



Action Report

Environment: Natural Resource Management (Hydraulic Fracturing)

ExxonMobil

May 4, 2011

Ticker	Exchange	Meeting Date	Record Date	Annual Meeting Location
XOM	NYSE	5-25-11	4-13-11	Dallas, Texas

Agenda

Item	Proposal
1	MGT: Elect directors
2	MGT: Ratify selection of auditors
3	MGT: Advisory vote on executive compensation
4	MGT: Advisory vote on frequency of future advisory votes on executive compensation
5	SH: Establish independent chair of board
6	SH: Report on political spending
7	SH: Adopt sexual orientation non-discrimination policy
8	SH: Adopt policy on human right to water
9	SH: Report on oil sands risks
10	SH: Report on hydraulic fracturing
11	SH: Report on sustainable energy leadership
12	SH: Adopt goals to cut greenhouse gas emissions

Si2 Briefing	Environment: Natural Resource Management, Environment: Climate Change, Special Report on Exxon Mobil, Investor Pressures and the Environment
Report Author	Evan Branosky
Links	Proxy Statement
Resolved Clause	THEREFORE BE IT RESOLVED: Shareholders request that the Board of Directors prepare a report by October 2011, at reasonable cost and omitting confidential information such as proprietary or legally prejudicial data, summarizing: 1) Known and potential environmental impacts of ExxonMobil's fracturing operations; and 2) Policy options for our company to adopt, above and beyond regulatory requirements and our company's existing efforts, to reduce or eliminate hazards to air, water, and soil quality from fracturing operations.
Lead Proponent	Park Foundation
Vote History	As You Sow submitted a very similar proposal to ExxonMobil last year that received 26.3 percent support. The company challenged the 2011 proposal, arguing it has already substantially implemented the proposal, but the SEC disagreed. The proponent noted that ExxonMobil had only written six paragraphs about its fracking

operations in its *Corporate Citizenship Report*, less information than what appeared in disclosures made by Chesapeake Energy which unsuccessfully tried to obtain SEC approval to omit a fracking proposal in 2010.

Summary

The proponents are asking the company to report on the environmental impact of the company's fracturing operations and identify strategies the company can adopt to minimize any adverse consequences of the practice. The importance of fracturing techniques to ExxonMobil's operations is growing, particularly given the company's recent acquisition of XTO Energy. At the same time, public concern over the environmental consequences is mounting, especially in the highly populated areas drawing on drinking water from the Marcellus Shale region. Specific ExxonMobil disclosures about hydraulic fracturing are limited, and investors will have to decide if the requested report is warranted given the controversy engendered by the practice and the potential risks raised by the proponents, or if they are sufficiently reassured by ExxonMobil's general approach to environmental issues. The proponent sees potential regulations for horizontal drilling and hydraulic fracturing as a threat to ExxonMobil, while the company contends that state regulations adequately address the environmental impacts, and that it has released enough information already.

Note: Separate Si2 Action Reports cover Item 9 ([oil sands](#)) and the [two climate-specific resolutions](#)—Item 10 (sustainable energy leadership) and Item 11 (greenhouse gas emissions reduction goals).

I. ExxonMobil and Natural Gas

ExxonMobil is the world's largest publicly traded oil and gas company. Its business covers the whole range of oil- and gas-related activity, including exploration, extraction, refining, transportation and sale of natural gas and petroleum products, plus petrochemicals. (See Si2's [Special Report on ExxonMobil](#) for more detail.)

Financials			
Revenue	\$370,125 million	Net Income	\$30,460 million
		Reporting Year	2010

Hydraulic Fracturing

Hydraulic fracturing is the second phase of a two-phase drilling process to extract natural gas from deep (i.e., 5,000 to 20,000 feet) shale formations. Through the process, a well operator drills a wellbore into a horizontal position that maximizes surface area with the gas-producing shale formation. A portion of the well is "cased" with cement to prevent liquid migration into drinking water aquifers before the well operator perforates the shale with explosions. Finally, fracking fluid with sand, silicate, and chemical additives is forced into the wellbore under high pressure to fracture the shale formation further. Once the injected water is removed, the well begins to produce natural gas.

