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ONE HUNDRED ELEVENTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

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December 3, 2010

The Honorable Ken Salazar  
Secretary  
Department of the Interior  
1849 C Street, N.W.  
Washington, D.C. 20240

Dear Secretary Salazar:

Pursuant to Rule X, Clause 1(f) of the Rules of the U.S. House of Representatives, the Committee on Energy and Commerce has responsibility for oversight of laws protecting public health, including water quality and waste management, as well as statutes and regulations dealing with the exploration, production, storage, supply, and reliability of energy. As Ranking Members of the Committee on Energy and Commerce, and Subcommittee on Energy and Environment, we write regarding a hydraulic fracturing forum held by the Department of the Interior (DOI) earlier this week. We seek additional information regarding the Administration's intentions, and any hydraulic fracturing-related policy or regulatory proposals that may be forthcoming from DOI.

Safe drilling practices are of critical importance. Because hydraulic fracturing is already a regulated practice, however, we believe it is essential that DOI focus on understanding the universe of existing federal and state regulations of hydraulic fracturing, water quality for underground sources of drinking water, emergency planning and reporting, and waste disposal requirements, and the expertise already being brought to bear on these activities before placing additional regulatory requirements on natural gas exploration and production. We fear a rush to regulate by DOI and the Administration will chill domestic oil and gas development and would negatively impact our efforts to increase energy security and to provide for a reliable and affordable energy supply. We have repeatedly heard testimony before our Committee that access to reliable and affordable energy is essential for our nation's economic growth and competitiveness.

To assist the Committee in understanding the Administration's recent actions relating to hydraulic fracturing and the rationale for those actions, we request you provide responses to the following inquiries and document requests by December 17, 2010:

1. At the November 30 forum, you referenced an intention to develop new DOI regulatory policies regarding hydraulic fracturing on public lands.
  - a. Does DOI intend to develop a rulemaking package on hydraulic fracturing on public lands? If yes, please provide a detailed schedule for any such planned activities.
  - b. Does DOI intend to develop new permit conditions relating to hydraulic fracturing? If yes, please provide a detailed schedule for any such planned activities.
  - c. What scientific information or data does DOI intend to rely upon to form the bases for such activities or regulatory actions?
  - d. What opportunities for public notice and comment, stakeholder input, and administrative hearings does DOI intend to provide relating to any new hydraulic fracturing policies or regulatory actions?
  - e. What documentation has DOI prepared for potential new policies or regulatory actions relating to hydraulic fracturing activities? Please provide all documents relating to these matters, including any schedules for DOI's planned activities.
2. At the November 30 forum, you indicated that you regard the forum as the beginning of an administrative process on the practice of hydraulic fracturing on public lands. Specifically, upon what legal authority does DOI base this administrative inquiry?
3. Historically, hydraulic fracturing has been subject to substantial regulation at the state level. For example, some states regulate hydraulic fracturing-related activities through their environmental laws, including waste disposal under underground injection control (UIC) programs.
  - a. What actions has DOI undertaken to investigate state programs regulating hydraulic fracturing activities?
  - b. What actions has DOI undertaken to identify potential conflicts with existing federal and state environmental, safety, and other requirements involving hydraulic fracturing and related activities?
4. The significantly expanded economic and environmental potential for natural gas in the United States has been achieved through recent innovations in hydraulic fracturing technologies. We understand that during the November 30 forum, the issue

of protecting the proprietary information and intellectual property behind innovative practices arose as it relates to chemical disclosure requirements.

- a. Do you believe that protecting the intellectual property of U.S. innovators and businesses is important?
  - b. What mechanisms do you intend to include in any new rule or policy to protect proprietary information, including chemical formulas?
5. What interactions has DOI had with other federal agencies relating to hydraulic fracturing activities? Has an interagency work group been formed to inform DOI's recent actions relating to hydraulic fracturing? If yes, please provide all documents relating to the interagency working group.
  6. What interactions has DOI had with the Council on Environmental Quality (CEQ) or the Executive Office of the President relating to hydraulic fracturing activities? Please provide all documents in the possession of DOI relating to such interactions.
  7. What role do you expect CEQ and/or the Executive Office of the President to play in the development of any new DOI policies or regulatory actions relating to hydraulic fracturing?

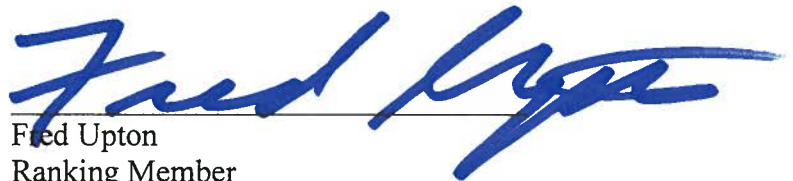
We appreciate your expeditious attention to our initial questions. Please provide written responses and documents requested by December 17, 2010. We would respectfully request, if DOI withholds any documents or information responsive to this letter, that a Vaughn Index or log of the withheld items be attached to the response. The index should list the applicable question number, a description of the withheld item (including date of the item), the nature of the privilege or legal basis for the withholding, and a legal citation for the withholding claim.

Should you have any questions, please contact the Minority Committee staff at (202) 225-3641.

Sincerely,



Joe Barton  
Ranking Member



Fred Upton  
Ranking Member  
Subcommittee on Energy and Environment

cc: The Honorable Henry A. Waxman, Chairman

The Honorable Edward J. Markey, Chairman  
Subcommittee on Energy & Environment