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U.S. Department of the Interior
Acting Director, Bureau of Land Management
Mail Stop 2134 LM,
1849 C St. NW.
Washington, DC 20240

Via Federal eRulemaking Portal: <http://www.regulations.gov>.

Attention: RIN 1004-AE52. Federal Register Notice July 25, 2017,
BLM proposed rule to regulate hydraulic fracturing on public land and Indian land

Dear Mr. Nedd:

The American Petroleum Institute (API) appreciates the opportunity to comment on the Notice published by the Bureau of Land Management (BLM), July 25, 2017, on the subject of the BLM proposed action to rescind the rule titled "Oil and Gas; Hydraulic Fracturing on Federal and Indian Lands" (2015 Final Rule). API fully supports BLM's proposed action.

API is a national trade association representing over 625 member companies involved in all aspects of the oil and natural gas industry. API's members include producers, refiners, suppliers, pipeline operators, and marine transporters, as well as service and supply companies that support all segments of the industry. API member companies are leaders of a technology-driven industry that supplies most of America's energy, supports more than 9.8 million jobs and 8 percent of the U.S. economy, and, since 2000, has invested nearly \$2 trillion in U.S. capital projects to advance all forms of energy, including alternatives. API and its members are dedicated to meeting environmental requirements, while economically developing and supplying energy resources for consumers. API members carry out operations for exploration and production of natural gas, crude oil and associated liquids on lands administered by the BLM.

API supports BLM's proposed action to rescind the 2015 Final Rule. API believes that the rule should be withdrawn because it is redundant and unnecessary and would impose additional costs on the regulated community, without providing any significant benefit, deterring investment in the development of federal minerals and thus adversely affecting economic and job growth.

BLM's 2015 Final Rule Should Be Withdrawn Because It Imposes Unnecessary and Redundant Requirements on the Regulated Community, without Providing Any Benefit.

We also support the BLM's proposed action to rescind the 2015 Final Rule because the Rule is unnecessary. The need for the Rule has not been supported by technical or scientific information that demonstrate that present federal and state regulations are inadequate to assure that hydraulic fracturing of oil and natural gas wells drilled on federal public lands takes place in a safe and environmentally responsible manner. Under the effective oversight and environmental stewardship of state regulators, hydraulic fracturing and horizontal drilling have opened up a new era of energy security, job growth, and economic strength. BLM acknowledges that the development of oil and gas resources on federal and Indian lands involves the use of hydraulic fracturing roughly 90% of the time,¹ but in developing and promulgating the 2015 Final Rule, the BLM failed to identify any gap between robust state regulations and existing federal authority. In fact, because the proposed rule significantly presented conflicts with existing federal and state regulations, its adoption held the potential to *create* regulatory uncertainty and confusion, increasing project costs, thus providing further disincentives to operators to develop resources on federal lands that the agency manages for the American people.

The Environmental Protection Agency (EPA) released its draft of the *Hydraulic Fracturing for Oil and Gas: Impacts from the Hydraulic Fracturing Water Cycle on Drinking Water Resources in the United States* report on June 4, 2015 with the key finding, "***the Assessment shows hydraulic fracturing activities have not led to widespread, systemic impacts to drinking water resources.***" The EPA's own Science Advisory Board (SAB) provided its recommendation report to the Administrator on August 10, 2016 and a Final Assessment Report was released on December 13, 2016 with a revised final conclusion that hydraulic fracturing activities can impact drinking water resources under certain circumstances and identified factors that could influence such impacts.

API believes that extensive scientific data does exist to support EPA's **original** topline conclusion and that no additional scientific work was undertaken by EPA, following the SAB peer review, leading to the final revised conclusion. A series of reputable studies, by no fewer than seven government agencies and several academic institutions, further support the conclusion that hydraulic fracturing is not a major threat to drinking water. Most recently, a Natural Resources Defense Council-funded Duke University study and a United States Geological Survey (USGS) study found fracturing is not contaminating groundwater in West Virginia and significant portions of the Eagle Ford, Fayetteville and Haynesville shale plays, respectively.

Finally, as recent as June 19, 2017, the Academy of Medicine, Engineering, and Science of Texas (TAMEST) released a two year study, which analyzed the overall impacts of oil and natural gas development in Texas. The report does identify data gaps and areas of concern (most notably under transportation), which are noted as being addressed by state and federal regulations and industry practices. The overall tone of the report is positive, showing that hydraulic fracturing operations are conducted in a safe, environmentally friendly manner with tremendous positive economic impacts in the state.

The emphasis on prevention of an incident through the application of ever improving industry standards and practices focused on well design/construction and equipment safeguards, coupled with robust state and federal regulations, has systematically limited the level of risk of hydraulic fracturing fluids from impairing drinking water resources.

¹ 78 Fed. Reg. 31,638 ("Hydraulic fracturing is a common and accepted practice, and has been, in oil and gas production for decades.").

API also argued throughout the rulemaking process that led to the adoption of the 2015 Final Rule that the BLM failed to support the promulgation of the Rule with any specific examples of groundwater impacts to justify additional regulations. In fact, it remains the case that there have been no confirmed cases of groundwater contamination from hydraulic fracturing itself in the at least 2 million wells which have been hydraulically fractured over the past 65+ years. The claim that resource damage will increase if the 2015 Final Rule is rescinded is simply not supported by the history of hydraulic fracturing operations.

BLM’s 2015 Final Rule Should Be Withdrawn Because BLM Recognizes That Onshore Oil and Natural Gas Development Including Hydraulic Fracturing Activities Are Currently Effectively Regulated by State and Federal Agencies.

