

Hydraulic Fracturing Rule Hearing
Wednesday, June 15, 2011
Sidney, MT
10:00 am

Chairman Nelson – This is the time and the place for the hearing on the frac'ing rules proposed by BOGC. I am Linda Nelson from Medicine Lake. I am the Chairman and I am looking forward to hearing your comments today. There is considerable hype out there about the proposed rules. One side claims we favor the oil and gas industry and the other side thinks we are throwing them under the bus. I hope we can land somewhere in the middle because neither side is accurate. Our intent is to be proactive in developing rules that will work for Montana, instead of waiting for Congress or the EPA or the Montana initiative process to do this for us. The Montana Board of Oil & Gas Conservation (MBOGC) is a seven member board appointed by the Governor. Attorney Clyde Peterson will be conducting the hearing this morning. He will have other procedural requirements.

Mr. Clyde Peterson – We are on record. Time and place for hearing before BOGC in DNRC in matter of adoption of new rules 1-5 regarding oil and gas stimulation. Purpose of this hearing is to hear comments, testimony from the public or agencies or entities that have concerns about this proposed adoption. This is not a debate. We are not going to be in an unending question and answer situation. You give your comments, views and recommendations to the Board and everyone will be treated in the same manner. There is a sign-up sheet for attendees in the back and if you are going to testify please use the witness sign-up sheet. There is also a sign-up sheet if you want to receive information about other DNRC hearings.

I am Clyde Peterson. I am with Agency Legal Services in DOJ. I have been asked to preside over the hearing. Let me give you introductions before we get into ground rules. (Clyde gives overview of BOGC and introduced Board members and staff.)

This is a requirement from the Montana Legislature. I would like to read about two committees that have oversight. Anyone that would like to submit comments, either orally or in writing, please do so. Administrative Code Committee reviews all proposed new rules, or amendment or repeal of existing new rules filed with Secretary of State. The Committee has authority to make recommendations to an agency regarding the adoption, amendment or repeal or of the estimated economic impact. In addition the Administrative Rules Committee may poll members of the legislature to determine if a proposed rule is consistent with the intent of the legislature. This committee welcomes comments from the public and invites members of the public to appear before it or to send in written statements in order to bring to the committees attention any difficulties or deficiencies with the proposed rules. The Committee's address is State Capitol, Helena. If you want that specific address, see me after the hearing and I would be happy to give it to you.

There is another committee that has some oversight over department and agency with proposed rules and that is Administrative Rule Review Committee. That is a function of interim committees and the Environmental Quality Council (EQC). These committees and the EQC have administrative rule review, program and monitoring functions for various exec branch agencies. The EQC in this case reviews rules and publications about MBOGC. They have authority to make recommendations to the agency regarding the rules or to require the agency to prepare an estimated economic analysis. Their address is PO Box 201706 Helena, MT.

The order of presentation will be the Board's Administrator Tom Richmond first to summarize and give an explanation of proposed rules and why there is a need for the rules. Following that will be proponents. The Board may have questions regarding proponents' testimony. Following that we will hear opponents. The Board may also ask questions if there is a need for clarity. Following that opportunity, there will be time for people just wanting to make comments. You do not have to label yourself as proponent or opponent. Following that I will allow Mr. Richmond the opportunity to close things out. Copies of the proposed rules are in the front of the room. If someone else needs a copy, let us know and we will get him or her one. They are also available online at the Secretary of state website.

Notice was published. MAR Notice No 36-22-157 on May 26, 2011 in the Montana Administrative Register. Again this is not a contested case hearing, it is just a meeting where we hear your views and for you to present public comment. If you are going to give testimony which is essentially duplicative of the person that just testified in front of you that is fine, but you can also say I represent so-and-so and I agree with the person before me. Or you can certainly give your testimony too.

Mr. Tom Richmond – I am not going to read the rules to you, but I am going to read from my goals in drafting these rules. I would hope if you comment, if the rules are not meeting the goals, then we should know that ahead of time.

