United States Senate

WASHINGTON, DC 20510

January 17, 2013

The Honorable Lisa Jackson
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

Dear Administrator Jackson:

We write with continued concern regarding the draft report, "Investigation of Ground Water Contamination near Pavillion, Wyoming" and the repeated missteps and setbacks throughout EPA's process. The latest sign of trouble for the highly criticized draft report, originally released in December of 2011, came on Friday, January 11, 2013, when the Agency extended the comment period for the third time, this time by a staggering eight months.

Immediately upon its initial release, serious substantive concerns were raised, not only in regard to the quality of the science and methodology used by EPA, but also as to the findings and conclusions drawn from that flawed data and process. The draft report's content and conclusions, which are premature at best, suffer from criticism levied not only from other federal agencies within the Administration but that are echoed by issues brought forward by State of Wyoming officials and various stakeholders.

The additional eight month delay, further illustrates that the EPA's initial findings failed to be based on sound credible science, and hastily rushed out the door for political purposes. The citizens of Pavillion and the State of Wyoming, as well as industry stakeholders, maintain a compelling interest in ensuring EPA conducts the investigation in a scientific and transparent manner, which up to this point the Agency avoided.

Friday's announcement allows the Agency's unsubstantiated claims to remain unchecked in order to justify an Administration-wide effort to hinder and unnecessarily regulate hydraulic fracturing on the federal level. In this case, the unexpected and unusually long extension in this seemingly never-ending process appears to be based solely on the Agency's desire to ignore transparency requirements while allowing the report's flawed assertions to remain in the public domain.

The Agency has failed to address significant concerns raised with the process and conclusions of the draft report, including:

- Why EPA ignored multiple data sources in its draft report that document long-standing, naturally occurring problems such as high sodium, high sulfate, and naturally produced methane gas with groundwater in the Pavillion area;
- Numerous documented instances of poor quality sampling and laboratory methods in which even blank samples were routinely contaminated;

- The use of a very limited and incomplete data sets to draw technically inadequate conclusions;
- Reliance on data from two EPA monitoring wells – neither of which tested the water quality in the aquifers used by residents – that were completed in natural gas reservoirs;
- Failure to ensure integrity in EPA's monitoring wells where many organic and synthetic organic chemicals that were detected were likely introduced during the drilling, completion, testing, and sampling phases;
- Failure of EPA to follow United States Geological Survey recommendations for monitoring well drilling and sampling;
- Failure of the Agency to adequately recognize the local geology and hydrogeology of the Wind River Formation;
- Failure of EPA to rule out or study possible other sources of groundwater contamination; and
- Focusing the report entirely on hydraulic fracturing while failing to address the needs of the landowner's water supply issues.

Given the controversy surrounding the report, including the concerns raised above, and the continued availability of the draft report, we request prompt responses on the following questions:

1. In light of the flawed process and lack of proper scientific analysis in EPA's initial draft report, along with the Agency's continued mismanagement of the investigation, how can a credible final product possibly be salvaged?

2. While EPA has been investigating water quality issues and their possible relationship to hydraulic fracturing in Pavillion, WY, the Agency began crafting a larger study on the potential impacts of hydraulic fracturing on drinking water resources. This larger study applies similar methodologies to those of the Agency in Pavillion as well as the suspect processes used in other erroneous investigations in Dimock, PA, and Parker County, TX. Based on this record, how can Congress and the public have any confidence in the results of this ongoing study? Given the serious flaws in EPA's scientific processes with regards to investigating hydraulic fracturing, how can the Agency possibly plan on using this study as an authoritative document to potentially justify future regulations?

Thank you for your attention to this matter. We respectfully request your response by February 4, 2013.

Sincerely,

Senator David Vitter
Ranking Member
Senate Committee on Environment
and Public Works

Senator James M. Inhofe