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— [Business is personal]

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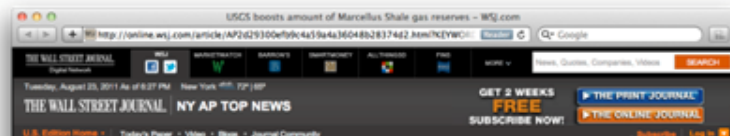
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# Subpoenas to Shale Producers

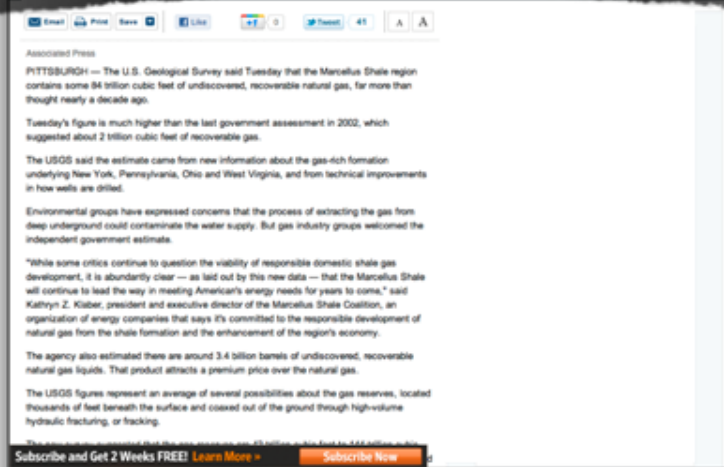
20011 Ryder Scott Reserves Conference

# THE WALL STREET JOURNAL

# The New York Times



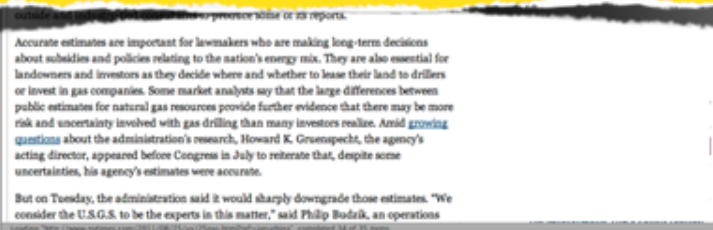
**“USGS boosts amount of Marcellus Shale gas reserves”**



