

**Testimony of Robert J. Sullivan, Jr.
Chairman, Oklahoma Independent Petroleum Association**

**U.S. House of Representatives
Energy & Commerce Committee
Subcommittee on Energy & Power**

Wednesday, June 6, 2012

Chairman Whitfield, Ranking Member Rush, members of the Subcommittee, I appreciate the opportunity to testify today.

I would like to thank my Congressman, Vice Chairman Sullivan, for his leadership to increase the domestic production of crude oil and natural gas. As I hope my testimony reveals, these fossil fuels are critical not just to Oklahoma, but also to the nation. For the record, although he and I share a last name and come from Tulsa we are not, to the best of our knowledge, related.

I serve as Chairman of the Oklahoma Independent Petroleum Association and am the owner of Sullivan and Company, LLC, a 54-year-old independent producer of crude oil and natural gas. I have 25 employees – 13 in our Tulsa office and 12 in the field.

Like my peer OIPA members, Sullivan and Company explores for new, domestic oil and natural gas reserves using modern finding, drilling, and production techniques. In addition to our work on private lands, Sullivan and Company operates extensively on Indian lands.

Today's hearing is critical to understanding how the personal agendas of senior EPA officials manifest themselves in overzealous enforcement actions as well as 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

Like the subcommittee, OIPA and independent producers across the nation are troubled by the enforcement philosophy of EPA as expressed by former EPA Region 6 Administrator Al Armendariz in a recently revealed 2010 video:

"But as I said, oil and gas is an enforcement priority, it's one of seven, so we are going to spend a fair amount of time looking at oil and gas production. And I gave, I was in a meeting once and I gave an analogy to my staff about my philosophy of enforcement, and I think it was probably a little crude and maybe not appropriate for the meeting but I'll go ahead and tell you what I said. It was kind of like how the Romans used to conquer little villages in the Mediterranean. They'd go into a little Turkish town somewhere, they'd find the first five guys they saw and they would crucify them. And then you know that town was really easy to manage for the next few years. And so you make examples out of people who are in this case not compliant with the law. Find

people who are not compliant with the law, and you hit them as hard as you can and you make examples out of them, and there is a deterrent effect there. And, companies that are smart see that, they don't want to play that game, and they decide at that point that it's time to clean up. And, that won't happen unless you have somebody out there making examples of people. So you go out, you look at an industry, you find people violating the law, you go aggressively after them. And we do have some pretty effective enforcement tools. Compliance can get very high, very, very quickly. That's what these companies respond to is both their public image but also financial pressure. So you put some financial pressure on a company, you get other people in that industry to clean up very quickly. So, that's our general philosophy." – EPA Region 6 Administrator Al Armendariz, 2010

While surprised that Mr. Armendariz was so forthcoming, OIPA is not surprised by what he revealed about his approach to managing the Region 6 office, nor about EPA's culture and philosophy.

In June 2010, OIPA hosted Mr. Armendariz at its annual meeting in Dallas, Texas. He had recently assumed his position at Region 6. OIPA members wanted to learn more about the man who would have such authority over their companies' bottom lines.

While Mr. Armendariz did not use the inflammatory rhetoric with us that ultimately resulted in his resignation, he sent a clear and direct signal to us that he was the new sheriff in town and that he intended to initiate an attack on oil and natural gas producers within Region 6. Our general impression of Mr. Armendariz was of a highly motivated and committed environmental activist who opposed fossil fuels.

We could not have known at that time the arc of Mr. Armendariz's career, nor the role EPA's wrongful Parker County, Texas, enforcement action would play in environmental extremists' public campaign to demonize safe and proven technologies that are helping break America's dependence on overseas oil.

It is impossible to discuss these issues without addressing 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.⁵

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.⁶

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.⁷

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

This does not sit well with fossil fuel opponents. With no scientific basis to fault hydraulic fracturing, environmental extremists have become fear mongers. Their strategy is to create anxiety over oil and natural gas development, criticize state ground water and drinking water protections as insufficient, demand that the regulatory process be federalized, and then use that process to slow development by increasing the costs of regulatory compliance in terms of both employee hours committed to the paperwork burden and actual dollars.

For example, 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. That's just software expenses for one company. 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.