The first use of hydraulic fracturing ("fracking") was in 1903 in North Carolina and another major milestone came in 1947 when the process was used to stimulate an oil well in Kansas. But, large-scale horizontal drilling ("drilling") paired with fracking did not occur until 1995 when Mitchell Energy (now [Devon Energy](#)) fracked a well in the Barnett Shale of Texas. [Range Resources](#) had the first significant application of the process in the Marcellus Shale of the U.S. Northeast when it recovered natural gas in 2007 from a well in Washington County, Pennsylvania. As of September 2010, the United States was the only country with commercial shale gas production, but exploration to establish the location of viable shale formations has occurred in Austria, Australia, Canada, China, France, Germany, Hungary, India, New Zealand, Poland, South Africa, Sweden and the United Kingdom. The promise of shale gas led the U.S. Energy Information Administration to nearly double its estimate of proved, domestic natural gas

reserves from 34.4 Tcf in December 2008 to 60.6 Tcf a year later. ExxonMobil's [Outlook for Energy: A View to 2030](#) forecasts natural gas overtaking coal consumption by 2020 due, in part, to the supplies of shale gas that can be recovered through drilling and fracking.

Environmental concerns: While the substantial reserves of natural gas that are now accessible using hydraulic fracturing techniques promise significant domestic energy resources, the drilling and fracking process has many environmental impacts. Drilling and transporting produced gas disturbs vulnerable ecosystems, injected water poses threats to groundwater, and flowback water contains multiple surface water pollutants (e.g., heavy metals, naturally occurring radioactive materials, sediment). Fragmented public policies exacerbate the impacts when they grant natural gas companies exemptions from laws such as the Emergency Preparedness and Community Right-to-Know Act, Clean Water Act and Safe Drinking Water Act. Public policies are less robust in parts of the United States, such as the Northeast, that have been exposed to drilling and fracking more recently than other parts of the country (such as the West and Southwest). Regardless of their region and exposure to drilling and fracking, states facing funding shortfalls have difficulty enforcing oversight laws.

The promise of a large new supply of energy, combined with the potential hazards its extraction poses, have combined to produce a contentious debate over fracking, as Si2's Briefing Paper on [Natural Resources Management](#) explains in more detail. Key concerns relate to water depletion, water pollution and air pollution—although ExxonMobil contends it has taken appropriate precautions to address each of these issues.

Water depletion—Hydraulic fracturing requires large volumes of water—one to five million gallons of water per well. However, an ExxonMobil spokesman notes that compared to the water use of other energy sources, such as coal, shale gas is fairly efficient, using about one-tenth the water (per unit of energy produced). He also points out that the practice requires less water than many recreational activities. For example, it can take a golf course about eight days to use as much water as a typical hydraulic fracturing operation uses during its entire lifecycle. Still, extensive operations can affect the availability of water in an area, especially one with limited supply. In a 2009 issue of its shareholder publication, [The Lamp](#), ExxonMobil mentioned steps it has taken to address this issue at its Piceance operations in arid Colorado. At this site, the company has developed a water recycling technique that reduces freshwater use by 70 percent to 80 percent. The company does not mention whether it employs that approach elsewhere.

Water pollution—To facilitate gas flow, fracturing operations introduce chemicals into the water they use. These chemical additives serve different purposes, including killing bacteria and preventing mineral build-up that would otherwise clog gas lines. Although the additives comprise a relatively small percentage of total fluids (generally less than two percent), they can amount to tens of thousands of gallons of chemicals, of which considerable amounts (30-80 percent) may remain “stranded” underground. Because fracking activities occur below drinking water aquifers, drillers argue that the stranded fluids cannot leak into freshwater supplies, but others worry that chemicals could migrate up through natural cracks or fissures in the rock and thereby contaminate drinking water supplies. An ExxonMobil spokesperson thinks this unlikely because “the same geological features that trapped the gas over millions of years (layers of impermeable rock), operate to trap the water too.” If cracks existed, the gas would already be gone. But he also notes that concerns about the integrity of well casings are legitimate and indicates that all past cases of “leaks” have been due to such flaws or other types of errors such as spills or mishandling, but not to some hypothetical kind of upward

migration through the rock. Still, anxiety about potential contamination led New York state officials in early 2010 to put severe restrictions on drilling in the Catskills, the watershed for New York City.¹