August 23, 2011

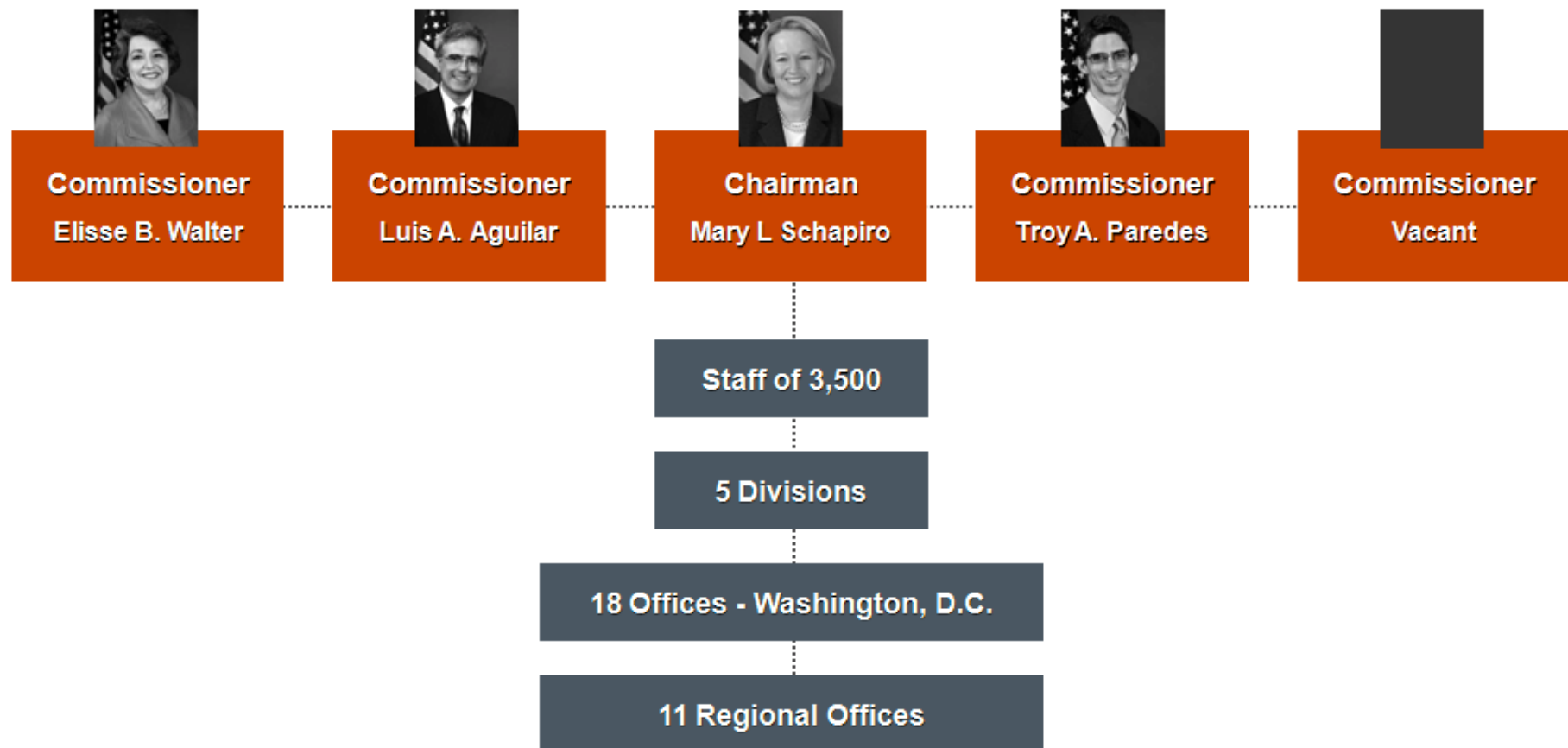


**“Geologists Sharply Cut Estimate of Shale Gas”**



August 24, 2011

# S.E.C. Organization and Structure



# S.E.C. Organization and Structure

## 🍷 5 Divisions:

- 🍷 Corporate Finance
- 🍷 Enforcement
- 🍷 Investment Management
- 🍷 Trading and Markets
- 🍷 Risk, Strategy, and Financial Innovation



# S.E.C. Organization and Structure

## ❖ Responsibility of the S.E.C. to:

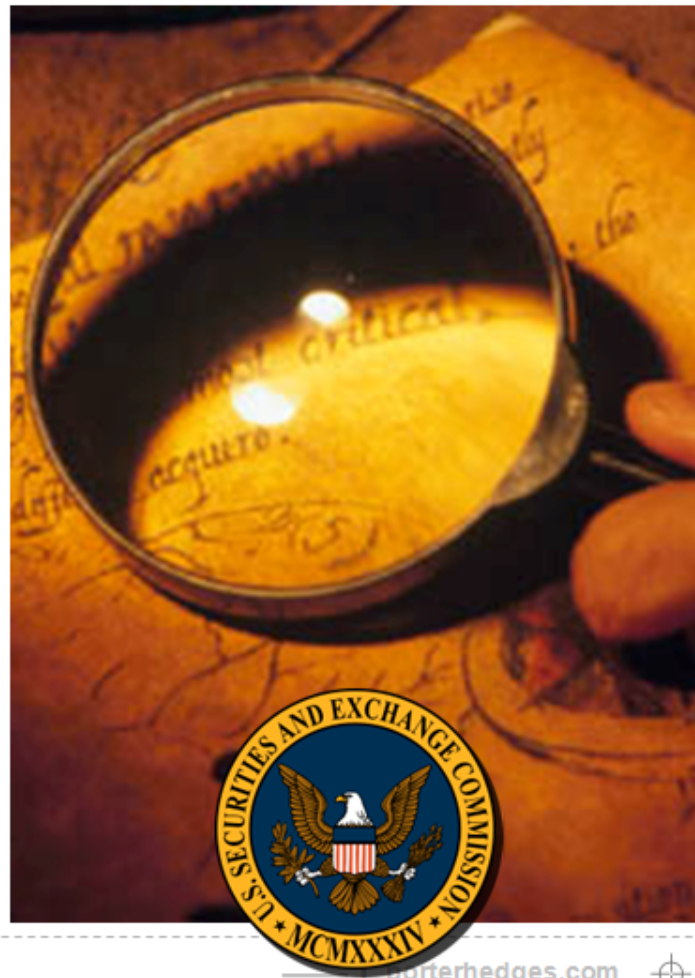
- ❖ interpret and enforce federal securities laws
- ❖ issue new rules and amend existing rules
- ❖ oversee the inspection of securities firms, brokers, investment advisers, and ratings agencies
- ❖ oversee private regulatory organizations
- ❖ coordinate U.S. securities regulation with federal, state, and foreign authorities



