

**Testimony of Mike McDonald
President and Co-owner, Triad Energy, Inc.**

**U.S. House of Representatives
Committee on Oversight & Government Reform
Oklahoma City Field Hearing**

**“America’s Energy Future, Part I: A Review of Unnecessary and Burdensome
Regulations”**

Friday, July 13, 2012

Chairman Issa, Ranking Member Cummings, members of the Committee, I appreciate the opportunity to testify today.

I would like to thank my Congressman, James Lankford, for his leadership to increase the domestic production of crude oil and natural gas. These fossil fuels are critical not just to Oklahoma, but also to the nation. America is blessed with an abundance of energy, but unnecessary federal regulation is hampering our ability to become truly energy independent.

I am the co-owner of Triad Energy, Inc., a 31-year-old independent producer of crude oil and natural gas. I have 11 employees. I am the current president of the Domestic Energy Producers Alliance and immediate past chairman of the Oklahoma Independent Petroleum Association. This year, I will drill 10 wells.

Like my peer independent producers, Triad Energy explores for new, domestic oil and natural gas reserves using modern finding, drilling, and producing techniques.

Today’s hearing is critical to understanding the impact federal regulations have on domestic oil and natural gas production and the limits of federal credibility when it comes to regulating exploration and production operations.

There are roughly 18,000 independent producers like me operating in 32 states. Although some are larger and well known, the average independent producer employs 11 full-time and three part-time employees. He or she has been in business for 26 years on average.¹

Together, we drill 95 percent of all U.S. wells and account for 68 percent of total U.S. production – roughly 82 percent of U.S. natural gas production and more than 54 percent of domestic oil production;

Onshore here in America, independents are responsible for:

- over 3 percent of the total U.S. workforce;
- more than 4 million American jobs;
- more than \$579 billion in total economic activity;
- 4 percent of U.S. GDP;²

In 2010, independent producers' employees paid \$30.7 billion in income, sales, and excise taxes. Our combined total federal, state, and local taxes, royalties and rents were \$69.1 billion. Our ecosystem of direct, indirect and induced jobs generated \$131 billion for federal and state coffers.³

Every \$1 million of upstream capital expenditure by independent producers results in \$1.1 million in total taxes, \$5.1 million in overall contribution to U.S. GDP, six direct jobs, and 33 total upstream jobs.⁴

Speaking specifically about Oklahoma, the oil and gas industry is our lifeblood. Our industry is responsible for one out of every three dollars in gross state product, one out of every five dollars in personal income, and represents one out of every six jobs in our state. Since 2009, our industry has added nearly 12,000 jobs with the average compensation in our industry being more than \$113,000 per job.⁵

America's economic recession would have been deeper and more painful without thousands of producers like Triad Energy and our commitment to high-skilled workers, good-paying blue-collar jobs, and American energy.

Like the committee, I am troubled by federal regulatory overreach and its impact on my company's ability to continue creating good jobs and to find and produce the U.S. oil and natural gas that is helping make America energy independent.

Thanks to technological breakthroughs in horizontal drilling and hydraulic fracturing the United States now imports less than 49 percent of its oil, down from 60 percent a few short years ago.

This success does not sit well with fossil fuel opponents. Without concern for the facts, they have become fear mongers to drive regulation and enforcement actions.

Their strategy is to create anxiety over oil and natural gas development; criticize state regulations as insufficient; demand that the regulatory process be federalized or that existing federal regulations be strengthened; use litigation when necessary to give the agencies an excuse to act; and then use the resulting regulatory process to slow development by increasing the costs of compliance in terms of both employee hours committed to the paperwork burden and actual dollars.

For instance, let's take hydraulic fracturing – the current bogeyman used by environmental activists to scare ordinary citizens, drive professional fundraising appeals, and motivate environmental extremists and powerful voting blocs that simply oppose fossil fuels.

Hydraulic fracturing is a technique used to provide a pathway for natural gas and oil trapped inside a rock into a producing well so that they can be brought to the surface. The earliest hydraulic fracturing jobs occurred in the late 1940s in Oklahoma and Kansas. The

technique has been continuously used and improved since that time. Generally, a solution that is 99.5 percent water and sand is pumped under extreme pressure into the rock. The pressure creates tiny fractures in the rock. The fluid is then pulled out of the rock while the sand remains behind to prop open the fractures and allow the oil and natural gas to flow into the wellbore.