Compounding water pollution concern is the fact that many of the specific chemicals used have not been publicly disclosed, although there has been some movement in the last year with voluntary disclosure and state-mandated disclosure, as noted below in the discussion of regulation. Drilling fluid formulas are considered the manufacturers' proprietary information; these manufacturers are generally subcontracted service providers to companies like ExxonMobil. This secrecy has impeded efforts to track contamination—as well as the ability to respond to accidental releases.

However, ExxonMobil is encouraging the disclosure of drilling fluid ingredients. In its response to the shareholder proposal last year, management announced, "While we understand the intellectual property concerns of service companies when it comes to disclosing the proprietary formulations in their exact amounts, we believe the concerns of community members can be alleviated by the disclosure of all ingredients used in these fluids." This declaration of support garnered ExxonMobil considerable positive media attention, and the company is now disclosing the contents of its fracking fluid in a new publicly accessible database, on [FracFocus](#), a non-profit chemical disclosure database that is a joint project of the Ground Water Protection Council and the Interstate Oil and Gas Compact Commission. Users may run a query by state, county, operator and/or well name for wells drilled since January 1, 2011. So far, XTO has listed just wells in the Barnett Shale of Texas, but wells in other locations could be added over time. For each well, users may generate a report that lists the trade name, supplier, purpose, chemical ingredients, and amount of ingredients in the mix. Companies retain the authority to list just trade names if they choose to do so, but XTO appears to release both trade and chemical names for wells it has reported.

Industry representatives confidently assert that fracking is safe, often citing its extensive history of sixty years and relying on a 2004 Environmental Protection Agency (EPA) study that failed to find evidence that hydraulic fracturing contaminated water supplies.² But investigative journalists at [ProPublica](#), an independent non-profit organization, reached a different conclusion:

An 18-month investigation...has shown more than 1,000 cases in which various aspects of the fracturing lifecycle have affected water supplies, including spills of fracturing fluid waste, cracking of underground cement and well casings meant to enclose the fracturing process, and methane gas traveling large distances underground through faults and fractures.³

The discrepancy between those claiming no harm and those finding some depends on a number of factors including how narrowly or broadly one defines fracking operations. As noted below and in Si2's Briefing Paper, the EPA is undertaking new research to help resolve the issue.

Air pollution—Although water issues have been the focus of environmental concerns about fracking, there are also potential threats to clean air. According to a [March 2010 Scientific American article](#), Texas communities where Barnett Shale extraction is occurring have experienced high levels of benzene and other toxic air pollutants that exceed legal limits. Community leaders attribute the problem to rushed—and consequently shoddy—installation of pipelines, implying that the hurry to grab

¹ Mireya Navarro, "State Decision Blocks Drilling for Gas in Catskills," *The New York Times*, 4-23-10.

[http://www.nytimes.com/2010/04/24/science/earth/24drill.html?scp=3&sq=new york drinking water fracturing&st=cse](http://www.nytimes.com/2010/04/24/science/earth/24drill.html?scp=3&sq=new%20york%20drinking%20water%20fracturing&st=cse)

² The oil and gas industry trade group, Energy In Depth, has assembled a collection of statements to this effect from EPA officials, members of Congress, and senators. "What They're Saying: Chairman Waxman Wants to Learn More about Hydraulic Fracturing—Here's a List of Folks He Can Talk To," blog post, 2-18-10.

<http://www.energyindepth.org/2010/02/what-theyre-saying-chairman-waxman-wants-to-learn-more-about-hydraulic-fracturing-heres-a-list-of-folks-he-can-talk-to/>

³ Abraham Lustgarten, "Gas Industry Wary of EPA Fracturing Study," *Daily Yonder blog*, 4-12-10.

