EPA Should Review Impact of Hydraulic Fracturing on Drinking Water

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If Congressman Maurice Hinchey (NY 22nd District) gets his way, natural gas and oil exploration and drilling companies may soon be required to meet the same regulations under the Safe Drinking Water Act (SDWA) as other industries. On Tuesday, May 19 Hinchey attended a hearing before the House Appropriations Subcommittee on the Interior. He used that opportunity to ask US Environmental Protection Agency (EPA) Administrator Lisa Jackson to conduct a review of her agency's policy on the risk that hydraulic fracturing (fracking) poses to drinking water supplies.

Jackson told Hinchey and others at the hearing that she felt the EPA should look into the issue and review the agency's policy. This is an about-face for an agency that in 2004 insisted that hydraulic fracking "poses little or not threat" to drinking water supplies.

The 2004 EPA study is often cited by the gas industry whenever people bring up concerns over drinking water contamination. It also served as the basis for a provision in the Energy Policy Act of 2005 that exempted hydraulic fracturing from regulation under the SDWA. This meant that the oil and gas industry could inject hazardous materials directly into or adjacent to underground drinking water supplies without undergoing further regulatory review.

Operators wishing to dispose of hazardous waste beneath the ground must fill out reviews, evaluate abandoned wells within a 2-mile radius of their proposed disposal site, and assure the EPA that their toxic waste would not and could not migrate into aquifers. But not the oil and gas industry.

And that is what Hinchey wants to change. "It is imperative that we protect our drinking water supplies from harmful chemicals that are being pumped into the ground by oil and gas companies looking to produce on more and more land in New York and across the country," Hinchey told the press last Tuesday. He was pleased that Jackson recognized the need for the EPA to reexamine the risks associated with hydraulic fracking.

"While there is value in drilling for natural gas, it's imperative that we do so in a manner that doesn't have long-term environmental consequences on our drinking water," Hinchey added. He emphasized that clean drinking water is critical for both human health and survival.

Criticism of the 2004 EPA study started before the ink was dry. EPA's own scientists said the study was "scientifically unsound" and claimed that data and reports showing problems with hydraulic fracturing were left out of the final document. The report also failed to address the fate of frack fluids left underground and toxicity of the fracking fluids and excluded data on vertical fractures or casing problems.

A study conducted by the General Accounting Office fifteen years earlier found numerous cases of contamination of water wells from nearby injection wells that were used for disposal of produced water from oil and gas drilling. In several cases the produced water leaked into drinking water aquifers through cracks in the casings. The 2004 EPA study neglected to consider whether fracking activities might cause cracking in casing or casing cement, or whether age contributes to the degradation and breakdown of the casing.

Concern about a congressional push to regulate hydraulic fracking led representatives of the oil and gas companies to renew their lobbying efforts in Washington earlier this month. On May 6, a coalition of industry representatives launched a campaign to inform Congress that new rules would "kill jobs" and make an already bad economy even worse. The gas industry coalition claimed that hydraulic fracturing has a "safe" track record and is sufficiently regulated by individual states.

Not so, Hinchey countered. Last week he reported that there have been more than 1,000 cases of water contamination related to gas drilling. These cases, documented by courts and state and local governments in New Mexico, Ohio, Alabama, Texas, Pennsylvania and Colorado, cast significant doubt on the 2004 findings, Hinchey said and he emphasized the need for EPA to conduct a review

EPA Administrator Jackson responded that her agency would look into the issue. But she did not give any details about how, or when, the EPA would address the issue.

SIDEBAR: (175 words)
A Short History of the Safe Drinking Water Act

1974 - Safe Drinking Water Act (SDWA) passed by Congress, authorizing EPA to regulate underground injection through UIC program.

1984 – SDWA strengthened with additional legislation that requires demonstration of a confining layer between the injection zone and any underground source of drinking water as well as requiring review of an area with a radius of at least two miles.

1997 – US Court of Appeals (11th Circuit) ruled that hydraulic fracturing (fracking) should be regulated under the UIC program.

2000 – EPA initiated study to determine whether fracking fluids presented a threat to underground water supplies.

2001 – Vice President Dick Cheney's special task force on energy policy recommends that Congress exempt fracking from the SDWA.

2004 – EPA published its study; concluded fracking poses "little or no threat"

2004 – EPA scientists criticize study, calling it “scientifically unsound”.

2005 – The Energy Policy Act amended SDWA to exclude fracking from the definition of “underground injection”.

2008 – HR 7231 introduced into the House of Representatives to restore the original language and intent of SDWA.