

The Haliburton Loophole

In July 2005, congress signed the Energy Policy Act which exempted hydraulic fracking from underground injection well (UIC) provisions of the Safe Drinking Water Act (SDWA). In August President George W Bush signed the bill. The 551-page document basically provided support and leniency to fossil fuels; encouraging increased use of coal, oil and gas and limiting or exempting relevant rules that would protect the public and the environment such as the safe drinking water act. The 1938 Energy Policy Act was repealed.

RCRA (Resource Conservation and Recovery Act) which regulates the management of solid waste both hazardous and non-hazardous, exempts oil and gas wastes from UIC. Therefore the wastes from hydraulic fracking which we already know contain hazardous and toxic constituents are exempt due to their designation as UIC.

S.785 In 2015 Senator Robert Casey wrote the bill S.785. Its intent is to amend the Safe Drinking Water Act and certain exemptions for hydraulic fracturing.

I could not find any information on the position of S.785.

The Energy Policy Act did provide for the opportunity for states to provide regulation pertaining to fracturing.

This was the intent of the Task Force created by Gov. Wolf and chaired by the then Secretary of DEP, John Quigley. The task force was made up of representatives from the oil and gas industry, legislators, local government officers and representatives from the public at large. The goal of the task force was to create regulations that would permit fracking operations that would operate under regulations that would promote the safety of both the environment and the health of people living in proximity of the facility.

These regulations would provide for the safe disposal of wastes from fracking. As of today, we know that fracking wastes are not treatable and therefore not safe to dispose of in the Delaware river Basin or anywhere else.

We know the wastes contain:

1. Radio active materials
2. Hazardous constituents (arsenic, lead, mercury, cadmium, etc)

3. Carcinogens: formaldehyde, anti-freeze (haz or Car?),
4. Surfactants

Sec. Quigley actively encouraged the environmental organizations to step up to the plate. Did he use inappropriate language or was it language that some others did not want to hear. As a result, Mr. Quigley was fired from his position as Sec. of DEP. This left the residents of the Commonwealth and the Environment “up the creek without a paddle” and this was a creek where fish kills occurred and cattle and sheep who drank from it died.

Therefore, the decision of the Delaware River Basin Commission is so important: i.e., Banning Fracking, banning withdrawal of water from the Delaware River and banning of disposal of fracking wastes into the Delaware and support of renewable energy. This would bring new jobs and new opportunities into the Commonwealth; jobs that would not rely on the ups and downs of fossil fuels.

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