

## Singh, Angela K (DOA)

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**From:** Colombie, Jody J (DOA)  
**Sent:** Tuesday, October 15, 2013 9:49 AM  
**To:** Foerster, Catherine P (DOA); Norman, John K (DOA); Seamount, Dan T (DOA); Wallace, Chris D (DOA); Ballantine, Tab A (LAW); Singh, Angela K (DOA)  
**Subject:** FW: AOGA Supplemental Comments re: AOGCC's proposed Hydraulic Fracturing Regulations  
**Attachments:** AOGA Supplemental Comments 10142013.pdf

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**From:** Joshua Kindred [<mailto:kindred@aoga.org>]  
**Sent:** Monday, October 14, 2013 2:42 PM  
**To:** Colombie, Jody J (DOA)  
**Cc:** Kara Moriarty  
**Subject:** AOGA Supplemental Comments re: AOGCC's proposed Hydraulic Fracturing Regulations

Jody,

Please find attached AOGA's supplemental comments regarding AOGCC's proposed hydraulic fracturing regulations. Thank you for your time, and please let me know if you have any questions or concerns.

**Joshua M. Kindred**  
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## Alaska Oil and Gas Association

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*Joshua M. Kindred, Legal & Regulatory Affairs Manager*

October 14, 2013

Commissioner Cathy P. Foerster, Chair  
Alaska Oil & Gas Conservation Commission  
333 W. 7th Avenue, Suite 100  
Anchorage, AK 99501  
*Submitted by E-Mail to: [jody.colombie@alaska.gov](mailto:jody.colombie@alaska.gov)*

**Re: Supplemental Comments on Proposed Revisions to 20 AAC 25.005, 20 AAC 25.280, 20 AAC 25.990 and proposed addition of 20 AAC 25.283 – Regulation of Hydraulic Fracturing Operations**

Dear Commissioner Foerster:

Thank you for the opportunity to supplement our comments on the Alaska Oil and Gas Conservation Commission's ("AOGCC" or "Commission") proposed regulation of hydraulic fracturing in revisions to 20 AAC 25.005—20 AAC 25.990 and the addition of 20 AAC 25.283. The 15 members of the Alaska Oil and Gas Association ("AOGA") account for the majority of oil and gas exploration, development, production, transportation, refining, and marketing activities in Alaska. As our previous comments and testimony have indicated, AOGA's members remain supportive of reasonable hydraulic fracturing regulations and chemical disclosure and the increased transparency it will provide to Alaskans. During the most recent public hearing, the Commission and others offering testimony had questions or concerns related to our comments and proposed red-line revisions. Those questions and concerns focused, in large part, on water well sampling requirements, creating appropriate triggers for the applicability of regulation, the prudence of utilizing "FracFocus" as the chemical reporting entity. We appreciate AOGCC providing an opportunity to clarify our position with these supplemental comments, and AOGA will address each limited area of inquiry in turn.

1. Testing of "up to four wells" and adequacy of 1000 vertical feet qualifier

20 AAC 25.283(a)(5) of "AOGA's Suggested Red-Line Revisions" would require "[a] plan for water sampling of up to four water wells within 1,000 vertical feet and one-quarter mile radius of the proposed wellbore trajectory." During the public testimony, AOGCC posed several questions regarding both the manner in which the "four water wells" would be selected for sampling under this approach, and whether the "1,000 vertical feet" represents an adequate

safeguard considering AOGCC's regulatory mission. As to the former inquiry, AOGCC further suggested creating a specific protocol providing industry and the public with guidance regarding which wells are to be sampled. AOGA believes that the operator, acting within such a protocol is capable of determining which water wells, if tested, would represent the appropriate cross section of a particular area.

As to the latter inquiry, AOGCC's concern appeared to be predicated, in large part, on statements in the hearing suggesting that "fractures" could, in extreme instances, exceed 1000 vertical feet. Although no expert testimony was entered into the record in support of this contention, and recognizing that "[i]n over fifty years of oil and gas production, Alaska has yet to suffer a single documented instance of subsurface damage to an underground source of drinking water,"<sup>1</sup> AOGA believes a compromise could be reached that would assuage any fear of ground water contamination by increasing the vertical qualifier from 1000 feet to one-quarter mile (1320 feet).

As a result of AOGCC's concerns, AOGA would propose the following alteration to its 20 AAC 25.283 recommendations<sup>2</sup>:

**20 AAC 25.283. Hydraulic Fracturing. (a)** Prior to hydraulic fracturing a well with a current or proposed wellbore trajectory within one-quarter mile radius and 1,320 vertical feet of a freshwater aquifer, for which there is no Freshwater Aquifer Exemption pursuant to 20 AAC 25.440, the operator must submit an Application For Sundry Approvals (Form 10-403) under 20 AAC 25.280. If the Commission takes no action on the application within ten (10) business days of receipt, the application shall be deemed approved. The application shall include..."

and

**20 AAC 25.283. (5)** A plan for water sampling of up to four water wells selected by the operator to reasonably sample in various directions from available wells around and within a vertical quarter mile and one-quarter mile radius of the proposed wellbore trajectory is required. If there are no water wells located within a vertical quarter mile and one one-quarter mile of the proposed well-bore trajectory, or if property owners do not grant permission for sampling, then this will be documented and submitted in the application, if an application is otherwise required.