One of the things I want to clarify is that the process of completing the well is part of the drilling process. Sometimes that includes hydraulic fracturing and sometimes not. All of those processes identified at the drilling permit stage are part of the permit. So one of my goals is to make sure people understand that completing the well is part of the drilling process. No one would drill a well if they could not complete it. I hope the rules provide a generic level of disclosure of frac fluids at an early stage and we have to recognize that well treatment designs can and often do change as the process proceeds and oftentimes change while the process is underway.

I hope the rules provide for a full disclosure of fluids used and the relating components when the work is completed and accurate info about actual composition can be obtained. The final disclosure will be the job that was pumped and not the one that was proposed to be pumped. That is the info we want to capture.

I think it is important that the agency not possess trade secrets and then incur potential liability for disclosure of protected information. I hope the rules limit the circumstances of disclosure to bona fide emergencies. I think we all would like to see the FracFocus website become a success. It is a national website collecting this kind of disclosure info. Texas Legislature just passed law requiring operators in TX to use the FracFocus website. So our rules propose the use of that website.

I wanted to be sure the rules improve and clarify some of the safety and environmental protection procedures that have to do with well construction and maintenance of mechanical integrity for wells proposed for hydraulic fracturing. I also want to clarify the reporting and permitting requirements for stimulation and to avoid collecting data and reports for routine maintenance and well cleaning operations. In one of the rules you see some small well exceptions, mainly for cleaning the well and are done periodically.

I hope we can have workable rules in place by Sept this year. We anticipate a substantial increase in drilling activities in MT in this part of the state and virtually every one of those Bakken wells is fracture treated. So the goal is to have rules in place by September.

PROPONENTS

Senator Bob Hawks – My name is Senator Bob Hawks and I am from Bozeman. I have served four sessions of the legislature and am the person that brought forward SB 86, which was a request for rules of disclosure as you are attempting to present to us today.

I come to you as a proponent, mainly because I am thankful for the furtherance of this project by the BOGC. The legislature did not see fit to carry through with the legislative thrust to see this through; but it can be handled this way, and I trust that you are all detailed enough in your process here that in fact we can accomplish just as much this way as we could have the other way.

My concern in bringing the legislation forward was the potential impacts on property rights and public health. And while we were assured at the time there was no risk with such operations, my review of what was happening nationally caused me to conclude there were risks involved and that as a state and as a responsible body in the Board of Oil & Gas, you have the obligation of protecting people and setting the guidelines so we can move forward harmoniously. My review at that time of the legal cases gave me a very strong impression that while the oil and gas industries often prevail in the legal cases, if you stood above it and looked at it, most of the cases were lost because there was no way to prove a connection to establish due cause between the operation and any loss property owners may have. So I was concerned that these rules come forward with disclosure so people were aware of the risks. Because quite frankly in an environment like this it is very easy to get caught up in being successful... and our need for oil and gas is obvious, and I am here as a supporter of oil and gas development, but I would like to have it done properly so people's rights are protected. I view that as your role and as you all know we are here, we create these types of guidelines and we create regulations because we recognize occasionally there are bad players in the process and this is to bring everyone up to a fair and equal way of operating in the field.

I did ask legislative staff to review Wyoming rules and any other state rules that were considered applicable. My staff came back to me (and these were two prime staff members) and said they could not understand the Wyoming rules, and word on the street was that neither could anyone else and that in fact the rules were being bypassed. I do not know whether that is true or not but I do not want that to happen in MT. I would like the clarity in these rules to be written not only so the public can understand it, but also so the operators can understand it and so there is no question about what we expect as we move forward.

What I had originally requested was a submission to a website a list of chemicals used and that adjacent property owners are notified of the operations. I understand the complications involved in getting these wells up and running and I understand it is not always predictable and you cannot always present it in advance. But when probably 85 percent of these wells are going to go to frac'ing process anyway I think there is a reason to consider general notification of property owners in the region that there is a well being processed. Then they should be protecting their own interests which involves getting a profile on

their water sources and any other risk factors they consider to be important. We all know EPA has strict guidelines regarding the processing of wells and I would only hope that the enforcement and follow-through on that is what it should be because those are very well intended and my sense is it gives a lot of the background support you will need to follow through on these rules.

