

The Frac Fight

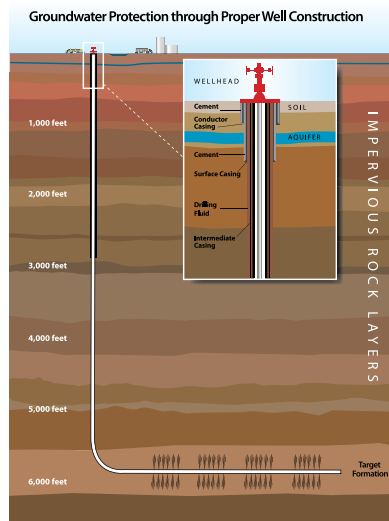
You have been great in voicing your opposition to the depletion allowance tax repeal. To date, the proposed tax repeals, including your percentage depletion allowance, are still “in play” in the 2011 budget discussions. Congress is looking for money under every rock, so what better target than “big oil?” Except the proposed tax repeals will not affect the bottom line of big oil, but small independents and you, the royalty owners. So we have been doing our best to arm you with factual information so you will be able to voice your position to your congressional delegation.

For a refresher, please go back and review ROAR articles over the past year, as well as the NARO web site where you will find our February 2010 written testimony to the Senate Committee on Energy and Natural Resources. We may be asking for phone calls again, so stay tuned.

Now, about your responsibility to be armed with information to rebut some of the claims about water, air and general environmental damage due to oil and gas operations. In my opinion, whether or not you live on the land where your mineral interest lies makes no difference in your responsibility to seek responsible development that is in compliance with all state and federal regulations. So you should be educated on the issues and able to conduct a factual discussion when presented the opportunity.

Here are some of the talking points that you should arm yourself with:

- In a 2004 report, EPA found hydraulic fracturing to be a safe and effective energy technology. The report was not initiated by the “Bush-Cheney EPA,” but by EPA administrator Carol Browner during the Clinton administration. Currently serving in the White House as President Obama’s energy advisor, in 1995, Ms. Browner wrote that there was “no evidence” that



Source: American Petroleum Institute (API)

hydraulic fracturing contributed to contamination, and that even the possibility of contamination happening in the future was “extremely remote.”

- Hydraulic fracturing did not earn an exemption to federal law under the Bush administration – since the 1974 enactment of the Safe Drinking Water Act (SDWA), hydraulic fracturing has never been a part of the regulation. The 2005 energy bill, (supported by then-Sen. Barack Obama (D-Ill.), simply clarified the reach of the existing statute, making clear that states – who have been regulating fracturing activities for more than a half century – were best-equipped to oversee this process.

- Fracturing first came into commercial use in the late 1940s, and has been used consistently and efficiently over the years not only to produce oil and natural gas, but also has been used by the EPA to clean up Superfund sites. It is not a new technology.

- Groundwater is not the same thing as drinking water or Underground Source of Drinking Water (USDW), nor is it similar to the liquids involved in the fracturing of a well. The Safe Drinking Water Act requires groundwater to be treated to meet federal standards before it can be used in public water supplies.

- Water residing thousands of feet underground (naturally) and brought to the surface following the fracturing process, is called “produced water.” It must be managed to protect the environment under either the federal Clean Water Act or the Safe Drinking Water Act.

- In 2004, the EPA conducted an extensive survey of hydraulic fracturing practices and their effect on drinking water. Focusing on the shallowest of wells (those that have the highest potential of harming the water supply), the EPA

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found that several factors (fluid recovery, the small amount of chemicals contained in frack fluids, their dilution in water and their absorption by rock formations) minimize the potential risks associated with hydraulic fracturing. More specifically, the EPA concluded that no hazardous chemicals were found in fracturing fluids, and that hydraulic fracturing does not create pathways for fluids to travel between rock formations to affect the water supply.

Now along comes this Congress, and with cries from non-development organizations or just plain uninformed individuals, they have asked EPA for yet another study of hydraulic fracturing. In preparing for the study, EPA scheduled a series of meetings to collect “stakeholder” input into the scope of the study. NARO-TX, OK, Rockies and Appalachia will all make oral presentations at regional meetings; and NARO-national will attend the New York meeting with NARO members from the area and provide written and oral comments.

Here are examples of what we have said, or will be saying :

- In the meeting announcement materials the EPA stated . . .

