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U.S. House of Representatives
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JEFFREY DUNCAN
DEMOCRATIC STAFF DIRECTOR

February 8, 2012

The Honorable Ken Salazar
Secretary
Department of the Interior
1849 C Street, NW
Washington, DC 20240

Dear Secretary Salazar:

We write to urge you to revise your enforcement strategies and drilling regulations in light of an analysis prepared by the House Natural Resources Committee's Democratic staff at our request (a copy of which is attached). This staff study indicates that significant violations relating to oil and gas drilling are occurring on federal lands without consistent and adequate federal oversight and enforcement. As industry expands the use of hydraulic fracturing to tap into more oil and gas reserves across the nation, including on federal lands, it is imperative that the process is performed in a safe and environmentally sound manner that protect surface and subsurface resources. A strong and consistent approach to oversight and enforcement of drilling practices on federal lands is important in advancing that goal.

To aid in our oversight responsibilities, as Ranking Members of the Natural Resources Committee and its Energy and Mineral Resources Subcommittee, we requested data and other materials from you regarding the practice and oversight of oil and gas drilling activities on federal lands, including information concerning safety-related and other violations that have occurred over the last decade. We are writing to share our staff's analysis and findings of the documents provided to us by the Department of the Interior (DOI) in response to our request. In short, the analysis shows that:

- <u>There were a total of 2,025 safety and drilling violations that were issued to 335 companies drilling in seventeen states between February 1998 and February 2011.</u> Of these, 27 percent were classified by Committee staff as a major environmental or safety violation, 20 percent as a minor safety violation and 53 percent as a minor drilling or operational violation.

- Oil and gas drilling activities on public lands may endanger drinking water. Approximately one-third of a random sample chosen by the DOI to represent oil and gas wells on federal lands was hydraulically fractured in, near or below an underground source of drinking water. The widespread use of this drilling practice at such locations underscores the importance of ensuring that hydraulic fracturing operations be conducted in a fashion which will not threaten drinking water supplies. Anecdotally, and through a casual conversation that occurred with the operator after the well had already been fractured, the DOI was made aware of one case in which diesel fluid was used during hydraulic fracturing in a well in Wyoming that was completed in 2008, without a permit and without prior knowledge of the agency- in potential violation of the Safe Drinking Water Act.

- There were many violations that could endanger health and safety of workers and the environment. An evaluation of the data found many examples of major environmental or safety violations reported during this period, including a 2008 blowout of a well in North Dakota that was not immediately reported to the DOI; an operator in Mississippi that did not install a blowout preventer or any other safety equipment to control the well in the event of a blowout; and an improper casing and cement job in Wyoming that led to leaks of water and gas through the cement of the well.

- There were 549 violations classified as "major" by Committee staff, 53 percent of which (293 violations) were related to non-functional blowout preventers. In addition, 25 percent of what were classified as minor safety violations (104 out of 410 violations) were issued because of minor problems with the blowout preventer or other device that could impact well control. In all, problems with blowout preventers or other devices responsible for well control constituted 20 percent (397 out of 2,025 violations) of all violations.

- Some operators fail to get approval from DOI prior to drilling on federal lands. In fifty-four instances, operators were given written citations for violations related to drilling on federal lands before they received the appropriate approval. In many instances, according to DOI staff, these violations were given because an operator began drilling on federal lands before the permit to drill was fully processed and approved by the DOI.

- More than one-fifth of major violations involved a compromise of vital casing and cementing. Twenty-one percent of the 549 major cited environmental or safety violations were issued because of deficiencies in casing and cementing programs. Appropriate casing and cementing is the first line of defense in protecting underground sources of drinking water.

- Operators frequently violate safety testing, record-keeping and notification requirements. The majority (628 out of 1,066 total or 60 percent) of the minor drilling or operational violations were issued for safety testing, record-keeping and notification violations. These included written violations for failing to comply with requirements to keep records of operations and to notify the Department of significant activities. Failure to keep such records or reports when required to do so could potentially conceal significant safety issues, and makes it more difficult for the agency to conduct effective oversight on drilling operations occurring on federal lands.

- Monetary penalties are almost never issued and when issued amount to very little. Despite the fact that many of these violations were issued for serious safety and environmental reasons, only 125 (six percent) of all the violations were levied a monetary fine. Although the violations that occurred were spread across 17 states, eight states (AK, AR, LA, ND, NV, OH, SD, and WV) never issued a monetary fine of any amount during the entire period examined. Additionally, only 64 out of the 335 operators with violations were ever levied a monetary fine. The fines that were levied also amounted to very little. In fact, fines issued on all federal lands dating from February 1998-February 2011 amounted to a total of just $273,875. For example, in 2003 an operator was found to be discharging fluids directly from the rig into the Washita River in Oklahoma. As a penalty for this, the operator was issued a monetary assessment of only $2,500, which is less than what some of the largest oil and gas companies can earn in a minute.[1]

- The issuance of monetary fines is inconsistent. There were frequent incidences in which a specific activity led inspectors to issue a monetary penalty against one operator, but not against another when the second operator was found to have committed the identical violation. This occurred even within the same state, even though each state presumably has uniform inspection and enforcement processes and protocols. Even among those operators that were frequent repeat violators, there were four companies that never once received a fine, despite the fact that companies with even fewer violations did receive a fine. This lack of consistency in the issuance of monetary penalties calls into question the adequacy and effectiveness of the oversight of onshore oil and gas drilling operations and the ability of the DOI to ensure safety and environmental performance of hydraulic fracturing as this practice expands on federal lands.

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[1] In its 2011 3rd quarter financial report the 3 top U.S. Oil and Gas Companies (Exxon Mobil, ConocoPhillips and Chevron Corporation) each reported earnings of over $7 billion. See for example: http://www.chevron.com/chevron/pressreleases/article/10282011_chevronreportsthirdquarternetincomeof78billionupfrom38billioninthirdquarter2010.news

To improve the Department's approach to drilling safety, we urge you to direct the BLM to: 1) update and publish drilling safety regulatory and enforcement policies that reflect the increase in oil and gas drilling on federal lands and the use of advanced technologies such as hydraulic fracturing, 2) enhance the deterrent for non-compliance by increasing the dollar amount of monetary penalties, expanding the infractions for which penalties can be issued and ensuring that inspectors are trained to consistently apply them, 3) ensure information collected by BLM field officers during inspections is accurate and complete and provides necessary information about compliance issues, so that appropriate enforcement actions can be taken, and 4) define circumstances under which DOI will cancel permits for repeat or particularly egregious drilling safety violators.

We request that you provide a specific and complete response detailing how the Department plans on implementing changes to improve upon the deficiencies noted in this report by close of business on Friday March 9, 2012. Should you have any questions about this report, please have your staff contact Dr. Avenel Joseph of the Committee's Democratic Staff at 202-225-6065 or Dr. Elizabeth O'Hare of Rep. Holt's staff at 202-225-5801.

Sincerely,

Edward J. Markey
Ranking Member
Committee on Natural Resources

Rush D. Holt
Ranking Member
Subcommittee on Energy and Mineral Resources