I have some concern about a national website rather than a local website because my concern is that physicians have a treatment protocol where they can treat adverse reactions upon accidental exposure to these chemicals. And without having any sense of what they are exposed to, I think local physicians may be caught in a down position if they cannot be prepared for what they might face. With regard to particular formulas and proprietary secrets we might have here, I will ask you to be very careful...I know you are responsible for approving those and making those are justifiable...but I would ask you to make sure these are real needs because quite frankly, many companies use the same products, same chemicals, it is just a matter of how they are formulated that makes the operation more successful in their view. I would like to see you be a little firmer in getting the chemicals up on a location basis so there is immediate response ability by emergency medical personnel to deal with these issues as they come up. We cannot walk away from the risks and I understand most operations are relatively safe, but if you read the analysis of other situations in other states regarding safety, you know the risk is there to some degree and we have to be prepared for it.

What I would ask more than anything else is that we as Montanans have traditionally had a good neighbor policy with each other. I consider that ethic in MT to be of utmost importance when it comes to public policy and I would ask that you consider your neighbors – one neighbor to another – in the policies and the refinement that comes along. I ask that you consider while the risk is low to the aquifer, you have a very large aquifer in this area, and the downside risk to inhabitants and agriculture in this area is what should be of utmost concern. My final statement to you is this. We had a hearing this morning on the far eastern edge of the state at 10:00 with no accommodations available in the region. I do not consider that an adequate sort of hearing exposure for the State of Montana when we have other regions in the state that have also the potential for development and I'm speaking specifically of the upper Shields Valley region and that deposit. I would ask you to consider, although it may extend the implementation of the rules, at your next general meeting in Billings to consider extending this hearing so that people in that region of the state have reasonable access to this because that is your legal responsibility to make sure the public has a chance for input.

I apologize for the amount of time I've taken but I wanted to give a general overview summary of the intent that in some ways put pressure to bear to bring this forward to you. Thank you very much for your time.

Mr. Clyde Peterson – Any more proponents?

Paul Hawks – Melville MT – Madam Chairman, Members of the committee, I have a few copies for the Board but I did not realize there would be so many people here. I guess I am here as a proponent because I think we do need rules, but I have some problems with these rules, so I am not quite sure where I fit. But I will get there.

He then submitted his testimony in writing which is attached as Exhibit 1.

He did make comments not included in his testimony. Re: Proposed rule 1 (2)(a) he said something needs to be done there to address the landowner concern. Mr. Richmond talked about intent re: rules

some I agree with and some I do not, but that is mainly because they do not address my issues. Is it to inform landowners like me, to inform my neighbors who neighbor my gas wells, or to inform the public to protect the public interest. There is not a lot of public access in these rules. The only place I see public interest mentioned is in rule II (4) (b) and that is to exempt disclosure of information if it is on some other website. If it is going to be usable by Montana public, it seems to me there should be one website and it should be a website of the Board. One place to go, one number to call. I do not see why it makes sense to allow it on some other website and not disclose it to the Board. That does not address local people's concerns. Exemption in Rule II (4)(a)(b) should be struck. Regarding trade secrets, there seems to be an attempt to provide info when necessary but to avoid any improper action by the Board. I understand the logic, but think it is way too complicated when it comes to dangerous delays and emergencies. I believe that companies seeking approval of trade secrets exemption need to financially prove they will be harmed if that information is disclosed.

If the idea of these rules is just to report the frac fluids for the Board's files and to provide info to medical personnel, they probably do that. But I would hope the Board would see the need to go further and set up a process that provides easily accessible info for anyone that needs it for the purpose of doing their job, maintaining their health, or protecting their business interests. I would hope, in going forward, the Board would give landowners surrounding a proposed well enough time to make sure that if they want to they can test their water resources in case there is some damage down the road.

Chairman Nelson- question Mr. Hawks regarding baseline water testing. Are you thinking you need to know the ingredients that go into the frac fluid prior to testing your water or is it just good practice to test your water anyway to see what you have in your water?