<http://www.dailyyonder.com/gas-industry-wary-epa-fracturing-study/2010/04/08/2684>

resources may be compromising the integrity of construction and installation. In comments to Si2 in 2010, an ExxonMobil representative objected to this characterization, indicating that while there have been some instances of elevated benzene levels, they were isolated, temporary, and have been resolved through the repair of faulty equipment. Furthermore, he asserted that continuous air monitoring sites set up by the Texas Commission on Environmental Quality have not found any “levels exceeding thresholds of concern.”

Questions also have surfaced about the perceived climate change benefit of natural gas. At the wellhead, natural gas emits about half the level of greenhouse gases as coal and two-thirds to three-quarters the level of petroleum. Yet in January 2010, ProPublica reported new research from the EPA that reduced the estimate to just 25 percent cleaner than coal. Subsequently, a [paper](#) from Cornell professor Robert Howarth concluded “Compared to coal, the footprint of shale gas is at least 20 percent greater and perhaps more than twice as great on the 20-year horizon and is comparable when compared over 100 years.” A spokesperson for [Energy In Depth](#), an industry organization, said the methodology and data were unconventional. However, Howarth notes that the report has just been through peer review; it became available in April 2011 in the scientific journal *Climatic Change*.

(More information about hydraulic fracturing and the controversies about it appears in Si2’s Briefing Paper on [Natural Resource Management](#), pp. 19-26.)

ExxonMobil’s Hydraulic Fracturing

ExxonMobil recovers natural gas through drilling and fracking. The company’s 2010 Summary Annual Report notes XTO resources, combined with those it already owned, have “created a premier global unconventional gas portfolio.” Following the acquisition of XTO, ExxonMobil says it “progressed integration activities by transferring best practices across our operations and applying XTO’s expertise across our global unconventional portfolio.” Further:

In addition to these achievements, ExxonMobil has continued to capture new opportunities to add to our resource base, including acquiring unconventional assets in multiple North American shale gas locations. We also continued our active exploration around the globe. Our balanced exploration program is designed to test new high-potential exploration areas, further explore emerging unconventional opportunities, and continue to add resources through ongoing activity in established areas.

The company’s most recent [Corporate Citizenship Report](#) adds that “ExxonMobil has a long history with hydraulic fracturing both domestically and globally, and our own experience demonstrates that these operations can be conducted safely.”

As noted, the XTO acquisition greatly increased ExxonMobil’s drilling and fracking activities. Before the acquisition, XTO had produced 4 percent of U.S. natural gas. With the XTO purchase, ExxonMobil acquired 280,000 net acres and 200 to 220 drilling locations XTO had under lease in the Marcellus Shale, 277,000 net acres in the Barnett Shale, and 100,000 acres in the Haynesville Shale of Northwest Louisiana and East Texas. In addition to these sites, the company’s exploration in countries with shale gas and coalbed methane resources (another resource that hydraulic fracturing can recover) throughout the world includes the following:

- **United States. Marcellus Shale, northeastern United States.** Before the XTO acquisition, ExxonMobil already held about 145,000 net acres through a joint venture with Pennsylvania General Energy, which is actively drilling.
- **United States. Piceance Basin, Colorado.** This region has an estimated resource potential of 45 tcf of “tight gas,” which is trapped in dense, multi-layer rock. The current phase of project

averages 108 million cubic feet per day and is expected to reach capacity at 200 million cubic feet per day by 2012.

- **Canada.** Horn River Basin, British Columbia. ExxonMobil Canada and its majority-owned affiliate Imperial Oil have acquired 309,000 net acres in this shale gas play. Exploration drilling was completed in 2009 and development planning is now underway.
- **Germany.** North Rhine-Westphalia and Lower Saxony. ExxonMobil controls licenses to explore shale gas and coal bed methane plays covering 3 million acres.
- **Poland.** Podlasie and Lublin Basins, eastern Poland. The company is exploring 1.3 million net acres.
- **Indonesia.** Kalimantan. ExxonMobil has a partial interest in coal bed methane contracts over 290,000 net acres.

