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ONE HUNDRED THIRTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
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March 8, 2013

Ms. Sarah Pillsbury
Administrator
Drinking Water and Groundwater Bureau
New Hampshire Department of Environmental Services
P.O. Box 95
6 Hazen Drive
Concord, NH 03301

Dear Ms. Pillsbury,

Thank you for appearing before the Subcommittee on Environment and the Economy on February 15, 2013, to testify at the hearing entitled "The Role of the States in Protecting the Environment Under Current Law."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for 10 business days to permit Members to submit additional questions for the record, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and then (3) your answer to that question in plain text.

To facilitate the printing of the hearing record, please e-mail your responses, in Word or PDF format, to Nick.Abraham@mail.house.gov by the close of business on Friday, March 22, 2013.

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,



John Shimkus
Chairman

Subcommittee on Environment and the Economy

cc: The Honorable Paul Tonko, Ranking Member,
Subcommittee on Environment and the Economy

Attachment

The Honorable John Shimkus

1. You devote part of your testimony to talking about the importance of State drinking water program officials living and working in the communities served by the programs they administer and how it's personal for them. Could you elaborate for me, perhaps using an example of your own, as to why you consider this a plus?
2. How much of the work that your Member agencies do is strictly as part of Federal legal requirements under the Safe Drinking Water Act? How would you contrast that with the work your own state asks you to do outside of the Federal obligations? What types of activities are your Members engaged in outside of these Federal efforts?
3. Your testimony talks about other partnerships for training and technical assistance. Could you please discuss these, what are you trying to obtain from them, and how do they help your members with their mission?
4. You testify that state drinking water programs are challenged by contaminated source waters and "emerging contaminants." Could you please elaborate on this point and what the States themselves are doing to tackle this problem?
5. Your testimony briefly mentions hydraulic fracturing. What type of coordination exists between ASDWA and GWPC members to promote better understanding produced waters?

The Honorable Henry A. Waxman

Drilling mud and other wastes from the exploration and production of oil and gas have been exempt from the requirements of the Resource Conservation and Recovery Act since July 1988, but now include recovered hydraulic fracturing fluid with potentially dangerous constituents. Democratic members of the Energy and Commerce Committee released a report in April, 2011 finding that the top hydraulic fracturing companies had injected fluid containing 29 chemicals that are known or possible human carcinogens, as well as other contaminants regulated under the Clean Air Act and the Safe Drinking Water Act.

Despite this, according to the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration, shippers and transporters of these materials do not have to comply with any Federal hazardous materials safety regulations. And, as mentioned above,, such mud and other wastes are also exempt from requirements under the Resource Conservation and Recovery Act. This means that these hazardous materials are not required to be labeled as hazardous, contained and transported in accordance with Federal hazardous materials regulations, or included in shipping manifests to track the material, prevent diversion, and ensure proper handling by emergency response personnel in accidents and incidents.

The risks of this approach are illustrated by a recent event in Youngstown, Ohio, where authorities were alerted to illegal dumping of drilling fluid into the Mahoning River on January 31, 2013, by an anonymous tip. According to Federal investigators, the dumping went on for several months before the tip was received. Even after the dumping was discovered, state officials failed to inform the public and drinking water facilities drawing water downstream of the dumping site. Public health and environmental impacts are still being assessed.

Coal ash is also currently exempt from federal requirements under the Resource Conservation and Recovery Act and Federal hazardous materials safety regulations, despite the presence of hazardous

constituents including arsenic, lead, mercury, and hexavalent chromium in the ash. On December 22, 2008, a coal ash impoundment in Kingston, Tennessee, burst, releasing 5.4 million cubic yards of toxic sludge, blanketing the Emory River and the surrounding land, and creating a superfund site that could cost up to \$1.2 billion to clean up. On August 23, 2005 an ash impoundment at the Martins Creek power plant in Allentown, Pennsylvania was breached, releasing over 100 million gallons of contaminated water and ash into Oughhoughton Creek and the Delaware River. The spill impacted public water supplies in Pennsylvania and New Jersey, elevating arsenic levels to 3,000 times the drinking water standard. The cleanup lasted several months and cost an estimated \$37 million.

1. What concerns do you have about regulatory exemptions for drilling mud and associated wastes and incidents like the one that occurred in Youngstown?
 2. What concerns do you have about regulatory exemptions for coal ash and incidents like the one that occurred in Allentown?
 3. Do state drinking water agencies, and in particular the Drinking and Groundwater Bureau of the New Hampshire Department of Environmental Services, have the capability to evaluate the constituents of drilling mud and other associated wastes, assess risks to public health and the environment from those materials, and track disposition of those materials within the state?
 4. Do state drinking water agencies, and in particular the Drinking and Groundwater Bureau of the New Hampshire Department of Environmental Services, have the capability to evaluate the constituents of coal ash, assess risks to public health and the environment from coal ash, and track disposition of ash within the state?
 5. Does your Bureau, or the Department, have the capability to track when these wastes enter or leave the state?
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6. What, if any, requirements does your Bureau, or the Department, apply to drilling mud and other associated wastes when generated, stored, or transported within the state?
 7. What, if any, requirements does your Bureau, or the Department, apply to coal ash when generated, stored, or transported within the State?
 8. If contamination from drilling mud, associated wastes, or coal ash is discovered in a source of public drinking water in your state, what information and resources will be available to your Bureau to track the source of that contamination?

The Honorable Janice D. Schakowski

The right-to-know about chemicals used in fracking fluids is not contingent on the geologic formations in which they are used. Several states, with varying geology, have adopted very similar laws requiring disclosure of chemicals used in fracking fluids.

Colorado recently enacted a new rule requiring groundwater testing both before and after drilling and well completion operations. Currently, Colorado is the only state that requires this.

As with disclosure of fracking chemicals, this rule could and should apply in any state, regardless of geology. Residents of every state should be protected by early detection of potential groundwater contamination from oil and gas drilling operations.

1. Ms. Pillsbury, would requiring pre- and post-drilling testing of groundwater help you identify and address potential sources of drinking water contamination in New Hampshire?
2. The Association of State Drinking Water Administrators represents drinking water agencies nationwide. Could pre- and post-drilling testing help administrators in all states where fracking occurs identify and address potential sources of drinking water contamination?