March 5, 2014

The Honorable Barbara Boxer
Chair
Senate Environment & Public Works Committee
United States Senate
Washington, D.C. 20510

The Honorable David Vitter
Ranking Member
Senate Environment & Public Works Committee
United States Senate
Washington, D.C. 20510

The Honorable Joe Manchin
United States Senate
Washington, D.C. 20510

The Honorable Jay Rockefeller
United States Senate
Washington, D.C. 20510

Re: **Chemical Safety and Drinking Water Protection Act of 2014**

Dear Senators Boxer, Vitter, Manchin, and Rockefeller:

We write in connection with the recent chemical spill into the Elk River adjacent to Charleston, West Virginia, and the subject bill co-sponsored by Senators Manchin, Rockefeller, and Boxer. We applaud the overall goals of the bill, but request that further discussion of any federal legislative response -- including a thorough examination of the necessity of any new statutory revisions and consideration of the most appropriate approach to such changes -- is needed. As state regulators responsible for implementation of programs to protect public health, surface water, drinking water, and land, we stand ready to work with you.

The chemical spill of January 9, 2014 was an unprecedented accident and has taken tireless effort on the part of dozens of federal, state, and local officials in the clean-up and response. We appreciate the U.S. Senate Environment and Public Works Committee's hearing and the U.S. House of Representatives' Transportation and Infrastructure Committee field hearing, held on this incident and the important information gathered in these fora to inform next steps. We appreciate your specific leadership to seek a long-term solution to prevent such occurrences nationally. This accident has raised the collective awareness of protecting drinking water sources by understanding all proximate threats to it and having a response plan at the ready. We agree this incident reveals that we need to examine our current federal, state, and local statutory and regulatory network to determine what additional steps may be warranted.

The overall approach in of S. 1961 is to address the risks posed by above-ground chemical

storage facilities and promote timely notification of downstream drinking water utilities in order to mitigate the effects of any releases, to the maximum extent possible. The bill's focus on developing inventories of these facilities, regularly inspecting them, requiring prompt reporting, and compelling compliance strike us as the right areas to be examining in order to prevent a reoccurrence of this incident anywhere in the country.

We recommend a comprehensive inventory of existing federal, state, and local authorities and programs to determine what gaps exist in our collective statutory and regulatory network and how best to close such gaps. Until such an assessment is done, it is too early to determine which statute and/or program should be amended or enhanced, or whether the solution lies in enhancing the use of existing authorities.[1]

It is indeed appropriate and critical that state drinking water program personnel partner and collaborate with Federal, state, and local officials responsible for helping minimize the various threats to drinking water (e.g., industrial and municipal wastewaters, agricultural run-off, underground storage tanks, threats from hazardous – as well as dangerous, but not hazardous – chemical and waste storage facilities). In so doing, state drinking water programs should share source water protection assessment data with all concerned parties so that protective activities can best be targeted. Similarly, it is appropriate that oversight of above ground chemical storage tanks occurs to prevent contamination of drinking water, fishable and swimmable waters, productive land, and even air quality.

Finally, we note the bill contemplates a potentially daunting set of new requirements and suggest that, if you move forward any federal response, resources commensurate with the enormity of the task must be federally provided to the states.

We look forward to discussing our expertise and experience with you and to developing a workable and implementable response. Thank you for your consideration of this matter. We will follow up with your office to establish a mutually convenient time to continue this important dialogue.

Sincerely,

[1] Please note that ASDWA feels strongly that the contemplated chemical storage tank inventory, inspection, and enforcement authorities and requirements do not belong in the Safe Drinking Water Act (SDWA). ASDWA is concerned that the bill's requirements would divert the personnel in the 50 states and territories overseeing approximately ~150,000 public water systems across the country from their principal mission of training, technical assistance, inspection, and compliance/enforcement activities to help ensure safe water at the tap for all Americans.

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Environmental Council of the States

Ryan Benefield
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Association of State and Territorial Solid Waste Management Officials

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