As another example of federal regulatory overreach, you may or may not be familiar with the American Burying Beetle, which is listed as an endangered species. The Department of the Interior has determined the beetle to be active during certain parts of the year in Osage County, Okla., where I have operations to produce minerals owned by the Osage Tribe. To protect the beetle I must hire consultants, who must put out survey traps containing carrion, file additional paperwork with the U.S. Fish and Wildlife Service (USFWS) and slow drilling operations during the beetles' active period. Slowing operations to protect the beetle means slowing royalty payments to the Osage Tribe. This endangered species issue means my operations are regulated

by two separate competing entities within the Department of the Interior – the Bureau of Indian Affairs to protect the tribe and USFWS to protect the beetle – plus OSHA, plus EPA.

In the case of Parker County, Texas, EPA Region 6 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.⁸

Mr. Armendariz, it seems, was intently following his own playbook.

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.

In hindsight, it should be noted that the Environmental Defense Fund had contracted with Mr. Armendariz in 2007 to produce a study on shale-related air emissions in Dallas-Fort Worth that challenged the prior research of state and federal regulators.⁹ Published in January 2009, Mr. Armendariz's conclusions were subsequently challenged by the Barnett Shale Energy Education Council due to his "inaccurate and flawed interpretation of the facts."¹⁰ Additionally, Mr. Armendariz served as a technical advisor to several anti-fossil fuel organizations and appeared in an activist's motion picture that attacked hydraulic fracturing.

The Parker County, Texas, incident – taken in context with similar egregious EPA actions and subsequent EPA reversals related to hydraulic fracturing operations in Pavilion, Wy. (Region 8) and Dimock, Penn. (Region 3) – leads me to believe that EPA’s problems are national in scope.

Bad science, or science improperly skewed to deliver a preconceived result and promote an extremist agenda, is not science at all and does a disservice to policymakers of both major parties and the taxpayers.

These episodes underscore that the federal government possesses neither the expertise, nor the objectivity to regulate specific drilling and production techniques. Each state is geologically distinct from its neighbors. There is no one-size-fits-all solution or protection program.

Furthermore, the Region 6 episode suggests that Congress must exercise greater oversight of EPA regional offices and that EPA Regional Administrators should be subjected to Senate confirmation.

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, clearly indicate the President’s anti-fossil fuel bias.

In this regard, Mr. Armendariz simply seems to have operated in a manner consistent with that of the rest of President Obama’s Administration. To cite his own imagery, I have no doubt that Mr. Armendariz simply believed he was “crucifying” oil and gas producers as a loyal Roman soldier serving the emperor.

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

⁶ Ibid.

⁷ Testimony of the Independent Petroleum Association of America, U.S. House Committees on Agriculture and Natural Resources, July 8, 2011.

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

⁹ Al Armendariz, Ph.D., "Emissions from Natural Gas Production in the Barnett Shale Area and Opportunities for Cost-Effective Improvements," January 26, 2009.

¹⁰ Ed Ireland, Ph.D., "Air Quality and the Barnett Shale," January 10, 2011.

SUMMARY

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The domestic crude oil and natural gas industry is a highly decentralized amalgam of small businesses that already are effectively regulated at the state level.

America's 18,000 independent producers operate in 32 states and drill 95 percent of U.S. crude oil and natural gas wells. They are responsible for more than 4 million U.S. jobs and 4 percent of U.S. GDP. Most independent producers are small businesses with only about a dozen employees, but are nevertheless critical to U.S. energy security.

The Subcommittee hearing is critical to understanding how the personal agendas of senior EPA officials manifest themselves in overzealous enforcement actions and the limits of federal credibility when it comes to regulating exploration and production operations.

Mr. Armendariz spoke at the Oklahoma Independent Petroleum Association's annual meeting in June 2010. He sent a clear and direct signal to those in attendance that as Region 6 Administrator he intended to initiate an attack on oil and natural gas producers within Region 6.

Although the states are effectively regulating crude oil and natural gas exploration and production, opponents of fossil fuels wish to create anxiety over oil and natural gas development and state protections in an attempt to federalize the regulatory process, thus slowing development by increasing compliance costs.

Mr. Armendariz was a willing participant in this activist effort. However, his actions are consistent with others at EPA and merely reflect the anti-fossil fuel bias of the President of the United States.

Congress must exercise more oversight of EPA. EPA Regional Administrators should be subject to Senate confirmation.

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Biographical Information — Robert J. Sullivan, Jr.

BUSINESS LEADERSHIP POSITIONS

1975-2008

Owner, Sullivan and Company LLC, a 53-year old family owned independent oil and gas exploration and production company operating in several Mid-Continent states. Has successfully established significant oil and gas production in Oklahoma despite numerous industry economic booms and busts.

Founder, Chairman and CEO, Lumen Energy Corporation, a natural gas gathering company operating in Oklahoma, Kansas, and Arkansas. Lumen was sold in 2004 after 15 years of successful operations. Lumen built or acquired and enhanced 16 gathering gas systems and successfully created value for shareholders in all of the systems.

