



UTE INDIAN TRIBE
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February 9, 2012

The Honorable Ken Salazar
Secretary
U.S. Department of the Interior
1849 C Street, N.W.
Washington DC 20240

Dear Secretary Salazar:

The Ute Tribal Business Committee (UTBC) on the behalf of the Ute Indian Tribe (the "Tribe") of the Uintah and Ouray Indian Reservation (Reservation) writes to express its concern with the Bureau of Land Management's (BLM) decision to persist with rule and regulations for hydraulic fracturing (Fracing) activities on Indian (Federal) lands. We are not only concerned with the process by which the BLM plans to develop the rule but also the impact it will have on the oil and gas industry on the Reservation.

To date, the BLM has hosted a handful of informational meetings throughout the West and describing that as tribal consultation. An informational meeting describing to tribes what the BLM plans to do is not tribal consultation. Effective tribal consultation is sitting down at the table with tribes to discuss the proposed rule and its effects on the tribal economy and the social structure of the tribe. This has not happened.

According the draft regulations the BLM handed out in Salt Lake City, UT, the BLM plans to look at three key issues pertaining to the Fracing process: wellbore integrity, disclosure, and flowback water. We know of no incidents on Tribal lands that would precipitate federal regulation.

Oil and gas operators seeking permits to drill on "public lands" already undergo an extensive environmental review process before they can begin drilling activities. This process has become lengthy, time consuming and costly, so much so that there is a backlog of hundreds of permits to drill applications not having been acted upon by the BLM Field Office.

The Environmental Protection Agency, as well as other federal agencies, are currently conducting scientific studies on Fracing. BLM regulation is premature in advance of the EPA study, and BLM has offered no justification for proceeding with this new regulation without the benefit of these studies. Without clear demonstration of a problem with the Fracing process and without providing Tribes and states an opportunity

to respond to any identified deficiencies, we feel the BLM regulation is putting the horse before the cart.

According to BLM, Fracing is used in more than ninety percent of the oil and gas wells drilled on "public lands." Oil and gas royalties from drilling on public lands are significant revenue source for the federal government, the Tribe and Utah. Adding additional burdens for the development on Tribal lands could have an adverse effect of forcing operators to shift investment away from our Reservation, thus depriving the Tribe of needed revenue.

A significant effect in Utah would fall on the significant acres of trust lands managed by the Tribe on our Reservation. After many years of economic hardship, the Tribe and its members are finally seeing improved economic conditions on the Reservation due to the oil activity on the Reservation. New BLM rules on Hydraulic Fracturing would disproportionately impact the Tribe due to our greater reliance on oil and gas development for economic growth and sustainability.

For these reasons, the Ute Indian Tribe requests that BLM not move forward at this time with the development of regulations for Hydraulic Fracturing on public lands and more specifically Reservation lands.

Sincerely,

A handwritten signature in black ink, appearing to read "Irene C. Cuch", with a horizontal line drawn through it.

Irene C. Cuch, Chairwoman
Ute Tribal Business Committee



SOUTHERN UTE INDIAN TRIBE

January 18, 2012

Jim Stockbridge, Trust Liaison Officer
Bureau of Land Management
Denver Federal Center, Building 50
P.O. Box 25047
Denver, Colorado 80225-0047

**Re: Government-to-Government Consultation Concerning BLM Development
of Hydraulic Fracturing Regulations for Federal and Tribal Trust Lands**

Dear Mr. Stockbridge:

I am writing in response to the letter from Michael D. Nedd, BLM's Assistant Director for Minerals and Realty Management, dated December 9, 2011, inviting the Tribe to engage in government-to-government consultation regarding BLM's intent to develop regulations governing hydraulic fracturing of oil and gas wells on federal and trust lands. At this initial consultation phase, we have broken our comments into three categories: (1) suggestions for process; (2) a summary of the importance of hydraulic fracturing to the Tribe and the development of the Tribe's minerals; and (3) a summary of the environmental concerns and protection measures associated with hydraulic fracturing. It is the Tribe's position that any new regulations regarding hydraulic fracturing should be cost effective, consistent with industry best management practices, and require full public disclosure of the chemical constituents of hydraulic fracturing fluids used by oil and gas operators.