Paul Hawks - I agree if you are exposed to oil and gas you should be testing your water just to protect yourself. But I would need to know what chemicals are being used so I can test for those chemicals. It comes down to, if some damage should occur and I have to go to court to prove that I've been damaged I'm going to have to have something that shows none of that existed prior to this so there is some direct cause relationship.

Chairman Nelson - But you would have that information if you had checked your water wouldn't you?

Paul Hawks - I am not sure you would if you did not check for specific chemicals. Not necessarily.

Chairman Nelson - But I am thinking you probably would not have those chemicals in your water prior to frac'ing.

Paul Hawks – Well, I would agree. Where I live it is totally pristine water. Right out of the mountains.

Chairman Nelson – Yeah, I just wondered. That was a bit of a stumbling block for me. I want the other board members to remember they can ask questions if they want.

MBOGC Member Don Bradshaw – Madame Chair, both Senator and Mr. Hawks, I have been in oil and gas business 22 years. I was born before World War II. I have good friend in Virginia who has been drilling wells for 50 years. At the Interstate Oil & Gas Compact Commission, he and I sat before the administrator for State of Colorado who is an attorney and he started telling us about aquifers and losing in court. We told him that our industry has been a viable industry, and sets surface casing to seal

off any aquifer. That is a known fact and history, senator. And those people who lost in court probably lost because the operators proved there was surface casing to protect water and aquifers. So I say to you if you are proponents, let us give the industry a little credence here. That surface casing is always set and we demand that surface casing is set, cut, cemented off, and will prevent any intrusion into the aquifers and you two need to know that. Period.

Paul Hawks – Mr. Bradshaw I do understand that. My dealings with Devon are totally above board. Seems to me they are good company. I have been out there on their rigs and it seems they are doing a good job. I am not here to suggest the shallow drinking water aquifers are going to be contaminated by this. But you also have to admit there are accidents, there are spills, and those sorts of things. They may or may not lead to contamination. But as a landowner, I want to make sure I'm protected in case that happens. I am not here to degrade the industry. There are good players out there.

MBOGC Member Don Bradshaw - Thank you. I understand that. I just want to clarify what this industry has done for the last 50 years. It has been adequate and very good.

MBOGC Member Bret Smelser – Madame Chair, thank you. We have listened for 45 minutes and I am not sure if we are listening to proponents or opponents here. Senator Hawks, just one comment to you. So it is ok to take 51.8 percent of oil revenue out of Richland County, but it is not ok to have a meeting out here. Thank you very much.

Mr. Clyde Peterson - Gentlemen I would remind you this is not going to be a debate. We will try to limit the questions please. Senator if you have a response go ahead and make it but let's try to keep it short.

Senator Bob Hawks – I was not expecting to be challenged as someone testifying before the Board. If we want to have an open exchange and discussion we can have that and I would be glad to participate. I am not here as a person speaking against oil and gas. But I can tell you I have evidence accidents have happened and the potential for risks. The record is good but the risk is there and we have to face that.

Mr. Darrell Hystad – Madame Chair, members of the Board, Darrell Hystad, I work for the Board as a field inspector. I have read the rules, I have been in the oil industry for 35 years. I have done fracturing on and off for that whole period. I realize there are some questions about some things, but I believe notification of adjoining landowners is addressed in some EPA guidelines as to the area of investigation and the area to be considered that would be exposed to fracturing. There is one thing I would like to see in this due to a recent situation in North Dakota. Rule IV I would suggest that you add a paragraph 6 and require there be remote well control during any fracturing operation. An incident happened in ND where the fracturing iron broke. They did have a frac string in place but they did not have remote control on the wellhead. They were unable to control it and it blew out and created havoc. That is one thing I would suggest be added. Remote well shutoff controls in place during fracturing. Other than that I think the proposed rules are well researched and covers all the needs required for the industry.