Regulatory Risks

In correspondence at the SEC related to the pending shareholder resolution, the Park Foundation highlights an unusual clause in the XTO merger agreement about fracking regulation, which it says illustrates the risks that are of significant concern to investors. The acquisition agreement included a provision that allowed ExxonMobil to withdraw from the agreement if state or federal regulations render drilling and fracking illegal or “commercially impracticable.” In its rebuttal to the 2011 ExxonMobil effort to get the resolution omitted, the Park Foundation noted an article in *The Wall Street Journal* on the unique clause, which said, “William F. Hederman, senior vice president of energy policy for Concept Capital, a Washington research group that advises institutional investors, said until the Exxon-XTO disclosures, he had never seen warnings about the political risks involving fracking.” The proponent also referenced [M&A Law Prof](#), a blog that contains commentary on issues related to mergers and acquisitions, which opined, “I dare say the fact that the parties foresee the risk of legislative changes specific to the business and have written them into the MAE [mergers and acquisition exemption] is not quite customary.”

The clause clearly demonstrates the company’s awareness of the unstable and rapidly evolving regulatory framework for drilling and fracking, which is particularly fraught in the U.S. Northeast where exploration of the Marcellus Shale has created a “gold rush” atmosphere that regulators are still trying to monitor. As Si2’s Briefing Paper notes (pp. 24-26), a patchwork of federal, state and local laws govern hydraulic fracturing. Some of the most relevant recent developments are summarized below.

Federal: The Clean Water Act sets pretreatment standards for gas companies that send flowback water to wastewater treatment plants and establishes the operating requirements for the plants themselves. The Safe Drinking Water Act (SDWA) regulates the process for disposing of flowback water in underground geologic formations and establishes treatment requirements for drinking water utilities that withdrawal water from rivers and lakes in regions where drilling and fracking occurs. Finally, the Emergency Preparedness and Community Right-to-Know Act requires gas companies to develop Material Safety Data Sheets that list the ingredients of their fracking fluid. Companies must supply the Material Safety Data Sheets to hospitals and fire companies so first responders have the necessary information to deal with explosions or spills.

The FRAC Act—U.S. Sen. Robert Casey (D-Pa.) reintroduced the FRAC Act in March 2011 that requires gas companies to disclose the chemical components of their fracking fluid. In addition, the bill would reverse an exemption under the SDWA granted to gas companies under the Energy Policy Act of 2005. The exemption removed EPA authority to monitor drilling and fracking by modifying the definition of underground injection to exclude “the underground injection of fluids or propping agents (other than

diesel fuels) pursuant to hydraulic fracturing operations related to oil, gas, or geothermal production activities.” Essentially, the reversal would expand the current SDWA authority to regulate just the process for disposing of flowback water in underground geologic formations to include all fracking activities.

Federal studies—Two research efforts by the Administration will evaluate whether additional oversight under existing federal authority is necessary. The first effort, *Prudent Development of North American Natural Gas and Oil Resources*, is being developed by the National Petroleum Council (NPC) at the request of Secretary of Energy Dr. Stephen Chu. The report will review the North American natural gas supply chain and infrastructure potential, the contribution of natural gas to a low-carbon energy portfolio, strategies to mitigate environmental impacts of increased production and role of technology in developing reserves. The NPC plans to release the report in summer 2011. The [second study is being undertaken by the Environmental Protection Agency](#) (EPA) at the request of the White House and House Appropriations Conference Committee. It will assess the impacts of hydraulic fracturing on drinking water and groundwater. Initial research results will be available in fall 2012 and the full report is planned for release in 2014.

