

# Compact Comments



September 2005

## CONGRESSIONAL STAFFERS TOUR ENVIRONMENTALLY SAFE INSTALLATIONS

U.S. congressional energy staffers took a first-hand look at environmentally responsible oil and gas developments in California through the IOGCC Staffers to States Program.

Joined by the Bureau of Land Management, the Minerals Management Service and the U.S. Forest Service, the staffers toured several oil and gas installations to observe how closely state and federal regulators work together to both produce a critical natural resource and protect our environment.

Tour stops included the Santa Barbara Channel natural oil seeps; Platform Holly, the only offshore platform operating in state waters; Offshore Platform Irene; Los Padres National Forest; and the Kern River Oil Field. Each of the producing locations operate under some of the strictest environmental standards in the world.

“Participants walk away with not only a better understanding of what it takes to produce oil and natural gas, but also with a new set of friends and colleagues with whom to work on energy issues in the future,” said Kevin Bliss, IOGCC Washington representative.

Key sponsors for the trip included the California Department of Oil, Gas and Geothermal Resources, California Independent



*Congressional staffers (left to right) Bethany Pantuck, Jarrod Yates and Mike Ference on a tour of Platform Irene operated by Plains Exploration and Production (PXP) are shown a sample of produced oil.*

Petroleum Association, Western States Petroleum Association and Independent Oil Producers’ Agency.

## CONGRESS PASSES IOGCC’S LEGISLATIVE FIX FOR HYDRAULIC FRACTURING: HISTORICAL OVERVIEW

President Bush signed into law the new energy bill this summer, which includes the IOGCC’s proposal to resolve the hydraulic fracturing issue and brings several years of hard work by the Commission to fruition.

In 1997, the U.S. 11th Circuit ruled in the case of *LEAF v. U.S. Environmental Protection Agency* that hydraulic fracturing be considered injection under the federal Safe Drinking Water Act. Under the decision, hydraulic fracturing operations, which previously had been regulated by the states’ oil and gas conservation agencies, were within the Safe Drinking Water Act in Alabama and potentially in all states. The *LEAF*

decision had potentially enormous adverse effects on the oil and gas industry and IOGCC member states.

The IOGCC adopted a resolution calling for federal legislation to clarify the *LEAF* decision and for an amendment to the Safe Drinking Water Act. The amendment would state that hydraulic fracturing is not subject to the Act and, therefore, remains under the authority of the states. In its resolution, the Commission noted the states have a long history of ensuring that hydraulic fracturing operations are conducted safely to protect drinking water supplies.

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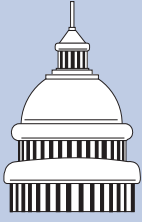
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**ON THE HILL**

By Kevin Bliss



After the passage and signing of the energy bill last month, August was slow on the Hill. Congress will hit the ground running this month, however, and energy is not likely to be off the agenda as the result of higher energy costs, especially after the recent Hurricane Katrina.

Congress deferred dealing with the issue of opening Alaska's Arctic National Wildlife Refuge in the energy bill, deciding that it should be handled as a part of this year's budget resolution. Under Senate rules the budget resolution will need only 51 votes to pass. The House has passed an ANWR provision before and, all things being equal, can be expected to do so again.

The budget reconciliation could also contain other energy provisions. Several lawmakers are again talking about tightening Corporate Average Fuel Economy (CAFE) standards governing automobile gas consumption.

Also, the House and Senate Energy and Water Appropriations Subcommittees must reconcile their bills. As we've reported here before, the Senate version of the bill contains a line item appropriation to the IOGCC, and the Commission will be working hard to maintain that appropriation in the conference report.

Finally, as noted elsewhere in this issue of Compact Comments, the IOGCC conducted its third Staffers to States tour in early August. The State of California and the other California co-sponsors did a fantastic job of designing a trip that was both highly educational and enlightening as well as interesting and fun. The program also provided a wonderful opportunity for the staffers to become acquainted with the IOGCC and each other.

## **NORTH DAKOTA GOVERNOR HOEVEN CALLS FOR TASK FORCE TO ALLEVIATE ENERGY MANPOWER SHORTAGES**

Former IOGCC Chairman Gov. John Hoeven has urged U.S. Secretary of Energy Samuel Bodman to create a federal task force to help states combat the growing manpower shortage in the oil and natural gas industries.

In a recent letter, the North Dakota governor suggested the IOGCC coordinate the effort with a task force consisting of the U.S. Department of Energy, the U.S. Department of Labor and the U.S. Department of Education.

The IOGCC publication "The Petroleum Pros," which outlines recommendations of how states, the federal government and industry can address the problem, was included with the letter.

The United States trains the world's petroleum engineers and geologists, the governor said.

"Our universities set the standards and lead the world in research initiatives. They deserve the support of the federal government."

"The Petroleum Pros" as well as the joint IOGCC and North Dakota publication "Employment Growth: Oil Industry Focus" are available online at [www.iogcc.state.ok.us](http://www.iogcc.state.ok.us).



*Launching a successful program in his state, North Dakota Gov. John Hoeven, former IOGCC chairman, has been an advocate in combating the manpower problem in the oil and natural gas industries.*

## **STRONGER TO PRESENT REVISED GUIDELINES AT IOGCC ANNUAL MEETING**

STRONGER, Inc. sent new draft state review guidelines to IOGCC official representatives, state oil and gas directors and members of the IOGCC State Review Committee.

During a July board meeting, draft guidelines were finalized based on comments received from state oil and gas directors, federal agencies, industry and environmental groups.

Revised guidelines will be presented at the IOGCC Annual Meeting in Jackson Hole, WY, Sept. 17 - 20. If accepted, the new guidelines will go into effect Jan. 1, 2006.

