

February 28, 2011

EPA Administrator  
Ms. Lisa Jackson

Attn: Mr. Edward Hanlon,

Re: Draft Plan to Study the Potential Impacts of Hydraulic Fracturing on Drinking Water Resources

I am responsible for the *Fracking Resource Guide* on the Internet, <http://frack.mixplex.com>. I have read widely on this topic and it is of personal interest to me. I am not a scientist. I observe the events along the historical timeline that includes civil rights, anti-war protest, and the environmental movement. I believe they are inextricably linked. I am the son of a Holocaust survivor and a proud American, yet I know the health and democratic dangers faced by a nation whose over arching motivation involves economic benefits especially in times of economic distress.

I ask, what is the value of a human life? Climate change is going to kill millions of children, does it matter that they're not yours?

The value of a life in the United States is a factor in the quality of regulation and enforcement of the *Clean Air Act*, the *Clean Water Act*, and climate change policy initiatives that may not survive the Climate Zombies of the U.S. Congress.

As Washington and our insurance companies estimate an individual life's value at around 4 to 6 million dollars, the warrant for increased regulation of toxic industry seems more justified. Yet, the oil and gas industry and their government advocates still question the legal authority of the EPA and U.S. congress to enact and enforce environmental regulations as they relate to both climate change and the enormous consumption of water associated with hydraulic fracturing.

The EPA has failed to act on the evidence of public danger caused by toxic materials released into the water as a result of hydraulic fracturing. This failure first occurred in the 1990's in Alabama, in a case brought by LEAF. Alabama was the only state to come under the regulations of the UIC program. Among the stakeholder case studies mentioned in the Appendices of the Draft Study, Alabama is notably absent. This concerns me.

The legacy that this study follows is onerous:

The 11th Circuit Court originally scheduled oral arguments for the LEAF II case for the week of February 26, 2001. This schedule was changed and the oral arguments were conducted on March 12, 2001 in Atlanta.

The **National Energy Policy Development Group** was a group, created by

Executive Order on January 29, 2001, that was chaired by Vice President Richard Cheney.

Cheney secretly huddled with industry executives before meeting environmental groups.

**"What Mr. Cheney is defending, in other words, is a doctrine that makes the United States a sort of elected dictatorship: a system in which the president, once in office, can do whatever he likes, and isn't obliged to consult or inform either Congress or the public."**

Paul Krugman. "A Vision of Power". *NYT*. April 27, 2004. Accessed 2/28/11.

<http://www.nytimes.com/2004/04/27/opinion/27KRUG.html>

On August 8, 2005, President George Bush signed the Energy Policy Act into law. This legislation contained what has come to be known as the "plain language" fix. This fixed for the gas extraction industry what the U.S. 11<sup>th</sup> District Court had decided on Aug. 7, 1997.

***"(1) Underground injection.-The term 'underground injection'- "(A) means the subsurface emplacement of fluids by well injection; and "(B) excludes- "(i) the underground injection of natural gas for purposes of storage; and "(ii) the underground injection of fluids or propping agents (other than diesel fuels) pursuant to hydraulic fracturing operations related to oil, gas, or geothermal production activities."***

Americans were fortunate to have whistle blowers bring important national health issues to the press. This study you undertake, as other EPA studies in the past, have fallen short of protecting public health. In fact, Congress has recently found that the gas industry has failed to uphold its agreement not to use diesel in wells. Yet, little enforcement of EPA regulations has made Americans more vulnerable to the toxic practice of gas drilling.

The States have not shown that they can adequately regulate gas drilling, especially in more populated areas. Federal Regulations are clearly needed.

Time and time again, as noted by a Pew Research Group report, a wide variety of industries, in seat belts, lead paint, cigarettes and many others, have fought federal regulation only to have history prove that it never hurt their bottom line.

Our agencies need to work more closely together. NETL, the USGS, the FDA, CDC need to inform each other. The EPA alone is an easy target for an over-reaching executive branch as we have seen before.

Laws and regulation alone, targeting industry, won't solve the problem. Too many tax breaks and stimulus funds for polluters are hurting us. THINK LITTLE!

Dear EPA - Think Little

For most of the history of this country our motto, implied or spoken, has been Think Big... Thinking Big has led us to the two biggest and cheapest political dodges of our time: plan-making and law-making. The lotus-eaters of this era are in Washington, D.C., Thinking Big...

But the discipline of thought is not generalization, it is detail, and it is personal behavior. While the government is "studying" and funding and organizing its Big Thought, nothing is being done.

In "Think Little", (p. 81, 1970), Berry says that, "the movement to preserve the environment will be seen to be, as I think it has to be, not a digression from the civil rights and peace movements, but the logical culmination of those movements..."

We didn't cause strip-mining or sell our natural heritage to the highest bidder, but by not knowing how it's done we are guilty for we connive in them by our ignorance.

Berry W, Wirzba N. *Art of the common-place: the agrarian essays of Wendell Berry*. Counterpoint Press; 2002.

In the 1930's, Roosevelt started the CCC. There won't be funding in this climate for the environmental monitoring required for supporting the enforcement of regulations. In Tompkins County New York, there is a Community Science Institute training volunteers to monitor the Cayuta-Catatonk watershed. The EPA has a watershed program and that is a good start. Where do we go from here?

Let "little" Americans help you. Follow-up on this Study with a more aggressive and inclusive approach to train monitoring volunteers and help them gather credible evidence, strong enough to bring to court to put environmental felons behind bars.

I hope this study helps you put LEAF and the *2005 Energy Policy Act* behind you.

Sincerely,

Neil Zusman  
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