I. Suggestions for Process.

We appreciate that BLM appears to be requesting consultation with the Tribe at an early stage in the process of developing regulations. As an initial matter, we would suggest that the consultation process include not only an opportunity for comment on proposed BLM regulations but consultation on the formulation of proposed regulations. With that suggestion in mind, we are furnishing these initial comments which include several concepts that we believe should guide the development of any new hydraulic fracturing regulations. To ensure that the Tribe has an opportunity for meaningful input on the development of the regulations, we request that the BLM circulate discussion drafts of possible regulations for review and comment before any proposed

regulations are issued.

II. Tribe's Economic Interest in Hydraulic Fracturing.

The Tribe has a significant interest in BLM's regulation of hydraulic fracturing operations based on the Tribe's interest in both oil and gas development and environmental protection. This historic well stimulation practice has been conducted on the vast majority of wells on the Reservation and is necessary for the continued development of conventional oil and gas resources as well as coalbed methane.

Advancements in oil and gas related technologies have created the potential for development of shale formations on the Reservation. In order to recover the hydrocarbon resource in these low permeability formations, hydraulic fracturing is a necessity. It is the hydraulic fracturing process that creates the permeability in shale formations and makes the extraction of oil and gas economically feasible. Preliminary studies indicate that there are significant recoverable reserves associated with several shale formations on the Reservation. The development of these shale plays could have substantial socio-economic benefit to the Tribe and these reservoirs could not be developed in the absence of hydraulic fracturing.

III. Environmental Concerns and Protection Measures associated with Hydraulic Fracturing.

The major environmental concerns regarding hydraulic fracturing of oil and gas wells are related to water quality/quantity issues, air quality, worker safety, and the disclosure of chemicals used in hydraulic fracturing. The following section summarizes these concerns and the existing environmental protection and monitoring methods available to oil and gas companies conducting the stimulation process.

Water Quality/Quantity

With respect to water quality, the main concern is that hydraulic fracturing of oil and gas reservoirs could create preferential pathways connecting shallow aquifers with the hydrocarbon bearing zone and subsequently contaminate useable water supplies. The potential for hydraulic fracturing to impact shallow aquifers is dependent on the site specific geology and appropriate completion techniques, but is generally low. There is often a significant interval of low permeability strata between the shallow aquifers and the hydrocarbon bearing zones that retards the movement of fluids between these formations. An understanding of the local geology is crucial in evaluating the potential for hydraulic fracturing to impact shallow aquifers.

The potential for impacts to shallow aquifers can be minimized through proper casing and cementing procedures. Casing serves to isolate drinking water aquifers from fluids inside the wellbore and the cementation of the annulus between the formations and the

well casing prohibits the vertical and horizontal migration of fluids in the vicinity of the wellbore.

Another issue of concern is the demand that hydraulic fracturing could place on groundwater and surface water supplies. It is thought that the quantity of water required to conduct hydraulic fracturing operations on shale wells could deplete water supplies that will be needed for other uses. Operators should recycle water associated with hydraulic fracturing whenever possible. This best management practice will help minimize the impact on local water supplies.

Air Quality

Air emissions associated with hydraulic fracturing and well completions have also been a topic of environmental concern. Operators should use appropriate best management practices and remain in compliance with the relevant rules and emission standards associated with the hydraulic fracturing operations.

Worker Safety

Another major concern associated with hydraulic fracturing is that the chemicals used in the hydraulic fracturing process could be harmful to human health. Proper health and safety practices should be followed during the well stimulation process to minimize the potential for impacts to human health and the environment. These practices include the use of personal protective equipment, the availability of MSDS sheets onsite, and the proper containment of fluids and chemicals.

Chemical Disclosure

As a matter of transparency and good environmental and health and safety practices, the Tribe believes that operators on federal and tribal trust land should participate in disclosure programs that track the chemicals used in the hydraulic fracturing process.

Environmental Protection Measures

A variety of best management practices exist within industry to monitor the hydraulic fracturing process, wellbore integrity, and potential environmental impacts. These practices include pressure monitoring before and during the well stimulation, bradenhead testing, domestic water well sampling, and the collection of cement bond log data. Beyond the efforts of monitoring, proactive protection of groundwater and the surrounding environment can be accomplished through best management practices including successful completion techniques (casing and cementing), proper waste management, recycling of water, and spill prevention methods implemented for fluid and chemical storage vessels on the ground surface.