State and local: The federal laws have problems that are addressed to varying degrees of success by industry self-regulation and state laws. States and local governments may not have the resources to enforce the clean water and safe drinking water laws. As a result, gas companies are recycling and reusing flowback water at the drilling site. But, the process still results in a net loss of water when 20 to 70 percent of the injected two to eight million gallons (equivalent to four to twelve Olympic-size swimming pools) remain in the wellbore for each fracking job. The process also generates wastewater even when recycling technologies are used.

In addition, the federal community right-to-know law provides gas companies a partial exemption from the reporting requirement when they claim fracking fluid as a proprietary trade secret. Gas companies that claim the exemption may report just the trade name of their fracking fluids, rather than the chemical names. But in September 2010, Wyoming became the first state to require gas companies to disclose the chemical ingredients of fracking fluids injected into new wells publicly. In addition, [Halliburton](#) and [Range Resources](#) began to disclose the full chemical components of their fracking fluid on their websites in 2010. Other companies are voluntarily reporting on [FracFocus](#), as noted above.

States are also addressing the issue of severed surface and subsurface rights. For more than a century, most states overlying the Marcellus Shale have allowed one owner to purchase surface rights and another owner to purchase subsurface rights. The deeds for many subsurface rights have been lost because there was no need to exercise them previously. In Maryland, the General Assembly passed the Dormant Mineral Interests Act in 2010 to allow surface owners to sue for subsurface rights that have remained dormant for 20 years or more. In Pennsylvania, the issue is playing out in states parks, where the State retains subsurface rights on just 20 percent of its 283,000 acres of parkland. Debates continue about whether gas companies should be allowed to exercise their subsurface rights on land that is essentially owned by the public.

Bans and moratoria—The state and local regulatory framework continues to evolve. Former New York Governor Peterson (D) issued an executive order to ban high-volume hydraulic fracturing until July 2011, when the New York State Department of Environmental Conservation will complete an Environmental Impact Statement that could require additional regulations. Maryland Governor Martin O’Malley (D) has proposed a similar ban until additional study can be completed. City councils in Buffalo, New York, Pittsburgh and Philadelphia, Pennsylvania and New York City have either called for bans or banned all fracking activities (e.g., drilling and fracking and storage, transfer, treatment or disposal of flowback water) outright.

Violations

Some environmentalists see an advantage to companies like ExxonMobil becoming involved in unconventional extraction. Compared to smaller companies, large firms have greater resources that may enable them to drill with fewer problems. As Exxon notes in its annual report, it spent the last half of 2010 “transferring best practices across our operations.”

Yet debate continues over the efficacy of drilling and fracking regulations precisely because of well-publicized violations in the industry. For example, in January 2010 the Pennsylvania Department of Environmental Protection (PADEP) fined **Atlas Resources** \$85,000 for fracking fluid and flowback water spills at 13 locations. The state also fined **Cabot**, **Halliburton** and **Range Resources** for spills that occurred throughout 2009 and 2010. In April 2011, a well owned by **Chesapeake Energy** blew out in Canton, Pennsylvania. Flowback water entered a tributary of Towanda Creek and the EPA Region V office has ordered a full review.

ExxonMobil incidents: In its current 10-K filing, Exxon Mobil notes a violation in Penn Township, Lycoming County, Pennsylvania. In November 2010, an inspector from PADEP found an open valve on a tank holding flowback water at an XTO drilling pad. The tank held 21,000 gallons and the inspector estimated that 13,000 gallons had been released, but a company spokesperson estimated 2,400 gallons. Initial testing found high levels of salinity and conductivity in a nearby spring and stream. PADEP cited the company and ordered a full investigation, including assessing the impact on two nearby drinking water wells. ExxonMobil says it believes the state “may seek a penalty in excess of \$100,000,” and that it is cooperating “in responding to and remediating” the spill.

In a similar accident, XTO spilled 200 gallons in Lycoming, Pennsylvania in May 2010. According to an Associate Press article from November 2010, XTO had committed 31 documented hydraulic fracturing violations by that point in 2010.

