

U.S. House of Representatives

Committee on Natural Resources

Washington, DC 20515

January 11, 2018

The Honorable Joseph Balash
Assistant Secretary, Land and Minerals Management
U.S. Department of the Interior
1849 C St. NW
Washington, DC 20240

Dear Assistant Secretary Balash,

We were extremely disappointed to see the Bureau of Land Management (BLM) publish a final rule on December 29, 2017, rescinding the 2015 hydraulic fracturing (or “fracking”) rule. According to the BLM, an estimated 90 percent of wells drilled on federal and Indian lands each year undergo hydraulic fracturing—the precise number is unknown because in the absence of the provisions of the 2015 rule, BLM does not know exactly how many wells on federal and Indian lands are fracked. Yet as the BLM admitted in the 2012 Regulatory Impact Analysis (RIA) for the proposed fracking rule, “the current regulation [for hydraulic fracturing] is inadequate in several respects...the regulation is 30 years old and does not reflect the many changes to technology and industry best practices that have occurred since that time. As such, it does not present standards for wellbore integrity even though such standards exist.”¹

The BLM now claims it believes the 2015 fracking rule is duplicative because all 32 states with federal oil and gas leases have fracking regulations, and that those regulations combined with the BLM’s “own existing regulations and requirements” are sufficient. Neither of these explanations justify rescinding a regulation that would provide significant environmental benefits while adding at most two-tenths of one percent to the cost of drilling a well. BLM’s operational regulations for drilling a well have not been updated since 1988, making them as outdated as the original fracking rules when BLM deemed those “inadequate.” Yet BLM continually references its existing regulations in an attempt to make the case that updates are unnecessary. The fact is that both BLM’s existing operational and hydraulic fracturing regulations, such as they are, are thirty or more years behind the times with respect to industry practice and changes in technology. Neither reflect the combination of horizontal drilling and hydraulic fracturing of tight reservoirs that has become a dominant industry practice in the past decade.

Furthermore, the mere existence of state hydraulic fracturing regulations means very little, since those regulations vary wildly in coverage and stringency, as indicated by the table included by BLM in the Environmental Assessment for the rescission. The regulations in Louisiana, Mississippi, and Kentucky, for example, have nothing in common with the BLM fracking rule other than a requirement for chemical disclosure, while 10 other states are lumped

¹ U.S. Bureau of Land Management, *Well Stimulation Proposed Rule: Economic Analysis and Initial Regulatory Analysis*, page 1.

in as “All Other States” (Arizona is included in the table and as an “other state”) and show no overlap with the BLM regulation at all. Simply because a state has a regulation on the books that BLM interprets to relate to hydraulic fracturing does not mean that public lands and resources, or the communities located near them, are adequately protected.

Incredibly, the BLM even states repeatedly throughout the December 29 Federal Register Notice and supplemental documents that rescinding the 2015 hydraulic fracturing rule will not have any impact on the number of hydraulic fracturing operations on public lands, making it clear that the only purpose of rescinding the rule is to reduce accountability and lower costs for oil and gas companies, not increase energy production or create additional jobs. BLM also admits, in the Environmental Assessment, that “rescission of the 2015 final rule would potentially reduce those assurances [that operators conduct hydraulic fracturing operations in an environmentally sound and safe manner] and reduce the public awareness and understanding of the hydraulic fracturing operations on Federal and Indian lands.” Given that without the 2015 fracking rule, BLM cannot even say with specificity how many wells on Federal and Indian lands undergo hydraulic fracturing, it is an absolute certainty that rescinding the rule will reduce public awareness and understanding of the practice, which is too steep of a price to pay simply to save industry a de minimis addition to the cost of a well.

Given that it is difficult to understand how BLM came to such wildly different conclusions about an issue of such major importance in the span of only two years, we ask you to provide the following documents and information by March 1, 2018 in order to allow us to carry out our oversight responsibilities as Ranking Members of the House Natural Resources Committee and the Energy and Mineral Resources Subcommittee:

- 1) All correspondence between personnel in the Immediate Office of the Secretary and the Bureau of Land Management between January 20, 2017, and December 29, 2017, regarding the review and rescission of the 2015 BLM Fracking Rule.
- 2) All correspondence between personnel in the office of the Assistant Secretary for Land and Minerals Management and the Bureau of Land Management between January 20, 2017, and December 29, 2017, regarding the review and rescission of the 2015 BLM Fracking Rule.
- 3) All correspondence between the Bureau of Land Management, the office of the Assistant Secretary of Land and Minerals Management, and the Immediate Office of the Secretary with the American Petroleum Institute, Western Energy Alliance, and the Independent Petroleum Association of America regarding the review and rescission of the 2015 BLM Fracking Rule.
- 4) All correspondence between the Bureau of Land Management, the office of the Assistant Secretary of Land and Minerals Management, and the Immediate Office of the Secretary with the States of Wyoming, North Dakota, and Utah regarding the review and rescission of the 2015 BLM Fracking Rule.

5) All comments received from other governmental agencies during the interagency review process of the Draft and Final Rescission Rules.

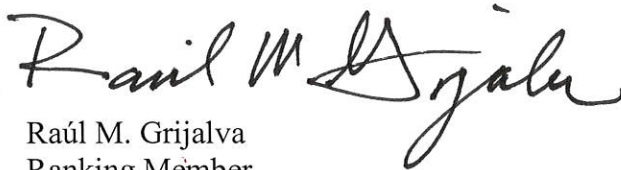
6) All documents related to the analysis performed by BLM of the hydraulic fracturing regulations of the 32 states where active federal oil and gas leases are located.

7) All Departmental correspondence between January 20, 2017, and December 29, 2017, related to the issue of “frack hits.”

8) All documents related to analysis performed by BLM on the review and rescission of the 2015 BLM Fracking Rule to show that disclosure rates to FracFocus have improved since 2015 enough that disclosure to FracFocus no longer needs to be compelled by BLM in order to provide the public adequate information about the chemicals used in hydraulic fracturing on public lands.

Thank you for your attention to this request.

Sincerely,



Raúl M. Grijalva
Ranking Member
House Committee on Natural Resources



Alan Lowenthal
Ranking Member
House Subcommittee on
Energy and Mineral Resources