequate time for landowners to test for baseline water quality. Additionally, the timeframe does not allow the board’s staff to evaluate, modify and approve (if appropriate) in writing an operator’s proposed well stimulation activities. We recommend extending the timeframe to 10 business days. This is similar to a process that has been implemented in Wyoming with their rules (see Chapter 3, Section 45. Well Stimulation (a), Wyoming Oil and Gas Conservation Commission). From a reading of the WY rules, the operator provides a preliminary report of the chemicals slated to be used in the Application Permit to Drill. They then follow this up with the actual chemicals used in the Well Completion Report.

Also, a chemical abstract number (CAS) must be included in the disclosure of chemicals used in wildcat or exploratory wells.

New Rule II – Disclosure of Well Stimulation Fluids

In sections (1) through (3), the recommended parameters for disclosure are a start. However, in order for these to be fully effective, we feel no exceptions should be allowed. In particular, Northern Plains and CRC have concerns with section 4 (a). We believe that it is *essential* this information is easily accessible on the internet and that a local, third party such as the BOGC should post this information. Therefore, we do not recommend the use of the Interstate Oil and Gas Compact Commission/Groundwater Protection Council hydraulic fracturing website and would urge the BOGC to post this information instead.

Also, from perusing their website as set up now, it is extremely hard to find out where the wells are located unless a GPS device is on hand. A map that pinpoints where these wells are located is necessary to make internet disclosure more helpful. After searching for Montana wells on the FracFocus website, only one well is posted currently (see attachment 2) and 6 of the chemicals on the list are considered proprietary. This is inadequate and will not help landowners determine required baseline testing parameters.

New Rule III – Proprietary Chemicals and Trade Secrets

Section (1) of Rule III is not protective of public health and our land and water. What use is public disclosure if many of the components fall under the trade secret heading? We recommend Montana adopt a similar approach to that taken in Wyoming, which requires operators to actively apply for a trade secret exemption. However, in contrast to Wyoming we also recommend that any protections for proprietary information must be carefully defined, with a clear decision making process and standard of proof, and must provide for the release of the adverse health effects of each chemical that is kept secret, release of proprietary information in the event of a medical necessity, and regular review and appeal of proprietary designations.

Section (2) of Rule III requires that an operator provide a list of chemical constituents contained in a proprietary chemical upon request only in the event of a spill or release of that chemical. It is recommended that this chemical information be provided to the BOGC and the local emergency response departments well before any spills occur. This will hopefully ensure an appropriate and timely response for emergency personnel and environmental cleanup that is protective of human health and will minimize impacts to the environment.

Section (3) is prohibitive to medical personnel. Providing a written statement in the midst of treating a patient is extremely restrictive of that medical professional's ability to administer timely treatment. We recommend removing the written statement section or at least allowing for it to be implemented after the treatment has occurred in order to prevent any delay as in Section (4).

New Rule IV – Safety and Well Control Requirements – Hydraulic Fracturing

Section (1) requires that new and existing wells planned for stimulation by hydraulic fracturing must demonstrate mechanical integrity. It is recommended that an assessment of mechanical integrity should be based on objective and measurable criteria.

To ensure the production or intermediate casing will truly maintain mechanical integrity throughout the fracking process, the wells should be pressure tested to 110 – 150% of the anticipated treating pressure. This will ensure that the casing will maintain integrity throughout the fracking process and handle any operational hiccups that may occur.

Additionally, as discussed at the hearing in Sidney, remote well shut off control should be required on all wells in case of an emergency.

In section (2) (a), we believe there is a small typo in the rules and the word “stung” should be changed to “strung”.

New Rule V – Work-over, Recompletion, Well Stimulation – Notice and Approval

Activities included in section (2) of this rule (e.g. chemical treatment of less than 5,000 gallons, hot oil treatments, etc.) do not require approval from the BOGC prior to application. It is recommended this rule be modified to require that activities of this nature are reported to the BOGC within 30 days following completion of work, as described and required in section (1) of this rule.

Federal and State Regulation on Hydraulic Fracturing

As the Board well knows, federal regulation and rules are very likely to be implemented within the next year or so. The Board should strive for the strongest disclosure rules possible in order to avoid re-opening these rules at a later date. A clause that allows the rules to be re-opened in order to comply with Federal law should be included.

State regulation is progressing steadily. In addition to rules in Wyoming and Arkansas that have already passed, Texas recently passed strong disclosure laws. Idaho is in the process of developing rules, as is Michigan. With this in mind, an analysis of what other states require in terms of disclosure would be very helpful to see if Montana is on par.

Incidences of Concern and Enforcement

We have also included a number of news articles on incidences involving fracking fluids across the country as well as state specific health data (see attachments 3-7). Overall, they make the case that these chemicals are indeed a cause for concern if not properly handled.

The first attachment (attachment 3) is a study of the health impacts from a number of the chemicals used in hydraulic fracturing in Montana. This study is interesting albeit not complete because many of the chemicals were listed as proprietary. The second (attachment 4) is an article about water contamination from poorly cased wells in Pennsylvania and the fine that the company paid in damages. The next two attachments

are about the specific health effects of chemical exposure. The final attachment is an article from the Bismarck Tribune on a couple of spills of hydraulic fracturing fluids in North Dakota near the Bakken (attachment 7).

Also, as mentioned at the hearing, one of the things that makes great rules and laws is the enforcement of these laws. We expect the BOGC will take an active role in monitoring these chemicals, taking action if operators do not follow disclosure rules, proactively seeking to prevent spills and accidents, and responding promptly if accidents occur.

Public Comment process

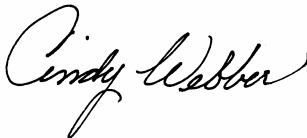
Finally, a comment on the public notice and hearing is necessary. As Senator Bob Hawks stated in his testimony in Sidney, a hearing in Sidney at 10 am does not facilitate complete public involvement. An additional hearing in Billings is necessary for the BOGC to fulfill their duties as a state agency and hear from landowners in Sweet Grass and Park Counties.

Thank you for the opportunity to comment and if you have any questions, feel free to contact Northern Plains at 248-1154.

Sincerely,



Ed Gulick
Chair of Northern Plains Resource Council



Cindy Webber
Chair of Cottonwood Resource Council

Cc:

Linda Nelson,
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