In April 2011, the environmental advocacy group Clean Water Action [documented the violations](#) incurred by participating members of the Marcellus Shale Advisory Commission, a working group established by Pennsylvania Governor Tim Corbet to advise the state on shale gas issues. Combined, the member companies accounted for 42 percent of all drilling and fracking violations in Pennsylvania in 2010. In descending order of violations, the companies were Chief Oil & Gas (174), Chesapeake Energy (132), East Resources (74), ExxonMobil/XTO (66), Range Resources (32), Atlas/Chevron (16), EQT (15), and Consol (5). The report also notes ExxonMobil donated \$20,000 to Governor Corbett’s campaign.

III. Proponent Position

The Park Foundation submitted the resolution, which was one of 10 regarding hydraulic fracturing that was submitted for proxy season 2011. All 10 proposals are nearly identical and their submissions were coordinated by [Green Century Capital Management](#) and the [Investor Environmental Health Network](#). Proponents withdrew the proposal at **Anadarko Petroleum**, **Cabot Oil & Gas**, **El Paso**, **Southwestern Energy** and **SM Energy** after agreements with the companies, but the proposal is going to a vote at **Carrizo Oil & Gas**, **Chevron**, **Energen** (where it has received 49.5 percent support) and **Ultra Petroleum**.

The proponent attributes the impacts of drilling and fracking to both the process itself and the policies that regulate it. In particular, the proponent sees cement casings around wellbores as critically important to ensure that injected fluids and groundwater do not interact. Some spills, such as a high-profile one in Dimock, Pennsylvania in 2009, result from failed well casings or company negligence. The proponent references the bans among state legislatures and city councils and the stricter regulatory environment demonstrated by the disclosure requirement in Wyoming and higher permit fees imposed for permit applications in Pennsylvania. The proponent also notes the EPA study.

The Park Foundation sees “environmental impacts and increasing regulatory scrutiny” as threats to ExxonMobil business operations. According to the proposal, “A multi-sectoral assessment for investors, [Water Disclosure 2010 Global Report](#), noted the existence of reputational risks from water management for the oil and gas sector.” The proponent feels that ExxonMobil is not providing investors with sufficient information on how it is preparing for potential regulations, and believes that ExxonMobil should take measures beyond current regulatory requirements.

The Park Foundation wants ExxonMobil to release a report that summarizes known and potential impacts of ExxonMobil drilling and fracking operations and policy options beyond regulatory requirements that mitigate those impacts. It says the report should include efforts to reuse and recycle water and case wellbores, among other practices.

IV. Management Position

The ExxonMobil board of directors recommends that investors vote against the proposal. It notes four examples of ways the company is informing shareholders and preparing for changes to the drilling and fracking regulatory framework. First, the company notes an Environmental Policy that commits it to continuous efforts to improve environmental performance. Second, it notes its [Corporate Citizenship Report](#) that, coupled with executive speeches and websites, explains the company’s drilling and fracking activities. Existing guidelines in place since 1998 also ensure drilling and fracking is conducted safely, the company says. Finally, voluntary technologies in the Piceance Basin and Marcellus Shale states demonstrate efforts beyond those required by regulations, in management’s view.

ExxonMobil makes two more points. The company feels that state-level regulations protect drinking water wells and groundwater aquifers adequately. It says that state oversight, rather than federal regulation, is sufficient because states are better positioned to account for issues concerning local geology and other factors. The company also notes its commitment to disclose fracking fluids, as demonstrated by its use of the FracFocus website.

V. Analysis

Key Points at Issue

- Does ExxonMobil face threats from evolving regulations around natural gas and drilling and fracking?
- Is ExxonMobil transparent about the threats it faces from potential regulations, and the steps it is taking to mitigate those threats?
- What is ExxonMobil doing to ensure that spills, such as the one that occurred in November 2010 in Penn Township, do not happen again?

Shale gas, and the methods used to extract it, is growing in importance for ExxonMobil. By acquiring XTO, ExxonMobil became a major developer of shale plays throughout the country. In the Marcellus Shale in particular, rapid expansion is creating a “gold-rush” atmosphere where states are developing new regulations to control the drilling and fracking process. Likewise, the federal government is studying the issue to decide whether new regulations are justified, local governments are issuing bans, and landowners are suing gas companies for perceived infractions.