# S.E.C. Division of Enforcement

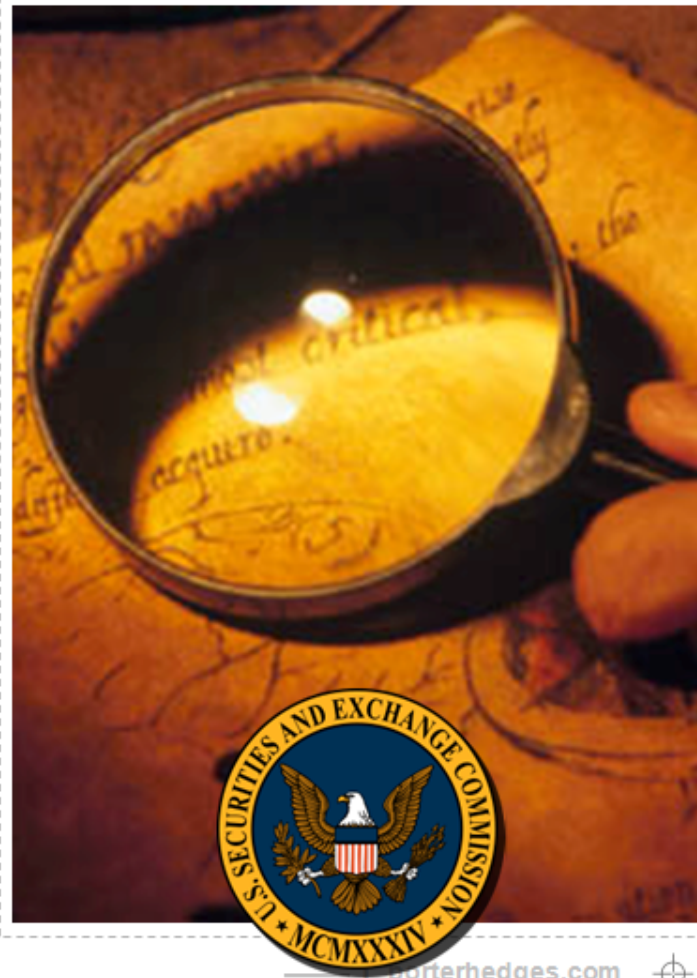
## ❖ Division of Enforcement:

- ❖ Recommends commencement of investigations
- ❖ Brings civil actions in federal court or before an administrative law judge
- ❖ Prosecutes cases on behalf of the Commission
- ❖ Works closely with law enforcement to bring criminal cases



# S.E.C. Division of Enforcement

- ❖ The “S.E.C. is a law enforcement agency.”
- ❖ Penalties include:
  - ❖ Injunctions and cease-and-desist orders
  - ❖ Monetary penalties
  - ❖ Temporary or permanent bar from engaging in the securities business
  - ❖ Order for an accounting or disgorgement of profits