More than 100,000 Oklahoma wells have been hydraulically fractured over the past 60 years without a single documented instance of contamination to ground water or drinking water.⁶

This is because state ground water regulations were developed long before hydraulic fracturing began and have proven more than sufficient in regulating the practice. Oklahoma's first commercial oil well was drilled in 1897, 10 years before statehood. The Oklahoma Corporation Commission was given responsibility for regulation of oil and gas production in Oklahoma in 1914. The Commission has exclusive state jurisdiction over all oil and gas industry activity in Oklahoma, including oversight and enforcement of rules aimed at pollution prevention and abatement and protecting the state's water supplies.⁷

Such state regulations established well construction standards including protective steel casing and cementing requirements. They were designed to protect ground water from contamination by oil and its produced water. These regulations have effectively prevented contamination of drinking water and ground water in more than a million instances where hydraulic fracturing has been used nationwide.⁸

Additionally, each phase of the well drilling and completion process already is federally regulated by the Clean Water Act; the Comprehensive Environmental Response, Compensation and Liability Act; the Emergency Planning and Community Right-to-Know Act; and by the Occupational Safety and Health Administration.

Despite these facts the Bureau of Land Management has proposed a new layer of costly, time-consuming and duplicative regulations for hydraulic fracturing on federal and tribal lands while simultaneously admitting that hydraulic fracturing is not a problem. That bears repeating – new rules for a procedure that already is sufficiently regulated by the states and that the Bureau says is NOT a problem. The Bureau says it does not anticipate adding staff nor lengthening its workweek to handle the increased agency workload. The regulation will result in unnecessary costs for businesses that operate on federal and tribal lands, longer delays for drilling permits, fewer jobs, and less revenue for the tribes and the U.S. Treasury.

The BLM rule comes on the heels of egregious EPA enforcement actions to frighten the public about hydraulic fracturing in Parker County, Texas, (EPA Region 6), Pavilion, Wy. (EPA Region 8) and Dimock, Penn. (EPA Region 3). In each case, the EPA ignored science and rushed to a conclusion that hydraulic fracturing had contaminated a water supply only to quietly reverse itself later.

In the case of Parker County, Texas, the EPA Region 6 Administrator decided that state and local officials had not taken sufficient action to investigate claims of contaminated drinking water. Without scientific basis for doing so, the EPA decided to blame reports of contamination on hydraulic fracturing, notified opponents of hydraulic fracturing that it intended to make news, ordered independent producer Range Resources to provide clean drinking water to local residents, engaged in a media campaign to frighten residents about the danger of a fire or explosion, imposed heavy financial penalties on Range Resources, and then promoted its ability to assess heavy penalties through news releases.⁹

Earlier this year, however, a judge found that one of the local residents alleging contamination had worked with environmental activists to deceive public officials and the

community about the threat. In March, EPA quietly withdrew its administrative order that alleged Range Resources had polluted the water and dropped its lawsuit against Range Resources.

Recently, the EPA Region 6 Administrator was forced to resign after a video of him surfaced wherein he detailed an enforcement strategy designed to “crucify” oil and gas producers and create fear within the industry.

However, regulatory overreach is not limited to hydraulic fracturing. As the Committee knows, the tactical application of the Endangered Species Act is one of the fastest ways for fossil fuel opponents to slow energy development and job creation. During the past four years, environmental activists have filed more than 500 lawsuits against the U.S. Fish and Wildlife Service in an effort to facilitate the listing of species as endangered under the Endangered Species Act.¹⁰

Typically, these activists overwhelm the Service with hundreds of proposed candidate listings so the Service cannot respond within the statutory timeline and then sue the Service. The Service then settles the lawsuit without examining the scientific evidence and taxpayers pay the costs associated with the environmental lawyers so the process can begin anew. Of the 1,391 animal and plant species listed only 20 have ever been removed from the list.¹¹

Several listed and candidate species, in particular the listed American Burying Beetle and the Lesser Prairie Chicken affect drilling operations in Oklahoma. To protect the beetle producers must hire consultants, who must put out survey traps containing carrion, file additional paperwork with USFWS, and slow drilling operations during the beetles’ active period.

The Committee will hear additional testimony on the beetle and the Lesser Prairie Chicken from another witness, but Oklahoma producers are now working with state wildlife

officials on common-sense practices to mitigate our impact on the Lesser Prairie Chicken – which is abundant enough across the border in Kansas to justify a hunting season.

One of the costliest regulations facing independent producers today is the EPA’s new greenhouse gas reporting regimen. According to one fellow producer, the compliance software costs associated with the greenhouse gas reporting requirements under EPA’s proposed New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) exceed \$227,000 plus \$54,000 in annual maintenance and updates. The total cost of monitoring equipment, capture devices, and reporting measures to meet EPA greenhouse gas reporting and reduction efforts will run into the hundreds of millions of dollars annually.

