



RAILROAD COMMISSION OF TEXAS

1701 North Congress Avenue
Austin, Texas 78701
512/463-7144

BARRY T. SMITHERMAN
CHAIRMAN

July 10, 2014

The Honorable Denton Mayor Chris Watts and the Honorable Members
of the City Council.

Attn: City Manager George Campbell
215 E. McKinney
Denton, Texas 76201

Dear Mayor and Council Members:

As Chairman of the Texas Railroad Commission, the state agency responsible for regulating "upstream" energy production, I write you today to respectfully request that you NOT approve a petition that would ban the use of hydraulic fracturing inside the City limits of Denton. I also ask that you include my written comments as part of the comments you will receive at a public hearing on July 15, 2014 (which I am unable to attend because of a prior commitment).

A ban on hydraulic fracturing of oil and natural gas wells within the City limits of Denton is essentially a ban on drilling. Today, in Texas, most new wells utilize hydraulic fracturing technology. This is especially true in shale basins like the Eagle Ford in S. Texas, the Spraberry/Wolfcamp formation in W. Texas, and the Barnett Shale, which encompasses a number of counties in N. Texas, including Denton. Those advocating for a ban on hydraulic fracturing know that what they are really calling for is a ban on drilling. And, they are calling for a ban on oil and gas drilling, one of the key pillars of our Texas economy, without citing any concrete examples of hydraulic fracturing negatively impacting public health.

This attempt to ban drilling is extremely misguided, as hydraulic fracturing is the transformative technology that has radically changed the Texas, American, and Global energy markets in a very favorable way. Banning hydraulic fracturing will increase America's dependence upon foreign oil and natural gas, and will decrease revenues and taxes flowing into our state and local governments, as well as University and K-12 coffers, including those in and around Denton.

In 2005, prior to the introduction of widespread hydraulic fracturing of wells, Texas was producing about 950,000 barrels of oil per day and America was importing almost 2/3rds of its oil. Today, Texas produces over 2.1 million barrels of oil per day and America has dramatically reduced its dependence upon foreign oil, especially oil from countries antagonistic to America, such as Venezuela and parts of the Middle East. In fact, America gets more oil today from Texas than it does from any other country, except our neighbor to the north, Canada. If Texas were a member of OPEC, we would now be its second largest producer having recently surpassed Iraq.

Natural gas production in America has also soared because of hydraulic fracturing. Not long ago, companies were beginning to build natural gas importing facilities, as it was believed that the U.S. was running out of natural gas. Today, it is estimated that we have over 100 years of recoverable natural gas in America. What a difference a few years has made!

When U.S. oil production is combined with other hydrocarbon liquids and natural gas production, America is now the world's largest hydrocarbon producer! We've certainly come a long way from Arab oil embargos and gasoline lines that many of us experienced in the 70's.

Increased production of natural gas, natural gas liquids, and crude oil has greatly enhanced the Texas economy. Over 400,000 Texans work in the Oil & Gas industry and the average wage per employee is a staggering \$128,000.

In recent years, the Texas Oil & Gas industry has paid billions in taxes to state and local governments, as well as royalties to education funds like

the Permanent University Fund and the Permanent School Fund, which directly benefit our school children. In addition, the "Rainy Day Fund," which is periodically used by the Texas Legislature to balance the State's budget and to fund infrastructure programs, is almost 100% funded by the Oil & Gas industry.

Hydraulic fracturing doesn't just create jobs in the communities where the actual drilling occurs, it also creates great paying jobs for any industry that uses oil or natural gas as a feedstock. For example, ExxonMobil, whose world headquarters is just "down the road" in Irving, recently announced that it is building three new petrochemical facilities in Texas. This announcement is in addition to the other dozen or so new projects in Texas planned by Dow Chemical, Chevron Phillips, and LyondellBasell, just to name a few. These new plants are multi-billion dollar facilities and will employ thousands of Texans in great paying jobs.

Additionally, the enormous bounty of natural gas created as a result of hydraulic fracturing also produces very low electricity and residential natural gas prices. Last year in Texas, natural gas provided about 40% of the commodity needed to generate electricity. As a result of the abundant supply of natural gas produced from hydraulic fracturing, utility prices in Texas are very low as compared to other states. In fact, a recent report by CPS Energy in San Antonio found that among the ten largest cities in the U.S., the three with the lowest residential gas and electric utility bills were San Antonio, Dallas and Houston. It's amazing that our three largest Texas cities, where millions of people use lots of air conditioning in the summer, had the lowest utility bills in America...and it's all because of hydraulic fracturing.

