

CHAMBER OF COMMERCE  
OF THE  
UNITED STATES OF AMERICA

R. BRUCE JOSTEN  
EXECUTIVE VICE PRESIDENT  
GOVERNMENT AFFAIRS

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202/463-5310

July 30, 2013

The Honorable Doc Hastings  
Chairman  
Committee on Natural Resources  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Peter DeFazio  
Ranking Member  
Committee on Natural Resources  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairman Hastings and Ranking Member DeFazio:

The U.S. Chamber of Commerce, the world's largest business federation representing the interests of more than three million businesses and organizations of all sizes, sectors, and regions, as well as state and local chambers and industry associations, and dedicated to promoting, protecting, and defending America's free enterprise system, strongly supports H.R. 2728, the "Protecting States' Rights to Promote American Energy Security Act," and an amendment expected to be offered by Rep. Mullin that would extend the important provisions of the legislation to tribal lands.

The Bureau of Land Management (BLM) has twice proposed new regulation of hydraulic fracturing on federal and tribal lands, including the proposed rule currently open for comment. However, in neither case has BLM justified additional regulation. State regulatory authorities have maintained primacy in the regulation of oil and natural gas exploration and production within each respective state's borders, including, to a large extent, federal lands.

State regulators not only possess the regulatory mandate from their respective state laws, but they have also developed the expertise necessary to understand the specific geology, hydrology, and other physical nuances of the lands in their respective states. As such, the nation has benefited from the efficient extraction of oil and natural gas from producing states while also protecting human health and the environment.

While producers must comply with applicable state regulations when operating on federal lands, they must also navigate the moribund federal permitting process. As such, oil and natural gas exploration and production on federal lands has grown increasingly inefficient, preventing Americans from realizing job creation, economic growth, and increased energy security that accompany additional domestic production. The additional time required by the federal permitting process, in addition to existing regulatory requirements, increases the cost of production and makes operations on federal lands less economical than on state and private lands.

In March 2013, the Congressional Research Service released an analysis concluding that oil production on federal lands had decreased 4% between 2007 and 2012, while production on state and private lands had increased more than 35%. Similarly, natural gas production on federal lands decreased 23% while production on state and private lands increased more than 40%. Over this five-year span, oil production on federal lands dropped from 33% of the nation's total production to 26%, while natural gas production on federal lands dropped from 28% of the nation's total to 18%. Clearly, the existing federal regulatory process is much less efficient than the respective state processes.

In October 2012, the Institute for 21<sup>st</sup> Century Energy, an affiliate of the U.S. Chamber of Commerce, co-sponsored a study conducted by IHS analyzing the macro-economic benefits that America's unconventional oil and natural gas revolution has produced and will produce in the future. In 2012, just the exploration and production component of this unconventional energy supported 1.75 million jobs, generated \$62 billion in government revenues, and added nearly \$240 billion to the U.S. economy. However, this study found that less than 10% of this production was happening on federal lands. If federal policies were less costly and dilatory and mirrored more closely the host state's regulations, the shale revolution would be producing even greater benefits for Americans.

The increased production of oil and natural gas has also sparked the early stages of a revival of manufacturing in the U.S. The newly available supply of energy and feedstock resources at internationally competitive prices has caused many companies to re-open shuttered facilities and consider new operations in the U.S. The petro-chemical sector alone has announced a combined plan to invest more than \$100 billion in new facilities to process and manufacture products. In turn, the increased availability and competitive pricing of these products is expected to catalyze additional investment in other areas of the manufacturing sector. While the U.S. is on the path towards tremendous manufacturing growth fueled by shale energy development, this future is not predestined, and unnecessary federal regulation threatens this future.

BLM's proposed rule would alter the balance of regulatory authority in a manner that would further disincentivize businesses from investing in the development of oil and natural gas on federal and tribal lands, while not identifying or addressing any specific issue that warrants the regulation. A July 2013 study sponsored by the Western Energy Alliance found that BLM's proposed hydraulic fracturing rule would create nearly \$350 million in annual compliance costs, which corresponds to approximately \$100,000 per well.

In proposing its rule, BLM failed to identify any specific shortcomings of the existing framework of state regulation and in many cases merely duplicates state requirements. H.R. 2728 would prevent BLM's arbitrary decision to further regulate hydraulic fracturing and making oil, natural gas, and geothermal energy production on federal lands even less economical than it already is. By clearly designating the primacy of state hydraulic fracturing regulations and preventing BLM from adding an unnecessary layer of federal regulation, this legislation would help maintain the economic benefits of America's shale revolution and preserve its nascent manufacturing renaissance.

In addition, the Chamber believes that it is imperative that the Mullin amendment be added to the bill. This amendment would extend the scope of this bill to include sovereign tribal lands. The Chamber recently established the Native American Enterprise Initiative (NAEI) in recognition of the revolution in entrepreneurship occurring amongst the nearly three million people of American Indian and Alaskan Native heritage. Drawing on the Chamber's record of business advocacy, the NAEI seeks to remove legislative and regulatory roadblocks to their economic success, which such an amendment, if accepted, would do. Sovereign tribes require the same flexibility to manage energy exploration issues within their territories.

The Chamber commends Congressman Flores for introducing, and the Committee for marking up, this important legislation and urges that it be improved by including Congressman Mullin's amendment, and favorably reported to the full House.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Bruce Josten". The signature is fluid and cursive, with a large initial "R" and "B".

R. Bruce Josten

cc: Members of the Committee on Natural Resources