



March 21, 2013

The Honorable John Shimkus,  
Chairman  
Subcommittee on Environment and the Economy  
One Hundred Thirteenth Congress  
Congress of the United States  
House of Representatives

Dear Chairman Shimkus,

Thank you for the opportunity to respond to additional questions for the record from members of the Subcommittee on Environment and the Economy. I would also like to express my appreciation of your warm greeting of the panel of speakers on February 15. It was an honor for me to appear before your committee and deliver testimony on behalf of the National League of Cities.

Sincerely,

Michael A Sesma  
Council Vice President  
City of Gaithersburg, Maryland

Attachment: Questions for the Record

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**The Honorable John Shimkus**

- 1. Your testimony states that "cities and towns do not always agree with the substance of rules put forth by EPA, particularly the increasing number of unfunded federal mandates imposed on local governments." I would imagine that members of the League of Cities face a finite amount of resources to address any particular production (i.e. education, health, environmental protection). Could you please site specific trade-offs you have had to make meet these mandates?**

In the state of Maryland, EPA rules are administered through several state agencies. These rules have been designed to address not only local water quality, but also the recovery and health of the Chesapeake Bay, which is intimately linked to the economic health of the state and its communities. The benefits of these regulations are clearly understood by the public. Nonetheless, the costs of compliance are to both capital and operating budgets, which are already stressed in the current economy. These unfunded federal mandates translate into unfunded state mandates, which municipalities such as Gaithersburg must address. My testimony describes the significant fiscal impact of the 20% retrofit mandate. Indirectly, the costs of the mandates are often related to an element of "catching up" due to a lack of past regulation for local and regional water quality issues and failure to meet voluntary guidelines. A result has been additional and significant fiscal impact to planned and anticipated growth and development in the city.

Increasing regulation on water quality issues locally and regionally brings with it additional operating costs. As the city continues to grow we must also increase our staff and resources to address growing community needs, including costs for training, vehicles, equipment, information technology and education, all of which have budgetary impacts.

For cities such as Gaithersburg, whose primary source of revenue is its tax base, the incurred costs as a result of increased regulatory requirements have the potential to slow needed and desired new and redevelopment. The rate of our growth is influenced by the cost of providing a minimal level of service to support that growth, maintain the quality of life, and remain in compliance with environmental regulations. Public needs and demands do not shrink as populations grow and cities must have the fiscal health to address these needs without hampering opportunities for growth. A choice cities will face in accommodating growth is whether to raise fees and/or taxes for building and operating the facilities to ensure regulatory compliance, or defer or fail to invest in the infrastructure necessary to support growth.

Subcommittee on Environment and the Economy  
Questions for the Record, Michael A Sesma

The following is a list of mandated programs requiring increased operating and capital resources in the City of Gaithersburg:

- NPDES Permit
  - Twenty percent retrofit requirement: Requires retrofit of untreated impervious surface; requirement is impossible to meet on public lands, so will require innovative approach to meet requirement as many private owners will not be able to afford requirements
  - Stormwater BMP inspection and maintenance program: Additional operating costs
  - Illicit discharge detection and elimination program: Additional operating and capital costs
- Chesapeake Bay total maximum daily load (TMDL) (part of watershed implementation plans-WIP)
  - Increased reporting requirements
  - Unknown mitigation costs
  - Uncertainty of timeline and actual requirements for small municipalities makes planning and budgeting difficult
- Growth Offset (Nutrient Trading) Policy
  - Uncertainty of policy status, content, and timeline results in planning and budgeting difficulties
  - Unknown impacts to public and private development
- Water quality protection charge to provide continuous funding for stormwater programs
  - may require the establishment of an enterprise fund and credit/appeals process and additional operating costs
  - Implementation and applicability issues bring additional costs that could disproportionately impact small businesses and affordable housing

**The Honorable Janice D. Schakowsky**

**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, and local governments should have the information they need to protect their drinking water sources and systems.**

**1. Would pre- and post-drilling testing of groundwater provide useful information and early warning of contamination for cities like Gaithersburg?**

Yes, pre- and post-drilling testing of groundwater would provide useful information and early warnings of contamination to drinking water supplies from any drilling actions in Maryland. Gaithersburg is served by drinking water supplies from the Washington Suburban Sanitary Commission (WSSC), which obtains its water supplies from the Potomac and Patuxent Rivers. The Potomac has its headwaters in West Virginia within the Marcellus Shale formation. Requiring pre- and post-drilling testing of groundwater in any community upstream from ours would help protect our drinking water supplies.

**2. Would pre- and post-drilling testing of groundwater provide useful information and early warning of contamination for other local governments represented by the National League of Cities?**

Yes, pre- and post-drilling testing of groundwater would provide useful information and early warnings of contamination of drinking water supplies to any community where oil and natural gas drilling is present, as well as to communities downstream from such drilling.

It is likely that contamination that may result from drilling and gas well mining will have a greater impact on downstream communities, where the costs of clean up are likely to be much higher. Moreover, downstream communities may not benefit directly from revenue associated with the gas recovery operations that would be required to address any contamination.