Shareholders must decide if ExxonMobil is adequately prepared for the threats of expanded drilling and fracking activities. ExxonMobil feels that it has adequately prepared for the rapidly evolving regulatory framework and is communicating its activities to shareholders. When challenging the proposal at the SEC, ExxonMobil said it was moot. The company made the same points that it made in the proxy

statement—noting in particular that it has already explained activities to shareholders and is mitigating environmental impacts. Notably, ExxonMobil has started to release the chemical ingredients of its fracking fluid on the FracFocus website, which has only been replicated by 18 other gas companies.

In its response to ExxonMobil's SEC challenge, the Park Foundation makes arguments that could support a vote in favor the resolution. The Park Foundation contends that ExxonMobil's Corporate Citizenship Report contains just six paragraphs about Exxon Mobil's drilling and fracking activities, downplays significant environmental impacts, and does not address threats from new regulation. The Park Foundation notes that Chesapeake, another gas company using drilling and fracking, unsuccessfully challenged a proposal about fracking disclosure at the SEC, even though it had much more extensive literature publicly available on its website than ExxonMobil does. The Park Foundation compares the information in the existing ExxonMobil literature to the requests of the shareholder proposal:

- The proposal requests “known and potential environmental impacts of ExxonMobil fracturing operations” but the company disclosures do not mention impacts at all; instead asserting that drilling and fracking poses no risk to environmental mediums, such as groundwater.
- The proposal requests “policy options... to adopt... above and beyond regulatory requirements and... existing efforts, to reduce or eliminate hazards to air, water, and soil quality from fracturing operations” but the company literature only address water quality. The literature notes that the company “is committed to recycling water where possible.”

Some investors may question the assertion that drilling and fracking poses no risk to groundwater. The potential risk is arguably the reason EPA is undertaking a thorough analysis of the drinking water and groundwater impacts of drilling and fracking. In addition, as the proponent notes, a December 2009 report commissioned by the New York City Department of Environmental Protection said fracking “poses unacceptable risks to the unfiltered drinking water supply for nine million New Yorkers,” as reported in a press release from the city. Also, some shareholders may regard the challenges that faced other gas companies in Pennsylvania in 2010—such as chemical spills, accusations of well water contamination, litigation and regulatory fines—as indicators that ExxonMobil may want to take particular care in its drilling operations and explain to investors how it will avoid messy entanglements. These issues are particularly relevant in light of the violations attributed to XTO.

Voting Considerations

Voting in favor: Shareholders may want to vote in favor of this proposal if they are concerned by the threats drilling and fracking regulations could pose to ExxonMobil. They also may want to vote in favor of this proposal if they feel ExxonMobil has not been forthcoming in explaining its drilling and fracking activities to investors. The company acknowledged in the XTO acquisition contract that new regulation may pose a threat to company operations, so some investors may want to learn more about these threats and steps ExxonMobil is taking to mitigate them.

Voting against: Shareholders may want to vote against this proposal if they feel that ExxonMobil has taken adequate steps and is conveying sufficient information to investors. The company is voluntarily releasing chemical components through the FracFocus website and will likely release more information in the future. In addition, an internal environmental policy requires the company to operate in an environmental responsible manner. According to ExxonMobil, existing literature, speeches and the company's website explain drilling and fracking activities to investors. Those who feel the requested report would simply replicate existing resources and impose an unnecessary expense are likely to vote against the proposal.

V. Resources

- ExxonMobil 2011 Proxy Statement
<http://www.sec.gov/Archives/edgar/data/34088/000119312511095944/ddef14a.htm>
- Investor Environmental Health Network
<http://www.iehn.org/home.php>
- SEC decision on ExxonMobil's challenge to the shareholder proposal
<http://monitor.siinstitute.org/docs/a/610/2/SEC%20Decision%20-%20Exxon%20Mobil%20-%20hydraulic%20fracturing%20-%2003-14-11.pdf>