



THE STATE
of **ALASKA**
GOVERNOR SEAN PARNELL

Department of Natural Resources

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August 5, 2013

Commissioner Cathy P. Foerster, Chair
Alaska Oil and Gas Conservation Commission
333 West 7th Avenue, Suite 100
Anchorage, AK 99501

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AOGCC

Re: Proposed Revisions to Alaska Administrative Code Title 20, Chapter 25 – Regulation of Hydraulic Fracturing Operations

Dear Commissioner Foerster:

Thank you for the opportunity to comment on the Alaska Oil and Gas Conservation Commission's (AOGCC) proposed regulations regarding hydraulic fracturing. The Department of Natural Resources (DNR) manages the surface and subsurface estate of the State of Alaska. In that capacity, DNR provides land disposal and permits for the responsible development of the state's oil and gas resources. DNR's comments highlight a few requirements in the proposed regulations that may present additional hurdles or delays for producers engaged in responsibly exploring and developing our oil and gas resources. DNR respectfully offers the following comments on the proposed hydraulic fracturing regulations.

Hydraulic fracturing is a process that has been commonly used in Alaska for decades. With the stringent well construction standards required by AOGCC, this process has proven safe and effective. DNR supports AOGCC in setting standards for well construction, well control, and well bore integrity that are proven to protect groundwater. DNR also supports public notification of oil and gas well activities and the disclosure of hydraulic fracturing chemicals.

DNR has concerns that all owners, landowners, surface owners, and operators within a one-half mile radius of the wellbore trajectory be notified; particularly when oil and gas activities are located near populated areas on the Kenai Peninsula. The level of notification appears to be beyond the public notice level set by AS 38.05.945 and requires a new level of specificity as well as a requirement for an affidavit of notification. DNR recommends an approach comparable with the public notice set by AS 38.05.945 and additional outreach to the area within the vicinity of the hydraulic fracturing well.

DNR has concerns with the pre- and post-sampling of water wells within a one-half mile radius. This pre- and post-sampling of private wells by the State may be met with reluctance from private well owners for specific reasons that may not be of interest to the state. Such reasons may include reluctance to be told of water quality issues; the potential impression that the State is concerned about contamination from hydraulic fracturing, even though there has been no incident reported in Alaska; or simply a personal disapproval of oil and gas operations near their land. This provides the landowner(s) within a one-half mile radius veto power

over the hydraulic fracturing of a well that already has a State approved Plan of Development and Plan of Operation and that meets all statutory requirements for an oil or gas well.

Requiring a 90-day pre-sampling of water wells establishes a significant logistics period prior to hydraulic fracturing operations. Preparing for water well sampling, gaining access to the water well and accomplishing the sampling will require investment and operations in advance of the first 90 day sample. The requirement for pre-sampling and the 90-day timeframe should be reconsidered to address these logistical challenges.

DNR is also concerned that post-sampling of water wells upon completion of the hydraulic fracturing operation is not necessarily a State responsibility. If taken on as a State responsibility, the State may encounter comparable challenges for access as noted in the pre-sampling and may be responsible for processing of information that could be used against both the operator and the state in investigating well water quality. Other states address this by placing the responsibility for groundwater and/or well testing on the landowner and providing a complaint and inspection process for adjudication. DNR recommends reviewing the record of this complaint and inspection process and considering its merits or faults.

The regulations appear to focus on a single well. In cases of multiple wells being hydraulically fractured from the same location, i.e. a pad, over a period of time, it would be possible that the post-completion water sampling for one hydraulically fractured well would also be the pre-water sampling for another hydraulically fractured well. This could result in redundant samples with duplicative analysis on a moving baseline for all water wells within a one-half mile radius of a multiple well pad being hydraulically fractured. DNR has concerns with this concept being applied to multiple well pads, regardless of location.

The capacities to analyze the proposed regulated water samples and maintain the chain of custody do not presently exist within Alaska. While the capacity could be developed in private laboratories, the implementation of these proposed regulations could result in further delays to Plans of Operations for oil and gas wells that require hydraulic fracturing.

DNR supports chemical disclosure, and the use of FracFocus as a single Chemical Disclosure Registry, to provide this information. FracFocus is transparent and has established a mechanism to protect the proprietary information of commercial products. DNR encourages use of FracFocus as a single Chemical Disclosure Registry, and also recommends mandatory reporting to AOGCC in the event that the Chemical Disclosure Registry is not available.

DNR compliments AOGCC for developing a comprehensive set of regulations and definitions for inclusion in 20 AAC Chapter 25, and for an excellent track record of ensuring stringent well standards and oversight in Alaska.

Thank you for considering these comments.

Sincerely,



Joseph R. Balash
Acting Commissioner