Mr. Clyde Peterson – Any more proponents? Seeing none, we will proceed to those who wish to testify as an opponent. It appears today we are in a situation where people do not necessarily approve of all that is proposed, nor do they necessarily disapprove of all; so if you could be specific about what rules you have some opposition to and try to direct your suggestions to those specific rules it would be of great help to the Board. I would remind you that we will follow opponent testimony with opportunity for those folks who just wish to make comments and do not wish to identify himself or herself one way or the other. Is there Anyone wishing to testify as an opponent?

Mr. Brad Aman – I am with Continental Resources Inc. (CRI) in Enid OK. We have a large presence in Montana and North Dakota. Just in general I would like to say CRI is very concerned about protecting the environment and running safe operations. We appreciate your intent in trying to clarify and make your rules reflect what you feel is the best way to go about this. We have a written response coming up which will be forwarded to the Board by next Thursday. We do have issues with certain aspects of the rules and we will address those in the written comments. So we will be presenting written opposition to some parts of the proposed rules.

Chairman Nelson – Sir, can you give us a clue what those concerns are?

Mr. Brad Aman – Most have to do with Rule IV regarding well control. The way the rule is potentially written like in #2 where you have to test your casings to the maximum treating pressure. We don't have any issue with that, but the way the rule is written you don't have the ability to run an inspection log to determine that your casing will not potentially test, so basically you'd have to test it till it failed and then you would have to run a frac string. What we would propose is that we be allowed to run a mechanical integrity log and from that we can determine what the anticipated failure pressure would be and if it was below our treating pressure then we'd want to go to the next step which would be run a frac string. The rules as proposed you would not be allowed to do that. You would have to go right to the frac string.

Mr. Tom Richmond – I will wait to see what the written comments are, but it was not my intent to stop people from doing additional testing ahead of time.....like a cement bond or casing inspection log.

Mr. Brad Aman – We do not disagree that was your intent, but the way the rules are written it does not look like it would give you the ability to do that. And to echo Mr. Hystad's comment about the hydraulic shut-down valve. We do that on all our wells and that is very important. I think that should be included. We have got some general opposition to the disclosure stuff. You go out to any of our locations right now and you will find a whole stack of material, safety data sheets, that contains information on all the fluids and stuff. That has been a rule on the books for years. So a lot of this information people are worried will not be disclosed is already disclosed. And we are talking about notice periods where people can go out and test their well(s). I believe MT requires you to file a notice in the local paper that you are getting ready to drill a well. So there already is opportunity for people to know. Plus the folks that have just leased the ground, they know the well is going to be drilled. The surface owner, they see the rig out there, they know a well is going to be drilled. I think there is plenty of opportunity for the locals and the neighbors to know something is going on. We understand the concern about this "new" frac'ing technique. It is not new. It has been around since the late forties. There is just more of it now. As far as from the land/surface owner, the flip of that would be every time someone sprays insecticide or pesticide on their field and I am a neighbor....are they going to notify me every time they get ready to spray? I do not think so because it would be impractical and burdensome to do that. And everyone knows in the spring and fall they are going to be spraying their fields. Same as with a drilling rig. People see a drilling rig go up and they should know that in a reasonable amount of time there will probably be a frac job happening. That is why all the people are here, because all these rigs are in the area. They did not have to get specific notice about a frac job. I think what the rules are trying to do are already out there. I just think we are all getting caught up in the hype, watch too much CNN and some of the negative videos that have gone around about our industry.

Chairman Nelson – Will we have your comments soon?

Mr. Brad Aman – Well, by 5:00 next Thursday for sure. I do not think it will be too much sooner than that.

Mr. Clyde Peterson – I would remind folks that sometimes it is not the easiest thing in the world to come up and testify, and sometimes it is easier to send in their views. As the notice says, you can present your views in writing and send them to Mr. Richmond in Billings or send them to our email address up through June 23. If you need those addresses please talk to one of us and we will provide them to you. Does anyone else wish to testify at this time as an opponent to these proposed rules? Are there any other opponents? Seeing none, I will open it to general comments from the public. If you have comments about specific rules try and direct them to that rule as that would be very helpful to the Board. If you represent an agency or entity please also specify that. The floor is now open for comments.