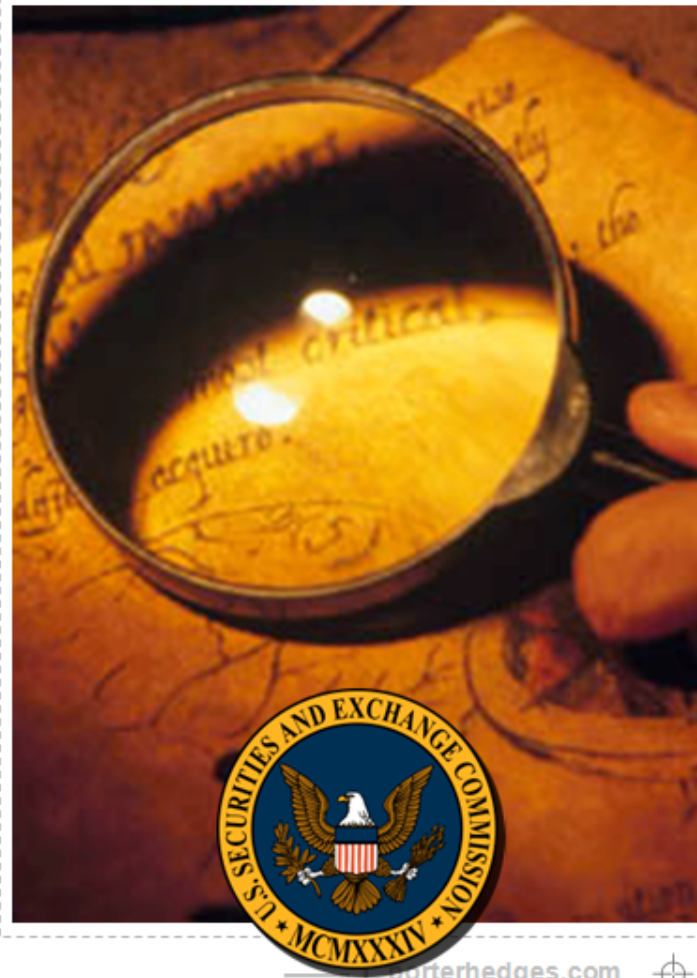


# S.E.C. Division of Enforcement

❖ **Hundreds of civil enforcement actions per year against individuals and companies for violation of the securities laws.**

❖ **Typical infractions include:**

- ❖ Inside Trading
- ❖ Accounting Fraud
- ❖ Securities Fraud
- ❖ Ponzi Schemes
- ❖ Misleading Information
- ❖ Market Manipulation
- ❖ Selling Unregistered Securities



# What We Think Triggered the Subpoenas

## ❖ Three articles in The New York Times:

❖ **June 25, 2011**

“Insiders Sound an Alarm Amid a Natural Gas Rush”

❖ **June 26, 2011**

“Behind Veneer, Doubt on Future of Natural Gas”

❖ **June 27, 2011**

“S.E.C. Shift Leads to Worries of Overestimation of Reserves”

## The New York Times



# What We Think Triggered the Subpoenas

## ❖ The articles state/imply:

- ❖ Shale reserves will not be developed because the cost is far greater than the current or near-term gas price.
- ❖ Shale producers are misleading investors about gas shale economics.
- ❖ Shale E&P companies are attracting investor funds to finance their gas shale developments based on overly optimistic assumptions.

## ❖ **Bottom Line:** Substantial financial losses could be expected

## The New York Times



# Public Officials Calling for Investigation



**Rep. Edward Markey, D-MA**



**Rep. Maurice Hinchey, D-NY**



**Rep. Carolyn Maloney, D-NY**



**Rep. Jerrold Nadler, D-NY**



**Senator Benjamin Cardin, D-MD**



**Rep. Carolyn Maloney, D-NY**



**Rep. Jerrold Nadler, D-NY**



**Assemblywoman B. Lifton, D-NY**

Letter to S.E.C.