One final thought on the benefits of hydraulic fracturing, and this should really resonate with those advocating for the ban, CO2 emissions in the U.S. are down dramatically over the last several years. According to a recent EPA report, "in 2012, CO2 emissions from fossil fuel combustion decreased by 3.8%, relative to the previous year. The decrease in CO2 emissions from fossil fuel combustion was a result of multiple factors including ... a decrease in the carbon intensity of fuels consumed by power producers to generate electricity due to a significant decrease in the price of natural gas compared to the slight increase in the price of

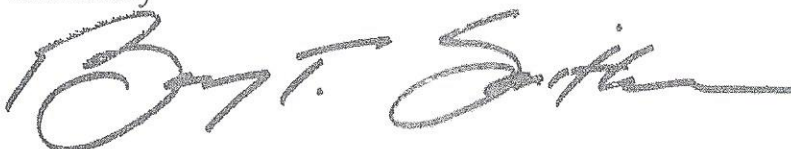
coal." The EPA's finding was echoed by the Intergovernmental Panel on Climate Change (IPCC) in a report it released in April. The IPCC report said, "A key development since AR4 (our last report) is the rapid deployment of hydraulic fracturing... which has increased and diversified the gas supply and allowed for a more extensive switching of power and heat production from coal to gas...this is an important reason for a reduction of greenhouse gas (GHG) emissions in the United States."

I would also be remiss not to highlight the ability of hydraulic fracturing to free democratic countries from over dependency on energy from unstable and undemocratic regions of the world. For example, Europe is dependent upon Russia for much of its natural gas supply. Recent turmoil in Crimea and the Ukraine may have more to do with who will supply energy to whom than with ethnic or cultural considerations.

Many countries around the world sit atop oil and gas reserves that would be attainable through hydraulic fracturing. Recently, Anders Fogh Rasmussen, the secretary general of NATO, accused Russia of secretly working with environmental groups in Europe to ban hydraulic fracturing so as to maintain Europe's current dependence upon energy imports from Moscow. It would therefore appear that not all efforts to ban hydraulic fracturing are grounded in environmental concerns. With this in mind, I trust that you all will determine whether funding and manpower behind this effort to ban hydraulic fracturing in Denton is coming from out of state sources or from those who would profit from the imposition of such a ban.

Mr. Mayor and Council members, thank you for the opportunity to share my perspective on the City of Denton's proposed "Fracking Ban Initiative." For over a century, the Texas Railroad Commission has thoughtfully regulated oil and natural gas drilling in our great State. If the citizens of Denton vote to ban hydraulic fracturing, they essentially will be voting to ban drilling. If other cities were to follow your lead, then we could potentially, one day, see a ban on drilling within all cities in Texas. If that were to happen, then I believe that our country, our state, its citizens and school children would be severely harmed.

Sincerely

A handwritten signature in dark ink, appearing to read "B. T. Smith". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.



July 15, 2014

City of Denton
Attention: Mayor Chris Watts
215 E. McKinney Street
Denton, TX 76201

Re: Proposed Ban on Hydraulic Fracturing

Dear Mayor Watts:

It is my understanding that the City of Denton is considering an ordinance that would prohibit hydraulic fracturing within the City limits. As you know, the Texas General Land Office is charged with the task of managing surface and mineral resources, the revenues of which are constitutionally dedicated to the Permanent School Fund. While we applaud the City's efforts to promote the welfare of its citizens, we must make sure it is done in a manner consistent with existing State laws.

There are State owned minerals within the city limits. Although the proposed ordinance would have no legal impact on the State, I would be remiss if I did not comment on the attempt by the city to place unauthorized prohibitions on development.

The exercise of zoning and the authority of a city to exercise police powers is not a grant of absolute, unfettered power. A legislative grant of police power to a city is not considered a surrender of the legislature's right to regulate the state's own property which may be located within a city. Texas Local Government Code § 211.013(c) makes it clear that municipal zoning *does not apply* to State lands. Further, the Legislature limited the land use regulatory authority of a city to only certain categories. That list of specified uses does not include regulation of a sub-surface mineral estate, regardless of whether that mineral estate is owned by the State or a private party.

It is unclear how the City of Denton is trying to accomplish its goal with the proposed ordinance. It may be viewed as either an unlawful use of zoning, or that the city is trying through some claimed use of "police powers" to enter into an arena reserved for the legislature.

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The Legislature made regulation of the oil and gas industry, including the methods and processes used in mineral production, the province of the Texas Commission on Environmental Quality and the Texas Railroad Commission, depending on the issue. In any event, cities are preempted from such regulation. While a city might, if in compliance with the law, have a say in how the surface of land within its corporate limits is used, the Legislature has made the regulation of underground mineral estates and the methods for producing them a matter of State agency regulation.

I can appreciate what the City of Denton is trying to do, but I would not be fulfilling my duties if I failed to express how this proposal appears to be unauthorized and may have greater impacts than were initially intended. Should the ordinance be implemented either by ballot measure or council action, it will be necessary to pursue any available remedy to ensure the right to develop State owned minerals.

I hope that we can resolve this matter, and look forward to discussing this with you. Feel free to contact me if you have any questions, or if you would like to discuss this matter in greater detail.

Sincerely,

Jerry Patterson
Commissioner, Texas General Land Office