From: Fanning, Cynthia
To: Durant, Jennah; Hubbard, Joseph; Mayer, Rebecca
Subject: article: EPA"s watchdog covered up the agency"s missteps
Date: Monday, January 06, 2014 9:25:00 AM

---

http://thehill.com/blogs/congress-blog/energy-environment/194314-epas-watchdog-covered-up-the-agencys-missteps#2

January 03, 2014, 01:00 pm, The Hill

EPA's watchdog covered up the agency's missteps

By Steve Everley

In December of 2010, the U.S. Environmental Protection Agency issued a rare endangerment order against Range Resources for allegedly contaminating private water wells. The EPA had sampled groundwater in Parker County, Tex., and claimed that the gas had a similar composition to what Range was producing in its nearby Barnett Shale wells. A month later, state regulators held a hearing at which evidence was presented showing that Range's operations were not responsible, and that the gas found in the water wells was naturally occurring. EPA, however, refused to relent.

After the order was issued, news came to light that made EPA's actions even less defensible. The regional administrator in charge, Al Armendariz, had been communicating with anti-drilling activists in the region in the run-up to the order, even thanking them for educating him on drilling issues. An EPA scientist had written to his colleagues that the basis for such an order was "not conclusive evidence," and that to issue the order the EPA would have to "make assumptions to fill in data gaps." Months before issuing the order, in a video not uncovered until 2012, Armendariz told a north Texas crowd that his method of regulating the industry was similar to how the Romans would "crucify" villagers in towns they had conquered. Armendariz later resigned to go work for the anti-drilling Sierra Club, and the EPA withdrew the order in the spring of 2012.

Yet on December 24, 2013, the EPA's Office of Inspector General released a report that concluded the EPA's actions "conformed to agency guidelines, regulations and policy." The IG also said the EPA's interactions with local activists "were appropriate" and within the guidelines established by the Safe Drinking Water Act.

How did the IG come to such a conclusion? Simple: by ignoring the evidence that would suggest any wrongdoing on the part of EPA.

The IG report concluded that the EPA administrator, Al Armendariz, "informed environmental and citizen groups of the order and the associated press release after the region issued the two documents." The report continues: "A review of the evidence showed that this communication occurred after the region issued its press release."

The only problem is that Armendariz informed those groups before the press release was issued, and even bragged about it.

In an email dated December 7, 2010, Armendariz told anti-fracking groups such as Earthworks and Downwinders at Risk: "We're about to make a lot of news." He added: "There'll be an official press release in a few minutes," and that the recipients should "Tivo channel 8."

How could EPA's Inspector General claim that the collusion with activists happened "after the region issued its press release" when the communication itself proves that the press release had not yet been issued? If the IG's office overlooked – or deliberately ignored – the fact that EPA violated its own policies, then what else did the IG miss?

The IG report also defends EPA's order on the basis that the agency does not even need evidence to shut down oil and gas development. If that sounds outrageous, it's because it is. "For the EPA to take and enforce a Section 1431 emergency order," the IG concluded, "it needs neither proof that contamination has already occurred nor proof that the recipient of the order is responsible for the contamination."

To sum up, the EPA was able to "crucify" an oil and gas operator in Texas without evidence, and the entity whose job is to keep EPA in check determined the agency did nothing wrong. In order to arrive at that determination, the watchdog not only had to rewrite history, but also affirmed that the EPA does not need proof to accuse oil and gas operators of wrongdoing.

If the EPA can do all of that without violating any rules or laws, then what exactly can the agency *not* do?

Everley is team lead for Energy In Depth, a research and education program of the Independent Petroleum Association of America.

****

Cynthia Fanning
Congressional Liaison
U.S. Environmental Protection Agency, Region 6
Phone: 214-665-2142
Office: 214-665-2200

****