Letter to U.S. Government Accountability Office



Letter to US Secretary of Energy



Letter to State Comptroller

# Two Issues

**1**

**Overestimated  
Reserves**

**2**

**Undisclosed  
Environmental  
Liabilities**



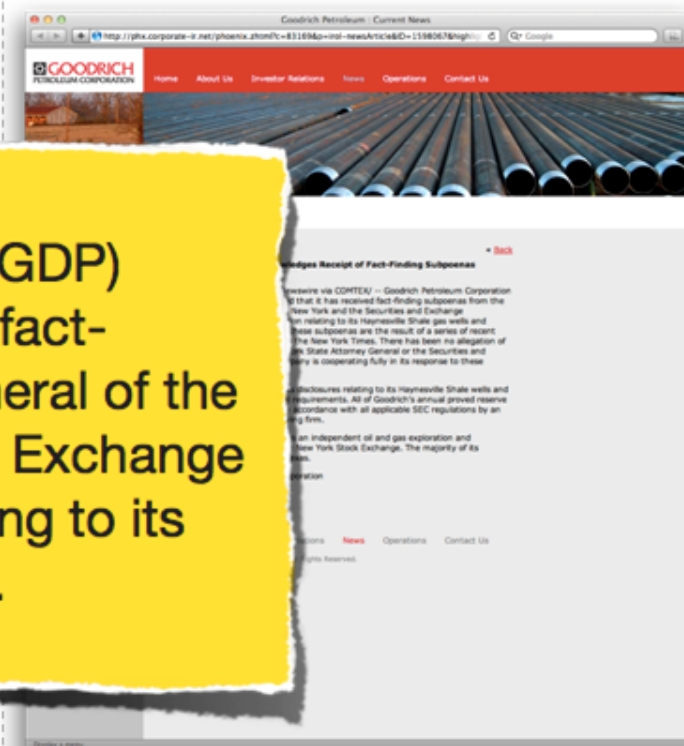
# Companies Receiving S.E.C. Subpoenas

- ❖ **Subpoenas have not been made public**
- ❖ Three companies have acknowledged receiving S.E.C. subpoenas –
  - ❖ Goodrich Petroleum Corporation
  - ❖ Quicksilver Resources Inc.
  - ❖ Exco Resources, Inc.



## Goodrich Petroleum Acknowledges Receipt of Fact-Finding Subpoenas

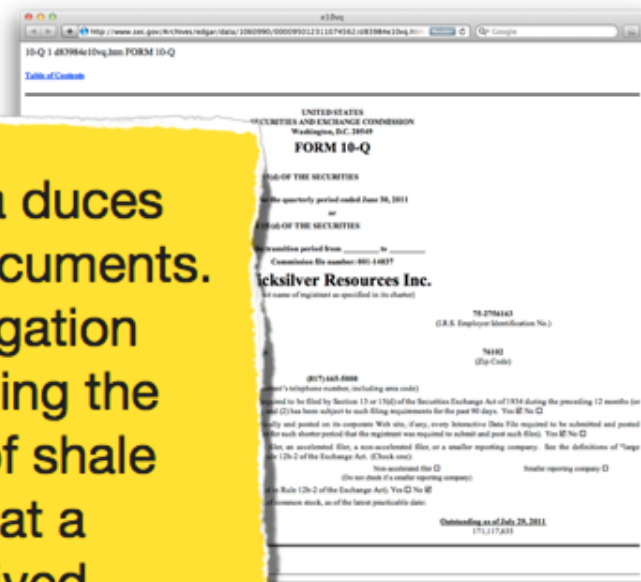
Goodrich Petroleum Corporation (NYSE: GDP) today acknowledged that it has received fact-finding subpoenas from the Attorney General of the State of New York and the Securities and Exchange Commission requesting information relating to its Haynesville Shale gas wells and reserves.



# Quicksilver Resources 10-Q

## **Quicksilver Resources Inc. Acknowledges Receipt of Fact- Finding Subpoenas**

On July 26, 2011, we received a subpoena duces tecum from the SEC requesting certain documents. The SEC has informed us that their investigation arises out of recent press reports questioning the projected decline curves and economics of shale gas wells. We understand from the SEC that a number of other shale gas producers received similar subpoenas.



