

**Testimony of Brian Woodard
Vice President of Regulatory Affairs
Oklahoma Independent Petroleum Association
Before the Committee on Oversight and Government Reform
Subcommittee on Technology, Information Policy, Intergovernmental Relations and Procurement
Reform
United States House of Representatives**

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

**Edmond, Oklahoma
Friday, July 13th, 2012**

Chairman Issa, Subcommittee Chairman Lankford, members of the Subcommittee, my name is Brian Woodard and I am the Vice President of Regulatory Affairs with the Oklahoma Independent Petroleum Association (OIPA). I appreciate the opportunity to testify in my hometown today concerning unnecessary and burdensome regulations which unduly threaten America’s energy future.

The OIPA was founded in 1955 and represents approximately 2,300 small to large independent operators who are primarily involved with the exploration and production of crude oil and natural gas in the state. In addition, we represent a number of companies that provide services in support of these activities.

Oklahoma has a long history of oil and gas exploration and production. The first commercial oil well was completed in 1897. Subsequently, more than half of a million oil and gas wells are estimated to have been drilled in the state. They are widely distributed throughout most of the state’s 77 counties. In recent years, assisted by technological advances in horizontal drilling and hydraulic fracturing, oil and gas operators have actively developed sources of natural gas like the Woodford Shale as well as sources of natural gas liquids and crude oil from the Cleveland, Tonkawa, Granite Wash and Mississippi Lime plays. According to a recent study conducted by Oklahoma City University, “The oil and natural gas industry continues to be Oklahoma’s defining industry.” Since 2009, Oklahoma’s oil and natural gas industry has added nearly 12,000 jobs. This activity pumps nearly \$1 billion in direct gross production tax payments to the coffers of our state’s economy and \$52 billion in gross state product¹. That’s one out of every three dollars!

As I hope my testimony reveals, this industry, along with the associated jobs and energy from the fossil fuel it produces, is critical not just to Oklahoma but to the nation. However, as I sit before you today and tout America’s current oil and gas renaissance, and as the blueprint has been laid for a true era of U.S. energy independence, the current administration has countered with an equivalent flood of regulatory policies which threaten to undermine this bright energy future.

¹ Steven C. Agee Economic Research & Policy Institute - *Oklahoma’s Oil and Natural Gas Industry Economic Impact and Jobs Report*; June 2011.

To elaborate on this, I will briefly discuss two recent federal air regulations in addition to challenges we, as Oklahomans, face due to recent and unprecedented actions under the Endangered Species Act (ESA).

As part of the 2008 Consolidated Appropriations Act, Congress directed EPA to conduct an inventory of greenhouse gas (GHG) emissions above "appropriate thresholds" in all sectors of the economy. Subpart W is the section of the resultant EPA rule dealing with the onshore oil and natural gas industry. Although Congress directed EPA to conduct "an inventory," EPA's rule requires annual reporting on behalf of operators.

According to analyses of past GHG inventories, oil and natural gas production activities were believed to collectively account for 2 percent of national GHG emissions². The largest chunk of that 2 percent being vented natural gas itself (methane), which typically occurs briefly after completing a well until it reaches a volume and concentration that would be sent to production facilities. As such, most established, producing wells would emit much smaller amounts of GHGs, and marginal wells, which make up two-thirds of existing American natural gas wells, would emit drastically less. To place this level of methane emissions into context, EPA's own inventories note that enteric fermentation, or cattle flatulence, contribute substantially higher quantities of methane emissions than does our industry. However, rather than using simple estimation techniques, EPA created an extremely complex and burdensome regulation that consumed 44 pages in the Federal Register and has led to excessive financial impacts on the order of hundreds of thousands if not millions of dollars for some of our larger independent producers. The rule is so complex that companies must integrate production software and new monitoring equipment into their daily operating systems.