IV. Conclusion.

In conclusion, we appreciate the opportunity to engage in government-to-government consultation and request that the BLM circulate discussion drafts of possible regulations for review and comment before any proposed regulations are issued.

Hydraulic fracturing is vital to the production of oil and gas resources on the Reservation. In the absence of hydraulic fracturing, the commercial viability of current and future oil and gas development could be significantly compromised. Care must be taken, therefore, to ensure that any new regulations governing hydraulic fracturing are not overly burdensome.

Best management practices currently in use serve to ensure environmental, health, and safety protection for the general public and the Tribal membership. A variety of monitoring and environmental protection techniques are currently available to and being implemented by oil and gas companies. New regulations associated with hydraulic fracturing, therefore, should be cost effective and consistent with industry best management practices.

Thank you once again for the opportunity to submit these initial comments. We look forward to actively participating in the regulation development process and we expect that BLM will give our comments serious consideration.

Sincerely,



Jimmy R. Newton, Jr., Chairman
Southern Ute Indian Tribal Council

cc: Charley Flagg, Justice & Regulatory Director
Lena Atencio, Natural Resources Department Director
Bruce Valdez, Growth Fund Executive Director
Tribal Council Members

Project Development Requirements in Pennsylvania

3. SITE SELECTION

FEMA/Local-Flood Plain Determination
U.S. FAA – Air Clearance Consult
PA Biological Review
Pre-const. EA Forestry Approval of Location
PA DEP – Road Const. Plan
DCNR Location and Approval
DEP – COE - Wetlands & Stream Crossings
PA Game Commission – Species of Concern
PA Fish & Boat – Species of Concern
U.S. F&W – Federal ESA Issues; Seasonal Stips
Penn-State Historical Preservation - Cultural Resources

4. LOCAL CONSTRUCTION

NOI to DEP (w/ Local Notice & Comment)
Managing Agencies – Seasonal Activity Restrictions
PA DOT – Road Const. Permits
PA County – Local Road Const. Permits
SRBC – Water Access Permits
Local Municipal – Zoning & Land Development Permits

Storm water -
Pre-Const. Notice (BMP)

DEP – Pre-Const. Meeting
Activity Notice – Various Agencies
Build Location & Access Roads
DEP – Inspection
Compliance Monitoring (Life of Well)

6. OPERATION AND PRODUCTION

7. RESTORATION AND RELEASE

INFRASTRUCTURE & HOOK UP

Repeat Steps 3 & 4
DEP – Air Permits
EPA – SPCC Requirements

DECOMMISSIONING

DEP – Plugging Permit
Landowner / Lease - Adhere to Restoration Requirements



Construct Gathering Lines
Construct Permanent Facilities
Connect to Sales Line

PRODUCE WELL

Maintenance Activities
Repeat Steps 3 & 4
Inspections (Life of Well)
DEP
EPA
SRBC
COE
U.S. F&W
Operator
Monitor Well Integrity (Reg. Req.)
DCNR