Throughout the history of the rulemaking effort relating to hydraulic fracturing of wells drilled on public lands, BLM has acknowledged that onshore oil and natural gas development, including hydraulic fracturing, well construction, mechanical integrity, well monitoring, and fluid management and additive disclosure, is already strictly regulated by the federal government and state governments. State and federal regulations are supplemented and supported by industry standards and best practices. API’s standards program, accredited by the American National Standards Institute (ANSI), has addressed hydraulic fracturing along with other aspects of drilling, well completion, and well stimulation operations, in considerable detail. The standards developed for these operations are among the hundreds of similar standards that are referenced in state regulations thousands of times. The industry has been a leader in advancing innovative technologies both for production and emissions reductions and stands as a willing partner with the government in the development of industry standards and best practices – using this as an effective means to meet the mutually shared objective of safe and responsible operations.

Rather than a one-size-fits-all approach provided in BLM’s 2015 Final Rule, state rules have been tailored for each state’s geology, hydrology, and other physical characteristics. The BLM did not identify any states with federal leases that lacked rules protecting groundwater; in fact, had the BLM conducted a comprehensive review of state regulations when it proposed the 2015 Rule it would have found that there is not a gap in the regulation of hydraulic fracturing operations for which a Federal rule was needed to remedy. A 2014 report from the Ground Water Protection Council and Interstate Oil and Gas Compact Commission details state regulations for hydraulic fracturing in 27 states that “represented more than 99.9% of all oil and natural gas produced in the United States.” This report concludes:

State regulators place great emphasis on protecting water resources from adverse impacts that can occur during oil and natural gas exploration and production (E&P) activities. The GWPC and Interstate Oil and Gas Compact Commission (IOGCC) believe that regulation of oil and gas field activities is managed best at the state level where regional and local conditions and best applied practices are understood, and where regulations can be tailored to fit those conditions.²

Additional BLM regulation cannot be justified as necessary to prevent unnecessary or undue degradation without actual evidence that adverse impacts will occur absent such additional regulation. To adopt further regulation of hydraulic fracturing activities on public lands under FLPMA, BLM must affirmatively establish a record demonstrating unnecessary or undue contamination resulting from those activities, now and in the future. BLM has failed to make this threshold showing.

² Ground Water Protection Council, *State Oil and Natural Gas Regulations Designed to Protect Water Resources* (October, 2014)

The 2015 Final Rule Imposes Unnecessary Costs on the Regulated Community, Potentially Hindering Energy Production, Constraining Economic Growth, and Preventing Job Creation.

API has also argued that the potential cost impacts of the 2015 Final Rule on exploration and production activities on BLM managed lands would greatly exceed the estimates that BLM provided in its original Regulatory Impact Analysis provided with the Rule when it was originally proposed. While we have provided this information in the administrative record for the 2015 Final Rule, we continue to believe that the very great compliance costs likely to be imposed by the Rule over time would discourage future investment in development of the oil and gas potential of BLM-managed lands, and should likewise support the agency's rescission of the Rule (see attached: *Challenges Associated with Assessing the Impacts of Bureau of Land Management's Proposed Hydraulic Fracturing Rule*, Advanced Resources International (July 2013)). In addition, the commodity pricing environment has shifted significantly downward since the years leading up to the promulgation of the 2015 Final Rule, significantly exacerbating the effects of the cost of compliance with this Rule on operators. Sustained low commodity prices continue to create challenges as companies attempt to operate in this environment. These changed circumstances will only amplify the deterrence effect that the final rule would have on investments in the development of federal minerals. This can disproportionately constrain economic growth and prevent job creation in states that have significant federal minerals and lands. These circumstances should likewise support the agency's rescission of the 2015 Final Rule.

Conclusion

According to the Energy Information Administration estimates in 2015 the United States was the world's largest producer of petroleum and natural gas hydrocarbons. The resource basins of the American West are projected to generate 1.3 million barrels of domestic oil and condensate production a day by the year 2020, an amount that exceeds the current daily oil imports from Russia, Iraq and Kuwait combined. These basins likewise hold the potential to produce 6.2 trillion cubic feet (Tcf) of natural gas annually by 2020, an additional one Tcf from 2010 levels. The benefits to the nation and the region in terms of capital investment, jobs and energy security from development of these resource basins, the majority of which underlie multiple use federal public lands, are enormous, now, and for the nation's strategic and economic benefit. For this we can thank hydraulic fracturing. Safe hydraulic fracturing is the technological engine driving an American energy renaissance that has unlocked vast reserves of shale and other tight-rock formations, resulting in a dramatic lowering of oil imports while shifting America from needing to import natural gas to potentially rank as one of the world's leading natural gas exporters.

API agrees that that as stated in Executive Order 13783 it is in the national interest to promote clean and safe development of United States energy resources, while avoiding "regulatory burdens that unnecessarily encumber energy production, constrain economic growth, and prevent job creation." We agree that prudent development of these natural resources as "essential to ensuring the Nation's geopolitical security.". We are pleased to see that by the action it proposes, BLM is acknowledging that a duplicative layer of new federal regulation is unnecessary, and we therefore support the BLM's proposed action to rescind the 2015 Final Rule as described in the captioned Federal Register Notice of July 25 2017.

Should you have any questions, please contact the undersigned at 202-682-8057, or via e-mail at rangerr@api.org.

Thank you for considering these comments.

Very truly yours,

A handwritten signature in black ink that reads "Richard L. Ranger". The signature is written in a cursive style with a large initial "R".

Richard L. Ranger
Senior Policy Advisor