Founder and Manager, Unruh, Armstrong & Associates, a provider of 3-D seismic services to independent oil and gas companies. The Company was moved from Dallas to Tulsa in 1999. It continues to apply modern geophysical techniques in the search for new oil and gas reserves.

Unit Corporation (NYSE-UNT), Board of Directors since 2006. Unit is engaged in oil and gas exploration, production, contract drilling and midstream gas activities.

Board Member, Oklahoma Independent Petroleum Association (2000 members) — 1979 to present; Member of the Year 2004.

1970-1975

The Williams Companies — Financial planning and administration, Tulsa corporate office. Responsible for planning and coordination between The Williams Companies as developer of the nine-square block Williams Center Project and City and County Government offices regarding street closures, permits, and financing of the \$200 million project.

1969-1970

COMAC Company – Financial management consulting, Birmingham, Michigan. Financial analysis and administrative support for the venture capital company with concentrations in banking and real estate.

GOVERNMENT

Republican candidate for Governor of Oklahoma, 2006.

Appointed to Governor Frank Keating's Cabinet as Secretary of Energy in March 2002; Continued under Governor Brad Henry through October 2003. Authored 25-Year Energy Strategy for the State of Oklahoma (the state had never before developed an energy strategy) with input from numerous industry, government, and academic leaders in the state.

Appointed to Governor Mary Fallin's Cabinet as Special Advisor on Economic Development and Job Creation in January, 2011. Established a Task Force on Economic Development consisting of 25 CEO's and 20 other state leaders to provide Governor Fallin with job creating initiatives.

Chairman of Board, Oklahoma Energy Resources Board, 2003-2005 – Instrumental in the original organization of OERB in 1994 and its growth in public education and environmental cleanup. Eight thousand environmental sites cleaned up with funds provided by oil and gas producers and mineral owners. No taxpayer dollars involved.

**CHARITABLE AND
COMMUNITY
AFFILIATIONS**

Chairman of Board, St. John Health System, Board Member, 23 years. Chaired numerous subsidiary boards and committees. Special concentration in strategic planning and investment management.

Catholic Charities, former Board Member and Treasurer, 18 years. Instrumental in establishing, financing and overseeing management of four separate residential projects aimed at homeless families, pregnant women and their newborn babies, women released from prison, and homeless AIDS patients. Solicited endowment backing for each of the four projects.

St. Joseph Residence, Board Member, 16 years. Residence aimed at AIDS and other critically ill people facing homelessness. Strongly involved in fundraising and board oversight.

Monte Cassino Endowment Trust, Trustee, 25 years. Responsible for management and investment decisions for \$1.5 million Trust. Income directed to financially needy students for tuition.

San Miguel School, Development Chairman (startup middle school for impoverished children). Responsible for planning and raising initial startup funds. After a successful start-up year, San Miguel is in its seventh year of operations and is financially sound.

Past Chairman of the following School Boards:

Cascia Hall Preparatory School — Established long-range plan for the school and a master plan for the 40-acre campus.

Monte Cassino School — Oversaw numerous consultants and internally driven studies that led to change from a K-12 format to a preschool – eight format. Negotiated integration of all girls' high school into Cascia Hall (then all boys).

School of St. Mary — Led major review of overcrowded classroom problem and attendant financial stress. Mediated personnel disputes.

Woodland Bank — Joined the Board shortly after it was organized. Participated in successful new business solicitation and contributed to growth.

Brookside Bank — Active on four-person loan committee for five years prior to highly successful sale of the bank.

National Stripper Well Association — Board member, 2006 – present.

Oklahoma Council on Public Affairs — Board member, 2006 – present

Oklahomans for Lawsuit Reform — Board member, 2006 – present

Gatesway Foundation, former Board Member, five years. Active in fundraising for this organization that seeks to introduce developmentally disabled young adults back into society through productive places in the work force.

University of Notre Dame Alumni Association, Board Member, 4 years, President of Board, 2004-2005

University of Notre Dame, Board of Trustees, 2003–2005

University of Notre Dame, Graduate School Advisory Council, Member, 1997–

2004. University of Notre Dame, Irish Studies Advisory Board, 2005 - 2008 University of Notre Dame Exemplar Award, 1997

PERSONAL

Born September 8, 1945

Married Jeanne Phillips Sullivan, 1969

Six Children, 10 Grandchildren

University of Notre Dame, 1967, BBA

University of Michigan, 1969, MBA