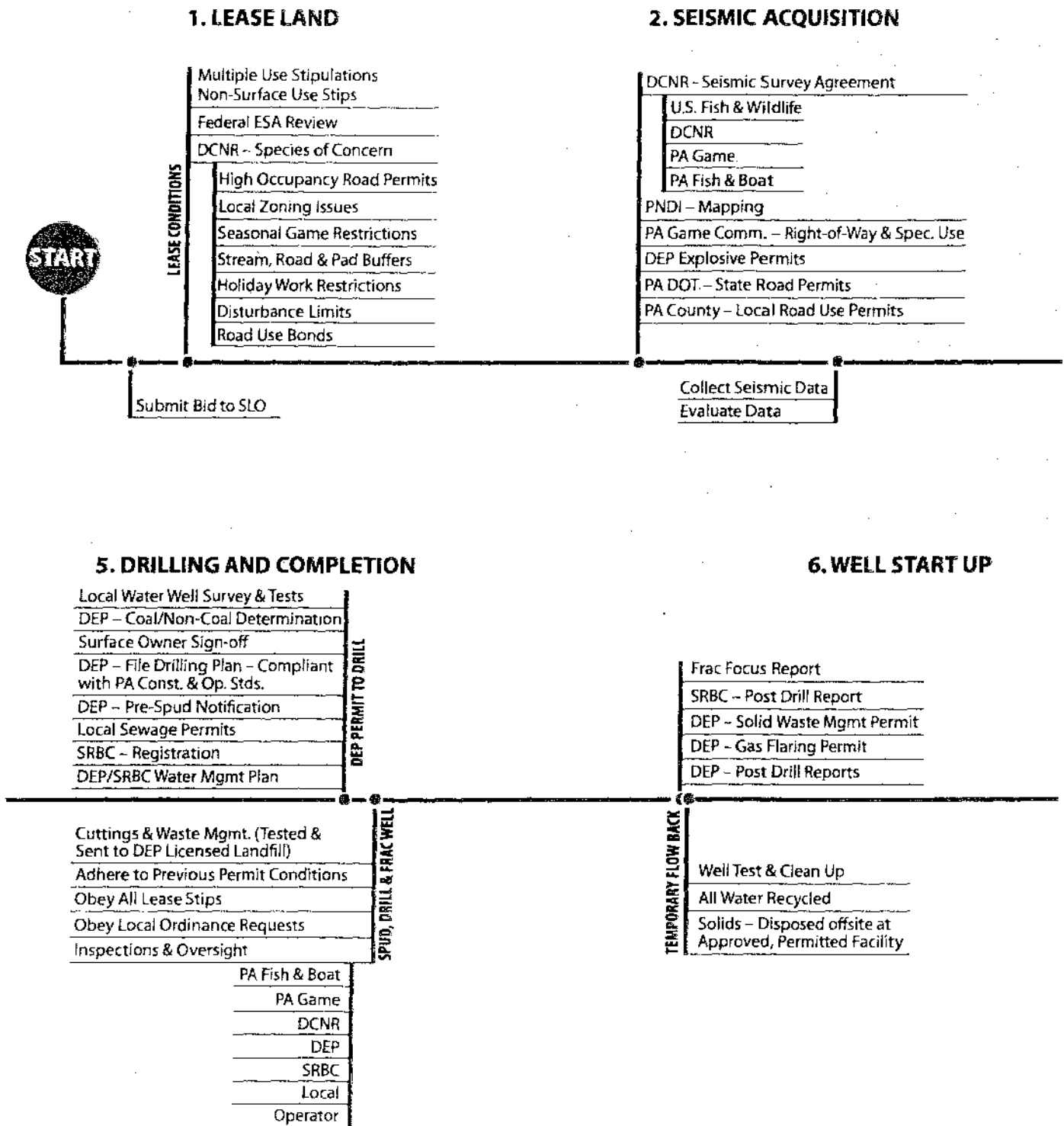
TERMINATION OF PRODUCTION

Operator – Shut-In Production
Plug Well
Decommission & Remove Equipment
Abandon Gathering Lines (See Steps 3 & 4)

Release of Land & Location

Source: Adapted from "Governor's Marcellus Shale Advisory, Commission Report" by Jim Cawley, Lt. Governor, Commonwealth of Pennsylvania, July 22, 2011. Full Report Found at <http://www.pa.gov>. Also see Pennsylvania Public Records for Grugan development: Gathering Line - Permit #ESX10-035-0002, GP0518291004, GP0818291001; COP Tract 289 Pad E - Permit #ESX10-081-0076, API #37-081-20446 (Well #E-1029H); COP Tract 285 Pad C - Permit #GP0718291001, ESX10-035-0007. Additional reporting and oversight required for exceptions to permitted activity not shown.

Figure ES-11. The Natural Gas and Oil Industry Is Well Regulated:



LEGEND:

BMP - Best Management Practice
COE - U.S. Army Corps of Engineers
DCNR - PA Dept. of Conservation & Natural Resources
DEP - PA Dept. of Environmental Protection
EA - Environmental Assessment

EPA - Environmental Protection Agency
ESA - Federal Endangered Species Act
FAA - Federal Aviation Administration
NOI - Notice of Intent
PA DOT - PA Dept. of Transportation

PNDI - PA Natural Diversity Inventory
SLO - State Lands Office
SPCC - Spill Prevention, Control & Countermeasure Plan
SRBC - Susquehanna River Basin Commission
U.S. F&W - U.S. Fish & Wildlife Service