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Testimony to SAB panel Feb 1, 2016
on EPA's draft Assessment of the Potential Impacts of
Hydraulic Fracturing for Oil and Gas on Drinking Water
Resources

The American Petroleum Institute has asked for 'science' to support the SAB panel's draft recommendations to among other things, remove the 'no widespread, systemic impacts' headline. That science is supplied by gas/oil industry's own publications through organizations such as the Society of Petroleum Engineers and research by companies in the industry; see link to previous submissions by DCS. It is exactly that science that led to recognition by the industry of the environmental and public health damage they would cause and therefore the liabilities under environmental laws they would face. The industry's response was not to change its oil and gas production methods but rather to obtain exemptions from the requirements of each of the major protective environmental laws and even worker protective laws. These exemptions apply to the Safe Drinking Water Act, Clean Air Act, Clean Water Act, Community Right to Know Act, Resource Conservation and Recovery Act (RCRA), Superfund law and important parts of the National Environmental Policy Act. Also the wastes from gas and oil were declared 'special' via the Bentsen Amendment to the RCRA law (in 1980) so that material toxic by any other definition, is not tracked, manifested, analyzed or mandated to be disposed of properly. The companies do not have liability for much pollution as a result of these exemptions so mostly the pollution is hidden. These exemptions are a huge subsidy as a result, paid for by the health of communities near drilling and infrastructure and by the global population as a result of facilitated climate change.

A review of events relating to these exemptions demonstrates the importance of the recommendation by this panel that EPA remove the statement about 'no widespread systemic impacts' from its current draft report. In 2000, as a result of a lawsuit filed by the environmental group LEAF, the federal court of appeals ordered EPA to review and revise its approval of Alabama's underground injection control program under the Safe Drinking Water Act as applied to oil and gas production using hydraulic fracturing (aka, "fracking").

While EPA responded to the court's remand related to oil and gas fracking, it started a nationwide study in 2000 looking at the impacts on drinking water sources of fracking to produce methane from coal beds. This report, withdrawn in 2002 and then restarted to be finally published in 2004, concluding in the executive summary that "the injection of hydraulic fracturing fluids into coal bed methane wells poses little or no threat to underground sources of drinking water." This caused a long term EPA scientist, Weston Wilson, to invoke whistle blower protection to challenge this conclusion as inconsistent with the studies and analysis presented in the body of the report and to have been politically vetted by the White House. Wilson accused the EPA of cherry picking data as well as the interference in the wording of the summaries and conclusions.

Also remember that this 2004 report which looked at impacts to drinking water sources of fracking to produce methane from coal beds not deep drilling or deep drilling into

shale with horizontal drilling and high volume hydraulic fracturing was, however, used to persuade congress to pass the 2005 Energy Policy Act (link to searchable pdf. <http://www.gpo.gov/fdsys/pkg/PLAW-109publ58/pdf/PLAW-109publ58.pdf>) that exempted all gas and oil 'exploration and production' regardless of methodology from that list of protective legislations above.

In the 2004 report, EPA was complicit in the distortion of science to conclude that hydraulic fracking is safe for drinking water sources. In the current draft report, EPA is attempting once again to ignore the science and their own data. This SAB panel has the chance to speak clearly about the science and be true to their ethical and moral obligations to act on truth and not political lobbying wishes. The removal of Dimock PA, Pavillion WY and Parker County TX from the report is also a parallel to the 2004 report that should not be repeated.

Please see the back up material for these statements. Thank you.

LINK to EPA Hydraulic Fracturing Study References from DCS in a dropbox folder <https://www.dropbox.com/sh/vfk5vbgovezgn9k/I1EUZ4QZnY> and submitted previously to the SAB panel and comments and documents below are in this folder <https://www.dropbox.com/sh/9h8eno7k6f6pexx/AADzq0k8j155uCO0JjecC2swa?dl=0>

ATTACHED to this email to Mr. Ed Hanlon and at link <https://www.dropbox.com/sh/9h8eno7k6f6pexx/AADzq0k8j155uCO0JjecC2swa?dl=0>

1- one page intro to DCS 2014 SAB submissions

2 - Summary of LEAF case in this <http://www.fas.org/sgp/crs/misc/R41760.pdf>
Congressional Research Service
Hydraulic Fracturing and Safe Drinking Water Act Regulatory Issues

3, 4 - Hannah Wiseman's summary/history of the gas/oil exemptions and another of her pieces on this subject

5 - Earthworks 2 page exemptions summary
https://www.earthworksaction.org/files/publications/FS_LoopHolesForPollutersNEW.pdf

6 - Weston Wilson's 2004 complaint

7 - Soraghan's worker exemption piece in eenews **Drilling's safety exemptions and how they got there** Mike Soraghan, E&E reporter *EnergyWire: Tuesday, November 4, 2014* Link is <http://www.eenews.net/stories/1060008302>

8, 9 - these comments - two versions - oral and written