The screenshot shows the SEC Form 10-Q for Quicksilver Resources Inc. for the quarter ended June 30, 2011. The form is titled "UNITED STATES SECURITIES AND EXCHANGE COMMISSION Washington, D.C. 20549 FORM 10-Q". It includes the company name "Quicksilver Resources Inc." and the CIK number "14837". The form also includes the company's address, "10000 E. 1st Avenue, Suite 100, Denver, Colorado 80231", and the company's telephone number, "(303) 443-8888". The form is dated "Covering as of July 26, 2011".

# EXCO Resources 10-Q

## ❖ EXCO Acknowledges Receipt of Fact-Finding Subpoenas

On August 1, 2011, EXCO received a subpoena duces tecum from the staff of the SEC requesting certain information from January 1, 2008 through the present pertaining to our proved developed producing shale gas wells and reserve estimates.

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

FORM 10-Q

FOR THE QUARTER ENDED

OR

FOR THE QUARTER ENDED

EXCO RESOURCES, INC.

Exact name of registrant as specified in its charter

14-282778  
(Data Extension Identification No.)

10000  
10000

(2011) 100-0000

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer," "non-accelerated filer," and "smaller reporting company" in Rule 12b-2 of the Exchange Act. YES ☐ NO ☒

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). YES ☐ NO ☒

The number of shares of common stock, par value \$0.001 per share, outstanding as of July 27, 2011 was 214,001,219.



# Use of Subpoenas By the S.E.C.

- ❖ S.E.C. staff can only issue subpoenas if a formal order of investigation is issued by the Commission
- ❖ Don't know whether staff first attempted to get documents informally
- ❖ May be "optical" reasons for S.E.C. to issue subpoenas
- ❖ Subpoenas do not mean the Commission intends to take action against any particular company
- ❖ Subpoenas do not indicate the S.E.C. is conducting an enforcement investigation
- ❖ Fort Worth Regional Office of the S.E.C. is believed to be conducting the investigation

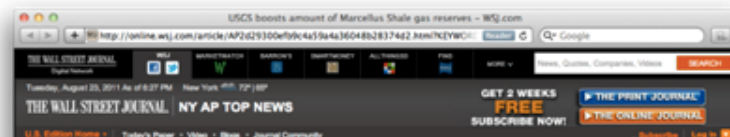


# What We Think We Know...

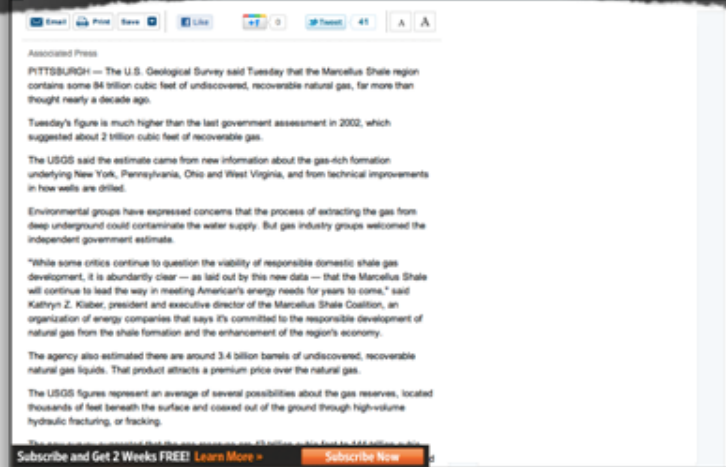
- ❖ Fact Finding Subpoenas
- ❖ Arose out of Recent Media Reports
- ❖ Seeking documents and information relating to:
  - ❖ Proved developed producing shale gas wells, reserve estimates, and well economics
  - ❖ Propriety of projected decline curves for the wells
  - ❖ Calculation and public disclosure of full-cycle economic margins
- ❖ Bottom Line: S.E.C. is looking for potential discrepancies between what shale gas companies are telling investors about the costs, profits, and well performances of shale gas wells vs. “reality”