In similar fashion to this administration's recent proposal to regulate the practice of hydraulic fracturing prior to the completion of EPA's existing Hydraulic Fracturing Study, EPA has continued their "regulate then validate" trend by crafting a rule which regulates the very emissions for which Subpart W was designed to inventory. While the EPA has commented on the record that their New Source Performance Standard (NSPS) Subpart OOOO rule will be, "cost-effective for the industry," this statement is not only misleading but insulting. NSPS regulations are generally created for the purposes of regulating criteria and hazardous air pollutants; however, under this rule, EPA has used methane as a surrogate for volatile organic compounds (VOC) to justify the economic basis of the rule. In order to be cost effective, the rule should only apply to production streams which contain a meaningful VOC concentration. For sources with significantly low to zero VOC content, such as dry gas shales like the Barnett, Haynesville and others, the cost per ton of emission reductions drastically exceeds historically acceptable levels. This also doesn't contemplate the fact that the emission estimates are severely flawed and that the monitoring, testing and extensive recordkeeping requirements threaten to further undermine any plausible economic benefit of the rule.

Unfortunately, excessive regulation under the Clean Air Act is only one of many regulatory hurdles for which Oklahoma oil and gas producers must deal with. Switching to the topic of the ESA, in September, 2011, the U.S. District Court for the District of Columbia approved an unprecedented settlement agreement between the U.S. Fish and Wildlife Service (FWS) and two conservation groups—Wild Earth Guardians and the Center for Biological Diversity. The settlement, referred to as the multidistrict litigation (MDL), ended years of turmoil over delayed listing decisions under the ESA. Like so many laws in America, the ESA is based on noble intentions. However, in its current form, it is being exploited by activist groups that self-generate income while draining dollars away from resource recovery efforts.

² US EPA - *Inventory of U.S. Greenhouse Gas Emissions and Sinks 1990 – 2008*. April, 2010.

As a result of the MDL settlement, the FWS is required to establish annual work plans that gradually reduce a backlog of greater than 600 candidate species over a six-year period, starting with the 251 species that were candidates for listing in 2010. Of particular concern to Oklahoma oil and gas operators is a proposed listing and critical habitat designation for the Lesser Prairie-Chicken (LPC) that is expected to be published in September, 2012. The LPC's habitat extends across five states, including: Colorado, Kansas, New Mexico, Oklahoma and Texas. Recent surveys have identified a declining population trend across the southern extent of the LPC's habitat while similar efforts have identified an increasing population trend throughout Kansas, a state for which a hunting season remains intact for the species.

As previously mentioned, Oklahoma has been blessed with rich energy resources like the Cleveland, Tonkawa, Granite Wash and Mississippi Lime, four of this nation's leading tight oil and gas plays; however, the listing of the LPC threatens to jeopardize the development and production of this economic boon as the LPC's habitat range directly overlies the core acreage of these plays. It is our hope that the FWS, working with state and local stakeholders, will recognize and support the extensive voluntary conservation efforts that are currently underway, rather than impeding economic development with an economically chilling threatened or endangered listing under the antiquated ESA.

And last but not least, I would like to mention a recent ESA development effecting oil and gas producers, among others, throughout the eastern portion of our state. The American Burying Beetle (ABB) was listed as Endangered in 1989. At the time, the beetle's known habitat consisted of two colonies encompassing two counties across the U.S., one of which was Oklahoma's own Latimer County. The listing was made without the designation of any critical habitat and the recovery plan hasn't been updated for two decades. However, the beetle has since been found nearly everywhere researchers have studied, including the identification of colonies numbering in the thousands across many of the southern plains states. With the unveiling of a shocking new Guidance Document in April, overnight the FWS had revised the ABB's Section 7 Habitat Range based on modeling standards and eliminated industry's only protocol allowing for sustained development within the ABB's habitat range³. This revision was brought on due to "new scientific information" presented within a University of Nebraska PhD candidate's dissertation. The finding suggested that ABB were being consumed at bait-away stations by opossums and the northern leopard frog. Without a revised Guidance supporting interim relief measures and protocols for continued development, construction of oil and gas pad sites, pipelines and roads will continue to be stalled throughout the beetle's habitat range.

In conclusion, we must reduce the insurmountable federal regulatory hurdles which plaque domestic operators and impede our ability to achieve energy independence and freedom from foreign fuels.

This concludes my testimony. Thank you.

³ US Fish and Wildlife Service, Division of Ecological Services, DRAFT American Burying Beetle (*Nicrophorus americanus*) Range Wide Survey Guidance; April 20, 2012.

Biographical Information

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

Name: Brian K. Woodard

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.

N/A

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

OIPA - Employer

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.

N/A

I certify that the above information is true and correct.

Signature:

Brian K. Woodard

Date:

7/19/12