These modifications should address AOGCC and public concerns regarding which hydraulic fracturing operations are subject to these regulations and the manner in which operators will test the applicable wells. As noted in prior submissions and during testimony, the vast majority of fracturing operations in Alaska are conducted at targets located well below any ground water aquifers or in areas with no freshwater source. By excluding operations where the "fractures"

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<sup>1</sup> Alaska Oil and Gas Conservation Commission, Hydraulic Fracturing White Paper, (April 6, 2011).

<sup>2</sup> The original language is in blue, while modifications are in green.

are designed to occur more than one-quarter mile below any water source from regulation, it provides AOGCC an opportunity to address public and health concerns without creating cumbersome and unnecessary burdens on industry.

## 2. Utilization of FracFocus

During the September 23 public hearing, AOGCC and testimony discussed whether “FracFocus” should be utilized as Alaska’s official medium for public access to chemical disclosure information as it related to hydraulic fracturing operations. Those concerns were separated into two distinct issues: the ability of “FracFocus” to provide information digestible by the public and the accuracy of the information contained in the “FracFocus” database. AOGA believes that “FracFocus” is the prudent choice for chemical disclosure in Alaska given the following:

“FracFocus” is the national hydraulic fracturing chemical registry, and the Obama Administration has referred to “FracFocus” as the best method of disclosure for the Bureau of Land Management and other agencies.<sup>3</sup> In 2011, the Ground Water Protection Council and the Interstate Oil and Gas Compact Commission, two organizations whose missions relate to environmental conservation and protection, developed “FracFocus.” The site exists to provide the public access to reported chemicals used for hydraulic fracturing within their respective areas. In order to assist the public in placing this information into the proper perspective, “FracFocus” also provides objective information on the process of hydraulic fracturing, the chemicals used, *the purposes they serve* and the means by which groundwater is protected. Ultimately, the primary purpose of “FracFocus” is to provide factual information concerning hydraulic fracturing and groundwater protection. Despite concerns to the contrary, “FracFocus” is not intended to constitute an ideological platform supporting or condemning the use of hydraulic fracturing as a technology. Although “FracFocus” was not originally intended to replace or supplant any state governmental information systems, it should be noted that “FracFocus” is currently being utilized by a number of states as a means of official state chemical disclosure: Colorado, Oklahoma, Louisiana, Texas, North Dakota, Montana, Mississippi, Utah, Ohio and Pennsylvania all utilize “FracFocus” in this manner. For many of these states, “FracFocus” represents the sole means of reporting. Finally, it should also be noted that on June 1, 2013, “FracFocus” was upgraded to “FracFocus 2.0” and represented a recognition by users and developers that the original system for data entry, uploading, and storage was not as efficient and flexible as it could be. One of the main differences involved the way in which data is moved from the individual operators to the main “FracFocus” website and the manner in which data is stored. To state it in other terms, “FracFocus 2.0” was modified to address exactly those concerns articulated during AOGCC’s most recent public hearing.

As described above, “FracFocus” is designed to be a site the serves to inform the public regarding both the process of hydraulic fracturing and the chemicals being utilized. Furthermore, the recent improvements to “FracFocus” should alleviate any concerns regarding

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<sup>3</sup> "As an administration, we believe that 'FracFocus' is an important tool that provides transparency to the American people," Heather Zichal, deputy assistant to the president for energy and climate change (June, 2012)

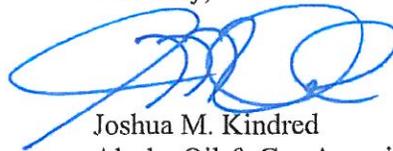
Commissioner Cathy P. Foerster  
Alaska Oil & Gas Conservation Commission  
October 14, 2013

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the accuracy of the information maintained on the site. AOGA continues to encourage AOGCC to embrace "FracFocus" as the official site for chemical disclosure to the public in Alaska.

Thank you again for opportunity to provide additional comment. If you have any questions, please do not hesitate to contact me. We look forward to continuing to work with the Commission on this issue.

Sincerely,



Joshua M. Kindred  
Alaska Oil & Gas Association  
Legal & Regulatory Affairs Manager

Cc: Commissioner John Norman  
Commissioner Dan Seamount  
Governor Sean Parnell  
Commissioner Dan Sullivan