General Comments

Mr. Larry Tveit – Madame Chairman, members of the Board, guests, people and whatever. I am former Senator Larry Tveit from Sidney. I was a rancher 60 years and I am retired 16 years, if you add them two up I am an old guy. Anyway I have had the opportunity for the last 38 years to watch daily the oil industry work. I have had six different companies on the ranch out there. I've had eight or nine wells drilled – some dry and some producing. I have watched them when they started, of course more than just being nosy, I did have some royalties there. I have watched them running casing, drilling, completions, and was even there when they drilled Bakken the other day and watched as they completed that. Yeah, the rules probably can be improved like Mr. Hystad said. That one there was a bit of a mishap, making sure that wellhead was capped under any emergency. Watching them putting casing down, you have to realize we are frac'ing at 12,000 feet or two miles deep, and our surface water is 1600-1700 feet maximum. I know that because we have got Fox Hills Sand out there and they are putting in casing 2000-3000 on my place. They are watching for water. With oil company that is the worst thing you can talk about is water. They want to stay clear so they do not contaminate it or mix it with the oil. I did a lot of by-standing watching as a farmer and rancher. I understand a lot of things about farmers and contamination. Like one guy said, you go and spray your field with roundup or whatever...you do not tell you neighbor. You might have the field across from them, and I had that happen, and what does it do but kill the field. So of course you go after them a little bit because they should have at least told you, or waited till the wind blew the other direction. But we got to look at, as well as the oil companies, and I've watched Continental and SM and a bunch of other companies in their drilling program and they are doing everything they can to make sure things are being done right regarding the casing and everything. We do not want to put rules in here that will shut us down.

I was saving some of this testimony for the next time we talk about something else here. The oil industry is just coming into the Williston Basin on the Montana side. They have done the Elm Coulee, but they are finding a lot more oil. Naturally we are looking for wells and we are competing with North Dakota. They have 180 rigs running, we got 10. It does not take a computer to figure out the difference between the two. The people of Montana and the new law that was passed in education so a lot of the oil money now goes to all the state so we have to real careful we keep the oil industry working here. It is a tremendous asset to the state and we do need the energy through the fossil fuels so we can still provide a decent life. Thank you.

Ms. Ann Ostby – I'm Ann Ostby from Dagmar Montana and I have three quick comments.

I just read the rules this morning. It is not clear to me what the enforcement mechanism is for these rules. I do not know if it is a general \$500 fine or if there is more. It is not clear what the mechanism is and I do not believe in establishing rules if there is no way to enforce them.

My second comment is that I have a lot more faith than Mr. Richmond does in the BOGC and their staff. I think you can protect trade secrets and I would not be afraid of the liability end. I think you can do it well and I think it would be better for the information to be in a safe place. Not necessarily all to the public, but available.

My third thing is in Rule II, (4), which talks about putting it on the other website. Section A says the owner or operator demonstrates that it has provided information. My only comment there is that you should clarify if it is exactly the same information that would have been provided to the BOGC or if it is different so there is not a gap in there. We often use words when we write rules that do not make things clear and that can set standards.

MBOGC Member Jack King – Mr. Richmond, would like to address that first concern about enforcement and what authority we have?

Mr. Tom Richmond – Yes. When this is done and adopted as a final rule it will be put into our rule book which has enforcement authority in it. The Board has real substantial enforcement authority for its rules. You can ask for criminal prosecution, you can assess a civil penalty of up to \$10,000 per day. The tool we can use with active operations is that we can order the operation shut down. We really do have a lot of different enforcement tools.

There was a comment about the 24-hour notice. The field inspectors have some period to be physically present on the site during the frac job to enforce the rules. It is not repeated in these rules because it is going to be part of a bigger volume, but the enforcement authority applies to all the rules including these. We depend a lot on our field inspectors to be our eyes and ears and look at our rules and compare them with what the operation is they see in the field. That is where the enforcement starts.

Chairman Nelson – I suspect Ms. Ostby was looking for more specific than that, to be sure we follow through and to be sure our rules are enforced.