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# The New York Times



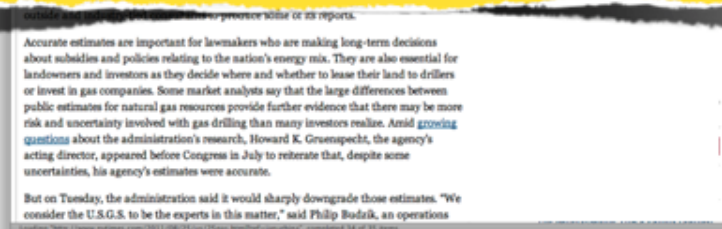
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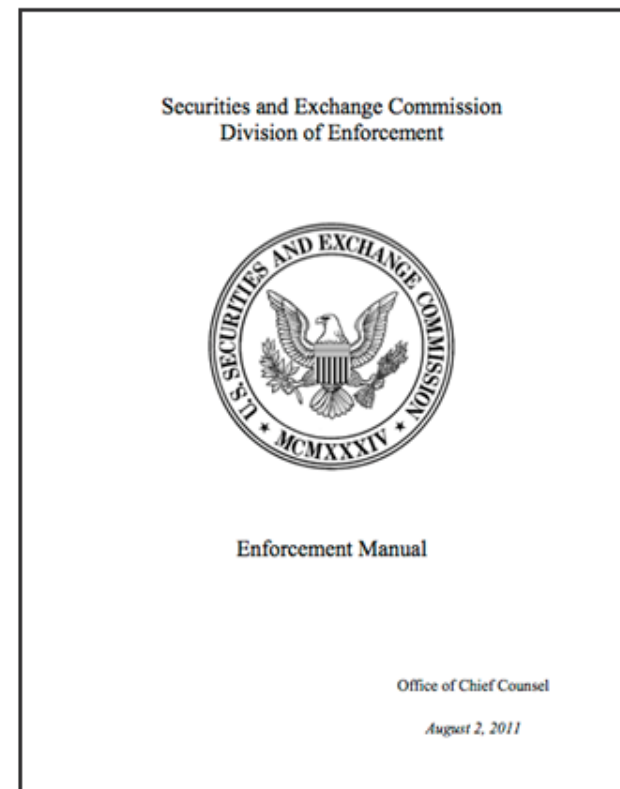


August 24, 2011



# Closing an S.E.C. Investigation

- ❖ More difficult to close a formal investigation without an enforcement action than to close an informal investigation
- ❖ Factors in deciding whether to close an investigation:
  - ❖ seriousness of the conduct and potential violations
  - ❖ staff resources available to pursue the investigation
  - ❖ sufficiency and strength of the evidence
  - ❖ extent of potential investor harm if an action is not commenced
  - ❖ age of the conduct underlying the potential violations
- ❖ S.E.C. Enforcement Manual says that the staff is “encouraged to close an investigation as soon as it becomes apparent that no enforcement action will be recommended.”





# Subpoenas Issued by NY Attorney General

- Eric T. Schneiderman
- Believed to be fact finding subpoenas requesting information relating to:
  - Estimated commercial life of shale gas wells
  - Reserve estimates for shale gas wells
  - Long-term productivity of shale gas wells





# Subpoenas Issued by NY Attorney General

## ❖ Companies Believed to Have Received Subpoenas:

- ❖ Range Resources Corporation
- ❖ Goodrich Petroleum Corporation
- ❖ Cabot Oil & Gas Corporation

## ❖ Company Believed to Have Received a Request for Information:

- ❖ Chesapeake Energy Corporation



**RANGE** RESOURCES



Cabot Oil & Gas Corporation





# What Will Happen Next?





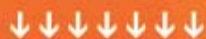
# What Will Happen Next?

More subpoenas?

Requests for testimony?

Close investigation?





# Thank You

**Jeffrey Elkin**

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