WESTERN ENERGY
ALLIANCE
Formerly IPAMS

February 25, 2011

Via email: hanlon.edward@epa.gov

Edward Hanlon
Designated Federal Officer
U.S. Environmental Protection Agency
Mail code: 1400F
1200 Pennsylvania Avenue NW
Washington, DC 20460

Re: Comments on the Draft Plan to Study the Potential Impacts of Hydraulic Fracturing on Drinking Water Resources dated February 7, 2011

Dear Mr. Hanlon:

Western Energy Alliance (formerly IPAMS) represents over 400 companies engaged in all aspects of environmentally responsible exploration and production of natural gas and oil in the West. In the West, the vast majority of wells are completed using hydraulic fracturing (HF). Our organization and its members appreciate this opportunity to provide written comments to EPA on the "Draft Plan to Study the Potential Impacts of Hydraulic Fracturing on Drinking Water Resources."

In our comments of Aug. 25, 2010, to EPA on the Conceptual Model document, Western Energy Alliance stated its belief that project was too broad and that it went beyond the intent of Congress. That belief has not changed. We objected to an expansion of the study to examine full lifecycle water use in HF and now see that the Study Plan makes lifecycle the centerpiece of the project. As a result, we remain convinced that this is beyond the intent and serves only to divert attention from the established science behind a proven technology. The study should focus on fundamental research questions involving the risk of communication HF fluids with underground sources of drinking water (USDW), not broadly defined "drinking water resources" (DWR).

We appreciate the reduction of scope from the initial design document in March 2010 which included a "full lifecycle" approach that included air quality, seismic risks, ecosystem analysis, economic impacts, etc., which were clearly outside the scope. However, we believe the study scope continues to be a clear overreach and is certainly beyond the intent of Congress.

In addition, EPA proposes to go further beyond the scope of a transparently structured scientific evaluation of the relationship between HF and USDW by including a literature review targeted on policy issues without consideration for the quality of data presented or

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the credibility of sources. Known anti-oil and gas industry advocates such as ProPublica are cited multiple times by EPA in the appendix as a credible source of reporting, yet as evidenced by their funders and the background of their reporters, they are clearly a biased source of information, and one not informed by science or even a basic understanding of regulatory issues. Their reporters do not have relevant scientific credentials, and their reporting is full of misunderstandings and misstatements of HF and its impacts.

Within the Lifecycle segment, under Water Acquisition, Section 6.1, a study of water availability and "how large volume withdrawals" might impact DWRs is far too broad to provide relevancy to the study and denies proportional values for actual HF water use volumes found in the vast majority of development areas. Likewise, it does not give adequate recognition to the significant trend among operators to recycle and reuse flowback water in succeeding HF projects and to project how recycling and reuse will affect withdrawal projections that the study may rely on.

Western Energy Alliance is also concerned that Chemical Mixing, Section 6.2, will result in an encyclopedic examination of possible chemical interactions, no matter how remote, that again serve only to cloud real understanding of HF. Generally, we are concerned that each segment of the water lifecycle study contains this same predisposition toward examining improbable chemical intermixes and the potential hazard they would represent, despite the fact that the real volumes represented would fall well below thresholds considered harmful to people or the environment.

Within Well Injection, Section 6.3, we recommend study research begin with decades of geophysical verity: the physical distance, the intervening layers of impermeable rock and great pressures of overburden that prevent HF fluids from communicating with DWR. This is not something that is subject to change based on unverified and anecdotal information. Regard must also be given in any study of HF activities to the significant changes in geology from one basin to another or even within a development field. This is why effective regulation of HF activities best resides with the states and not the federal government.

Finally, we are concerned that the lifecycle study model appears to be designed to find hazards where none exist. For example, under Wastewater Treatment and Waste Disposal, Section 6.5, the background premise relies on limited or outdated research to conclude that underground injection of flowback and produce water is "problematic because of insufficient capacity" and uneconomic costs to transport. It fails to recognize that as operators have become more adept at utilizing new techniques in HF, they are also identifying new, geologically secure zones for underground injection. Injection capacity, for the most part, is simply not an issue of concern.

In the Case Study discussion, Section 7, we are concerned that the list of potential cases nominated during the stakeholder comment process were overwhelming generated by interest groups with an established and recognized opposition to all fossil fuel

development. Within that light, it can be expected many of the cases nominated are the most egregious examples of willful disregard of regulation and environmental impact. Another concern is that, as the study plan acknowledges, the data to be examined in a number of the case studies is out of date and cannot be replicated or verified. In these instances, the cases studied will not be "illustrative of the types of situations that may be encountered" nor will they "represent a range of locations." We are concerned instead, that they will be studied for their emotional impact and sheer abnormality.

We remain concerned the Study Plan retains a section on Environmental Justice, Section 9, which, regardless of the agency's stated priorities, remains outside the intent of Congress. To overlay a map of "well sites within the United States with demographic information" without clearly delineating which existing conventional wells were not completed with HF, those conventional wells that were completed with HF and those wells in unconventional plays that were completed with HF along with the variety of other well types, from shallow gas wells to coalbed methane wells, is an exercise in futility. Our other concern is that an Environmental Justice investigation would by definition delve into private, contractual relationships and any regulations derived from such research would position the government between private interests and possibly result in the injection of federal control mechanisms into contractual negotiations between operators and private mineral owners. As above, we believe states are well equipped to regulate and enforce oil and natural gas regulations in all parts of their jurisdictions.

Western Energy Alliance objects to the complete lack of recognition for established methods of risk management and its application to oil and natural gas development and production. According to ISO 31000, the effect of uncertainty on objectives can be managed to minimize, monitor and control the probability of unfortunate events. Such practices are recognized by state regulators and vital organizations such as the Interstate Oil and Gas Compact Commission and the Ground Water Protection Council. However, we are concerned that these organizations were among the stakeholder and agency groups consulted in the early stages of the project but not included in Study Plan research. If that is the case, the breadth of their knowledge will go unused and the value of the study will decline.

We again refer to our earlier comments on the Conceptual Model and remain concerned over the lack of recognition for existing state regulation of well integrity. As cited in a majority of investigations of DWR contamination, well integrity issues are often cited as a primary causal factor. However, the Study Plan chooses to gloss over Well Integrity, see Section 6.3.6.1, as simply a component of its Case Study methodology rather than the lynchpin of responsible oil and natural gas development and production.

In summary, Western Energy Alliance recommends EPA:

- Review its mandate from Congress that the study examine the science and the effective management of the HF process and risks to DWR while concurrently devaluing disproven and anecdotal information;
- Consider the inclusion of economic cost benefit analysis of new federal regulations that could arise from the study's conclusions.

Thank you for the opportunity to offer our comments on the Study Plan. The Western Energy Alliance and its members stand ready to respond to your questions at any time.

Sincerely,

Kathleen M. Sgamma
Director of Government & Public Affairs