Mr. Tom Richmond – I suspect that is true. We have quite a few reporting requirements and eventually what happens if we don't get response at all we bring those parties to you in the form of a formal Show-Cause hearing to take whatever action the BOGC wants to take. We do enforce the reporting requirements. Anybody here that owes us reports knows we go after that very diligently. When we say this is going to be part of the completion report, it is not an adequate completion report if this data is not on it. We are very vigorous in gathering our data.

Mr. Nicholas Agopian - Madame Chairman, members of the Commission, my name is Nicholas Agopian. I represent Devon Energy. For the record my address is 2120 Carey Ave, Suite 102, Cheyenne WY.

Devon Energy appreciates the opportunity to comment on the proposed rules on well stimulation that have been drafted by the Board staff. Devon supports the MBOGC effort to provide an appropriate level of review and public disclosure about information regarding hydraulic fracturing and other well

stimulation treatments used to complete oil and gas wells in MT Devon believes regulatory oversight and management of hydraulic fracturing and other well stimulation activities should reside, and should continue to reside, with state agencies like MBOGC that have extensive experience regulating the oil and gas industry and has the knowledge of local and state conditions necessary to develop and implement an effective regulatory program. I think that really goes to one of Mr. Richmond's points about putting these rules forward.

Devon strongly supports regulatory oversight and public disclosure of hydraulic fracturing information. In fact, Devon is a voluntary participant in the national FracFocus disclosure registry that was described this morning and at the April business meeting of the Commission. We thank and support the Board for identifying the registry in its proposed Rule II as a means of compliance with Montana disclosure rules for completion reporting, and to point specifically to that it would take it to proposed new rule II(4) and (4)(a) is where that is listed.

In general, Devon does not object to disclosing proposed hydraulic fracturing information and other proposed well stimulation activities with the submission of an APD. However, hydraulic fracturing treatments and other well stimulation activities are typically finalized only after a well is drilled. The scope and details of hydraulic fracturing and other well completion treatments are uncertain and so only general information on anticipated well treatment activities can be provided with an APD which is the Board's Form 22. It is our intent to offer constructive suggestions to the Board prior to the 5pm deadline on June 23, related to proposed Rule I, that will reflect our belief that only general information is available at the time of the APD submission.

It is our understanding that the most commonly expressed concern about hydraulic fracturing is that it may contaminate underground fresh water aquifers. The factual record clearly shows that hydraulic fracturing poses a very low risk of groundwater contamination due to the fact that there is usually several thousand feet of solid rock separating fresh groundwater zones from hydraulically fractured geologic formations. The probability the fracture will be propagated through thousands of feet of intervening rock layers and into fresh groundwater aquifers is extremely low. Recently, on May 24, testimony before the House Committee on Oversight and Government Reform, US EPA Administrator Lisa Jackson stated under oath that she is not aware of any confirmed cases of groundwater contamination caused by hydraulic fracturing. To that end I would draw some attention to proposed new Rule IV. In that proposed new rule, which is the well integrity standards, we believe it establishes stricter well integrity standards that will further ensure that hydraulic fracturing and hydrocarbons are isolated from known groundwater zones.

As mentioned before, Devon will submit written comments and suggested language changes that will better clarify the scope and effect of the rules as we see them and that will ensure disclosure of accurate information, which again goes to the point Mr. Richmond made in his goals that we want to ensure that at the completion reporting phase we are providing accurate information about the well completion treatment that was actually pumped.

I just want to thank the Board again for the opportunity to make comments. We firmly believe the BOGC will produce a final rule that addresses the needs and concerns of the citizens of Montana and that will provide appropriate guidance and direction to the oil and gas industry here in Montana. With that I would stand for any questions anyone might have.

Chairman Nelson – Just a brief question. You have no knowledge of any contamination that has resulted from frac'ing? I understood there was some damage caused to an aquifer in North Dakota when they had a frac problem.

Mr. Nicholas Agopian - Unfortunately, I am not aware of that situation so it would not be appropriate for me to speak to it. But I could look into that from the resources I have and could report to this Board if it would like.

