



RAILROAD COMMISSION OF TEXAS

OIL AND GAS DIVISION

February 28, 2011

Mr. Edward Hanlon
Designated Federal Officer
EPA Science Advisory Board
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Re: The U.S. Environmental Protection Agency's Draft Plan to Study the Potential Impacts of Hydraulic Fracturing on Drinking Water Resources, February 7, 2011

Dear Mr. Hanlon:

The Railroad Commission of Texas appreciates the opportunity to submit comments to the Science Advisory Board (SAB) regarding the U.S. Environmental Protection Agency's (EPA's) Draft Plan to Study the Potential Impacts of Hydraulic Fracturing on Drinking Water Resources (Draft Study), released on February 7, 2011.

Texas is the largest producer of oil and natural gas in the country. The Railroad Commission has been actively regulating oil and natural gas activities in Texas for approximately 100 years. With over one million wells drilled in Texas, we are responsible for more oil and gas wells than any other entity in the nation. Since the 1990's, when market forces and technology, including hydraulic fracturing, made production from gas shale profitable, Texas natural gas production has increased more than 50 percent.

The Railroad Commission has developed and implements a comprehensive regulatory framework to oversee all oil field activities. Under this framework, the actual practice of hydraulic fracturing, which has been ongoing in Texas for more than half a decade, has never been identified as a contributor to groundwater contamination. The Texas framework emphasizes well construction with multiple layers of protection for groundwater, and our inspectors conduct over thousands of inspections to ensure compliance with our regulations.

EPA's original scoping document proposed to study the "Full Life Cycle" of an oil and gas well. In other words, the scope included all areas of oil and gas exploration and production activity, such as site selection and development, as well as production, storage and transportation, which are unrelated to hydraulic fracturing. The SAB rightfully concluded that initial, short-term research be directed to study sources and pathways of potential impacts of hydraulic fracturing on water resources, especially potential drinking water sources considering the Congressional

request and a desire by EPA to complete initial research products by the end of calendar year 2012. We believe that the scope of the Draft Study, however, remains broader than Congress may have intended and have the following concerns with the Draft Study.

EPA proposes to delve into areas beyond the reach of federal law.

EPA did limit the Draft Study to drinking water resources by replacing the "lifecycle" approach with the concept of "water lifecycle." However, the Draft Study includes a study of how water withdrawals might impact water availability in the source area, and the water quality of source waterbodies. Water availability and water withdrawal has historically been the prerogative of the states and, we believe, is beyond the reach of federal law.

EPA proposes to study areas beyond the specific practice of hydraulic fracturing.

In addition to proposing to study water withdrawals, EPA proposes to study the potential impacts of spills, containment, treatment, and disposal of wastewaters resulting from hydraulic fracturing, as well as produced water from wells that have been fractured. Contrary to what some believe, there are existing controls on oil and gas activities in federal law and regulations, including the Safe Drinking Water Act, Clean Water Act, Clean Air Act, Resource Conservation and Recovery Act, not to mention the myriad of state laws and regulations actively being enforced by state regulators who care just as deeply for our state and national resources. EPA has performed such studies in the past in association with numerous EPA programs. In the 1980s as directed by Congress, EPA performed an exhaustive study of oil and gas activities and wastes with respect to the Resource Conservation and Recovery Act and prepared a report to Congress. Delegated states and Direct Implementation states continually evaluate injection wells under the federal Safe Drinking Water Act's UIC program. And, EPA performs studies related to discharge permitting and effluent limitations guidelines development under the Clean Water Act for oil and gas production effluent.

Because these other areas have been, or are being, studied and because EPA has limited funding and time, we strongly urge the SAB to recommend that EPA narrow the scope of this study to that directed by Congress - to practices directly associated with actual hydraulic fracturing and drinking water resources. Expansion of the study to other areas will only dilute EPA's ability to focus on the actual practice of hydraulic fracturing.

The Railroad Commission recognizes that there has been substantial public concern over the use of hydraulic fracturing. We hope that the Science Advisory Board will help ensure that EPA's study will be an objective assessment that takes in account current state regulatory programs and regional differences. We encourage the Board to recommend that EPA include in any working groups professional geoscientists and engineers with field experience. We further hope that the Science Advisory Board will encourage EPA to actively seek participation from experts from the state regulatory agencies and base the study on sound science, valid data, and accurate information from credible sources.

That said, the Railroad Commission of Texas offers itself as a resource to both the EPA and the Science Advisory Board in this endeavor to conduct an evaluation of the chemicals used in hydraulic fracturing and development of alternatives, evaluation of well construction and maintenance, evaluation of fracture development, and development of best management practices.

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Please feel free to contact me at john.tintera@rrc.state.tx.us or (512)463-7068 if you have any questions or would like further information.

Sincerely,

John J. Tintera, Executive Director
Railroad Commission of Texas

Cc: Chairman Elizabeth A. Jones
Commissioner Michael L. Williams
Commissioner David Porter