My company explored the possibility of meeting the EPA reporting mandate in-house, but the reporting system is so complicated and the jeopardy associated with getting it wrong so severe that we ultimately decided to outsource the work. This is an expense that adds no value to my company. I now cannot spend those dollars to pay a geologist, lease mineral assets, or hire a well service company to help me drill for oil and natural gas. In effect it is a hidden tax on our industry. The cost of compliance with the regulation cannot be recovered because we do not have the ability to increase the price of our product. We are “price takers” not “price makers”.

Finally, there is only one elected office that is indistinguishable from the bureaucracy that serves it, and that is the office of the President of the United States. Despite words and photo ops to the contrary, the President’s actions, and the actions of his executive agencies when it comes to regulatory expansion, clearly indicate the President’s anti-fossil fuel bias.

Each of President Obama’s four budgets has specifically targeted small producers like me. The President has proposed raising my taxes four times by preventing me from expensing

normal business costs (such as labor, fuel, and supplies) and by preventing me (and millions of royalty owners from coast to coast) from depreciating well assets as they decline.

The impact of these proposals would be devastating for American energy independence. Without my ability to expense normal business costs I would be forced to cut my drilling budget. I would drill at least three fewer wells. That's less steel manufactured in Pennsylvania, fewer jobs to help our nation's economic recovery, less money in the pockets of my royalty owners, and less revenue to Oklahoma and the U.S. Treasury.

I encourage the Committee to continue examining the impact of overzealous and unnecessary regulation on America's energy independence.

Thank you very much for allowing me to appear today. I look forward to any questions you may have.

¹ Independent Petroleum Association of America, 2012.

² IHS Global Insight, "The Economic Contribution of the Onshore Independent Oil and Natural Gas Producers to the U.S. Economy," April 2011.

³ Ibid.

⁴ Ibid.

⁵ Oklahoma Independent Petroleum Association, 2012.

⁶ Testimony of Jeff Cloud, Oklahoma Corporation Commission, U.S. Senate Committee on Environment & Public Works, April 12, 2011.

⁷ Ibid.

⁸ Testimony of the Independent Petroleum Association of America, U.S. House Committees on Agriculture and Natural Resources, July 8, 2011.

⁹ EPA, "EPA Region 6 Enforcement and Compliance Results for 2011," December 8, 2011.

¹⁰ Opening Statement of U.S. Rep. Doc Hastings, U.S. House Committee on Natural Resources, Hearing "Taxpayer-Funded Litigation: Benefiting Lawyers and Harming Species, Jobs, and Schools, June 19, 2012.

¹¹ Ibid.

Committee on Oversight and Government Reform
Witness Disclosure Requirement – “Truth in Testimony”
Required by House Rule XI, Clause 2(g)(5)

Name: MIKE MCDONALD

1. Please list any federal grants or contracts (including subgrants or subcontracts) you have received since October 1, 2009. Include the source and amount of each grant or contract.

NONE

2. Please list any entity you are testifying on behalf of and briefly describe your relationship with these entities.

TRIAD ENERGY, INC.- PRESIDENT & CO-OWNER

DOMESTIC ENERGY PRODUCERS ALLIANCE- PRESIDENT

3. Please list any federal grants or contracts (including subgrants or subcontracts) received since October 1, 2009, by the entity(ies) you listed above. Include the source and amount of each grant or contract.

NONE

I certify that the above information is true and correct.

Signature:



Date:

July 9, 2012

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<u>BORN:</u>	Clarksdale, Mississippi		
<u>EDUCATION:</u>	B.B.A. (Accountancy) and J.D. University of Mississippi		1968-1974
	L.L.M. (Taxation) New York University		1975-1976
<u>MILITARY:</u>	Captain, USAF (Judge Advocate General Corps) Vance AFB, Oklahoma		1976-1980
<u>PROFESSIONAL:</u>	Sullivan, Smith and Hunt Clarksdale, Mississippi	Attorney	1976
	Phillips University Enid, Oklahoma	Adjunct Professor	1977-1978
	Phillips Oil Operating Enid, Oklahoma	Attorney	1980-1981
	Triad Energy, Inc. Oklahoma City, Oklahoma	President and Co-owner	1981-Present
	Oklahoma Independent Petroleum Association	Chairman	2010-2011
	Domestic Energy Producers Alliance	President	2012-Present