The board also approved the final reports for the Ohio and Oklahoma state reviews, which currently are available from STRONGER, Inc.

The state review process is a non-regulatory program that relies on states to volunteer for reviews. No state reviews have been performed during 2005. New York and Kansas have moved back their scheduled reviews from 2005 until a date in 2006 to be determined. Arkansas, Colorado, Kentucky and Utah are also considering reviews during 2006.

Final reports from reviews performed by STRONGER, Inc. may be obtained by calling Jim Carter at (801) 355-8816 or by e-mail at [jcarter@bearwest.com](mailto:jcarter@bearwest.com).

## HYDRAULIC FRACTURING: HISTORICAL OVERVIEW

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The IOGCC appointed a committee to study the issue and assist in the legislative effort. Members of the committee were Marvin Rogers, Alabama assistant attorney general, chairman; Cammy Taylor, Alaska Oil and Gas Commission; Kemp Wilson, Montana IOGCC official representative; Hal Fitch, Michigan Geological and Land Division; Michael Linn, Pennsylvania; Kevin Bliss, IOGCC Washington representative; Michelle Evans, IOGCC federal project manager; and Christine Hansen, IOGCC executive director.

The Inhoff-Sessions bill introduced in 1998 included statutory language that had been proposed by the IOGCC.

While the legislation languished, EPA implemented the *LEAF* decision. The Alabama Oil and Gas Board passed a strict program to regulate hydraulic fracturing of coal beds as directed by the EPA. *LEAF* appealed the Alabama program to the 11th Circuit Court of Appeals in the case of *LEAF v. EPA and Alabama Oil & Gas Board*.

Alabama intervened in the case and a number of industry groups filed amicus curiae briefs. The IOGCC participated in the court case, filing an amicus curiae brief in support of Alabama's position. Alabama Assistant Attorney General Rogers and counsel for the Justice Department argued the case before the 11th Circuit in Atlanta. Alabama relied heavily in the testimony of Dr. Don Oltz, Alabama state geologist.

In 2001, the Court ruled in favor of EPA and Alabama holding that the state's program complied with the Safe Drinking Water Act. *LEAF* petitioned the U.S. Supreme Court for certiorari, which was denied.

Even though Alabama won its case, the IOGCC continued to press for a legislative fix. While the legislation was considered by Congress, EPA began what turned out to be a multi-year national study of hydraulic fracturing. In this effort, the IOGCC and its member states provided EPA with information on hydraulic fracturing in the states. Ultimately EPA found no confirmed cases that drinking water wells had been contaminated by hydraulic fracturing fluid injection into coal bed methane wells.

During this period of time, Congress considered various legislative proposals. With support of several industry groups, provisions were included in one version of the energy bill that would have exempted hydraulic fracturing from the Safe Drinking Water Act as long as EPA determined that hydraulic fracturing caused no danger to underground sources of drinking water.

The energy bill failed to pass as did other legislative attempts to solve the *LEAF* problem.

With the support of new allies, the legislative version favored by the IOGCC began to gain support. Bill Cooper, counsel for the House Energy and Commerce Committee became an advocate for the IOGCC's original legislative solution.

Ultimately, the final version of the energy bill recently signed by the President contained the simple fix except that the final language provides that diesel fuel cannot be a component of hydraulic fracturing fluids. The effect of this exception is uncertain.

## IOGCC ANNUAL MEETING

"TECHNOLOGY: REVOLUTIONIZING ENERGY AND REGULATION"

JACKSON HOLE, WY  
SEPT. 17 - 20, 2005

LOG ONTO [WWW.IOGCC.STATE.OK.US/WYOMING2005.HTM](http://WWW.IOGCC.STATE.OK.US/WYOMING2005.HTM)  
FOR THE LATEST INFORMATION.

## **BRIEFLY IOGCC APPOINTMENTS AND OTHER NEWS**

- Utah Gov. Jon M. Huntsman, Jr., appointed Dr. Laura S. Nelson as energy director for the state. Nelson will assist in the development of public policy for energy for Utah and work closely with the newly formed Governor's Energy Advisory Council.
- The National Governors' Association recently named Arkansas Gov. Mike Huckabee 2005-2006 chairman and Arizona Gov. Janet Napolitano vice chairman.
- Herschel L. McDivitt has been named director of the Indiana Department of Natural Resources Division of Oil and Gas.
- The Institute for Energy, Law and Enterprise at the University of Houston Law Center is now the Center for Energy Economics at the Bureau of Economic Geology. BEG is part of the new John A. and Katherine G. Jackson School of Geosciences at the University of Texas at Austin. For more information, visit the Web site, [www.beg.utexas.edu/energyecon](http://www.beg.utexas.edu/energyecon).
- The North American Coalbed Methane Forum, Inc. will hold its Fall Session October 25-26 at the Lakeview Conference Center near Morgantown, WV. For more information, contact Ihor Havryluk at 412-798-1391.
- April Jennings has joined the IOGCC staff as the new member services coordinator.

## *Calendar of Events*

**Annual Meeting**  
Sept. 17-20, 2005  
The Snow King Hotel  
Jackson Hole, Wyoming

**Midyear Issues Summit**  
May 1-3, 2006  
Grand Hotel  
Point Clear, Alabama

**Annual Meeting**  
Oct. 15-17, 2006  
Omni Hotel  
Austin, Texas



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P.O. Box 53127, Oklahoma City, OK 73152-3127  
Phone 405/525-3556 • Fax 405/525-3592  
E-mail [iogcc@iogcc.state.ok.us](mailto:iogcc@iogcc.state.ok.us)  
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