“ In its Fiscal Year 2010 budget report, the U.S. House of Representatives Appropriation Conference Committee identified the need for a focused study of this topic. EPA agrees with Congress that there are serious concerns from citizens and their representatives about hydraulic fracturing’s potential impact on drinking water, human health and the environment, which demands further study. EPA’s Office of Research and Development (ORD) will be conducting a scientific study to investigate the possible relationships between hydraulic fracturing and drinking water. EPA will use information from the study to identify potential risks associated with Hydraulic Fracturing to continue protecting America’s resources and communities.”

Here, in fact, is what the Congress said to the EPA. . .

“The conferees urge the Agency to carry out a study on the relationship between hydraulic fracturing and drinking water, using a credible approach that relies on the best available science, as well as independent sources of information. The conferees expect the study to be conducted through a transparent, peer-reviewed process that will ensure the validity and accuracy of the data. The Agency shall consult with other Federal agencies as well as appropriate State and interstate regulatory agencies in carrying out the study, which should be prepared in accordance with the Agency’s quality assurance principles.”

- We want to remind the EPA and Congress to make no mistake, we are the citizens who own and live on the land, drink the water, raise families, crops and livestock as well as receive income from our mineral development (something protected by the U.S. Constitution). This is our land not the federal government’s or some special interest group’s. We are the stewards of our land and the last ones who would desire to see any activity contaminate our drinking water. So as they design this study on our behalf, we want to ensure that EPA conducts a technical/scientific study and not a political or interest group-motivated document. We raise this point because Congress said . . .”carry out a study on the relationship between hydraulic fracturing and drinking water.” EPA has stated . . .” hydraulic fracturing’s potential impact on drinking water, human health and the environment, which demands further study.” Are you overstepping your charge? The Congressional request and concern seem very specific to us -- a study to investigate the relationship between hydraulic fracturing and drinking water. Period. Is it not rather presumptuous of EPA to expand and with obvious prejudice interpret the intent of Congress?

- It is also our understanding that this will be the second or third EPA study of hydraulic fracturing over the past 15-20 years. As the persons who get to pay for this study, in these times of deficit spending and ever-increasing financial difficulties, we urge the principals involved to expedite this effort and utilize other government sources and resources and perhaps reduce the cost of this repeated effort. Specifically, we recommend you work closely with the Department of Energy (DOE), the Ground Water Protection Council (GWPC) and the various state regulatory agencies who, since the invention of hydraulic fracturing, have been regulating the practice and protecting citizens.

- We are not technical/scientific experts, but we would like to discuss hydraulic fracturing technology. Few, if any, could have predicted the pace of the current energy renaissance that has occurred in the last few years in regards to the recovery of natural gas. According to Secretary of Energy Chu:

“Due to research sponsored by DOE from 1978 to 1990 [which studied] methane, coal bed, and shale gas, that research was finally picked up by the oil and gas industries. In 1990, Schlumberger started investing in shale gas research. That has effectively doubled the gas reserves of the United States.”

It has been 32 years since DOE first researched shale gas, and

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20 years since Schlumberger began such research. We urge you to go to the research scientists at DOE, Schlumberger, Society of Petroleum Engineers, state geological surveys, USGS, hydro geologists and seek their input on . . . “possible relationships between hydraulic fracturing and drinking water.” Along with the DOE, GWPC and state agencies you should be able to quickly get a handle on the technical/scientific aspects of hydraulic fracturing and any relationship to drinking water.

- As we see it, this study was prompted for political purposes and not based on any past study, documented event, or new scientific finding on the process of hydraulic fracturing and contaminated drinking water. Therefore, in conducting a “scientific” study of a technical process, you must refer to the

experts and state regulatory agencies that have been regulating and enforcing rules on hydraulic fracturing for decades. In other words, is there documented evidence that the process of hydraulic fracturing has, in fact, contaminated drinking water or how likely is it to occur in the future? We don’t believe the Congress asked you to answer any other question. So cut to the chase (don’t spend any more of our money than needed), and get the answer to this simple question. We who live on farms, ranches and urban areas where oil and gas development have gone on for over 100 years know that accidents occur, but we are unaware of any drinking water contamination from hydraulic fracturing. We also believe the state regulatory system is and has been adequate to respond to any incident and to protect our land, water, health and other resources.

-- by Jerry Simmons, NARO Executive Director