Mr. Dave Galt – Madame Chair, members of the Board, for the record my name is Dave Galt. I am the executive director of the Montana Petroleum Association. I am very pleased to be here in Sidney and be here in Eastern Montana. I drove through the highline and I feel for you with what you are going through with the water.

I do want to make a couple general comments. The MPA is a trade association that represents a broad spectrum of the petroleum industry. We have about 160 members including 70 active producers, well service companies and all sorts of other people in the business. We have given this rule extensive debate within the association. I did wait until the final publication date because I wanted the formal publication to distribute to our members. That was sent out on May 26. We are preparing comments which are technical in nature and look at each rule and suggest possible clarifications. I just want to make a few points here.

MPA does not oppose disclosure. But we are very concerned about how it is done and we have been actively engaged in those debates and will forward those comments to the Board in the deadlines provided. Particularly we appreciate the effort by the Board to acknowledge the work done with the FracFocus system and allow the opportunity to put complete disclosure information on that website. There was a lot of thought that went into it, and when you type www. Something on the internet whether not that is in MT or wherever I'm not sure is the big point. I think the point is that FracFocus is quite a resource, it is a national resource, it is a searchable resource, it has been well developed and it does not require redundant resources to develop similar stuff.

I also want to say the MPA takes an active role in the policy discussion dialogue about laws, regulations, and policies that affect the division and the operation of our industry, and once those policies are in place we do expect them to be enforced.

I also want to recognize the Board and appreciate the flexibility they provided and the understanding they did on the rules on the advance notice and the recognition that a fracture completion on a well is highly technical and subject to change. And the recognition you have given us we appreciate very much.

As far as trade secrets go, think we all know there is responsibility on the State of Montana to protect a trade secret. So I think there is an inherent understanding when you get those you have to protect them. It is also an intellectual property right, which we in this country have spent a lot of money to develop and we talk a lot about intellectual property rights whether they are with hydraulic fracturing or anything we develop in this country, and we appreciate the understanding of what that means. This business is highly competitive and the ability to protect those trade secrets and the way this rule is written is well done.

I am not aware of any instance where a member of MPA or industry violated current federal law and failed to give information in a case of an emergency to a medical professional. It is already federal law and is quoted correctly in your proposed rule and we appreciate that.

We will submit technical comments. We are in the middle of that and with 160 members and everyone having an interest in this I will try to keep them concise and pinpoint those to the actual rule themselves. And they will be in by the deadline.

Chairman Nelson – Mr. Galt, do you think your group will come together?

Mr. Dave Galt - Madame Chair, members of the board, we are very close to being together and I am very glad to be able to say that today.

Mr. Clyde Peterson – Thank you Mr. Galt. Does anyone else at this time wish to present any views, comments or suggestions regarding these proposed rules? Are there any other comments? Seeing none Madame Chair, unless the Board has any comments they wish to make in closing, we could close this rule hearing.

Seeing no comments, the Board has had some suggestions already and , again, we encourage you to provide written comments if you wish to do so and we have that address. All you have to do is ask, or it is on the publication that was provided at the door. Again, if you have not signed up on the signup sheet please do.

Notice of the decision of the BOGC will be published in accordance with Montana Administrative Procedure Act, and those of you on the Board's rulemaking mailing list will receive notice of the same action. Thank you all for attending today. The Board appreciates the opportunity to appear in Sidney and hear your testimony and we thank you very much for it. On behalf of the Board, thank you.

I would remind you the Board has a business meeting this afternoon right here and the public is welcome to attend that. The Board will have its normal docketed hearings tomorrow morning and once again the public is welcome. And the Board staff is around so if there are questions please feel free to approach any member of the staff and ask questions.

Chairman Nelson - Thank you Mr. Peterson. And I want to echo what Mr. Peterson said about thanking you for being here. I appreciate tremendously that you have come, whether you were giving testimony or just here to learn. We have some time before we go to lunch when we can circulate and visit with you, and I would encourage you to stick around for the afternoon meeting where there is also time for comments on general things or to ask questions. Thank you all very much and I would call this meeting adjourned at 11:20 am.

