

ONE HUNDRED TWELFTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-3641

November 30, 2012

The Honorable Kathleen Sebelius
Secretary
Department of Health and Human Services
The Hubert H. Humphrey Building
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Sebelius:

The United States is experiencing an energy renaissance thanks to recent shale gas discoveries and the development of new energy production technologies. This natural gas boom has dramatically enhanced our nation's energy portfolio, with the potential to transform our economy and create millions of jobs, all the while delivering affordable energy to American families. Despite the significant growth of natural gas development, we are greatly concerned that the scientific objectivity of the Department of Health and Human Services is being subverted and countless jobs could be in jeopardy.

In both the Executive Order creating the Interagency Working Group to Support Safe and Responsible Development of Unconventional Domestic Natural Gas Resources (Interagency Working Group), and in comments made by the lead White House official for this Interagency Working Group, this Administration has acknowledged the importance of domestic natural gas production.

Your Department could play a key role in deliberations of the Interagency Working Group, but we are quite concerned by recent actions taken by the Centers for Disease Control and Prevention (CDC) and statements made by CDC officials related to shale gas development. As questions within CDC's area of expertise arise before the Interagency Working Group, we expect that your Department will adopt an approach based on sound scientific principles, including scientific study and analyses unencumbered by preconceived notions, prejudice, or ideology; a robust peer review process; and conclusions informed by decades of State regulator expertise.

Understanding that CDC's Agency for Toxic Substances and Disease Registry (ATSDR) intends to undertake broad studies of potential health impacts associated with shale gas development activities, we are concerned that ATSDR's Director, Dr. Christopher Portier, has a public record on shale gas development that calls into question whether a study under his leadership can be objectively

and validly conducted. For example in September 2011, Director Portier remarked that shale gas development “has been a disaster in some communities” and “anecdotal evidence of environmental illness is sufficient to warrant a more serious and systematic approach to studying it.” In January 2012, Director Portier referred to fracture fluid as containing “potentially hazardous chemical classes” and that “site-by-site” work near drilling sites “is turning up data of concern.”

Moreover, we are also aware of at least three Health Consultations that have been or are being prepared by ATSDR related to oil and gas activities. These include:

- *Health Consultation - Evaluation of Contaminants in Private Residential Well Water*
August 31, 2010
http://www.atsdr.cdc.gov/hac/PHA/Pavillion/Pavillion_HC_Well_Water_08312010.pdf
- *Health Consultation - Chesapeake ATGAS 2H Well Site*
November 4, 2011
http://www.atsdr.cdc.gov/HAC/pha/ChesapeakeATGASWellSite/ChesapeakeATGASWellSite_HC110411Final.pdf
- *ATSDR Record of Activity/Technical Assist*
December 28, 2011, page 6, “Public Health Action Plan”
<http://www.epa.gov/aboutepa/states/dimock-atsdr.pdf>

We urge ATSDR to apply a rigorous, scientific approach in identifying public health concerns, if any, related to oil and gas development and to work consistently with the important guidelines set out in the ATSDR Public Health Assessment Manual (“ATSDR Manual”). However, it appears that ATSDR has already deviated from the ATSDR Manual. For example:

- Naturally-occurring substances in groundwater have been considered as “contaminants” by ATSDR in these evaluations. It would appear that ATSDR has not adequately evaluated the historical groundwater quality data from the area under consideration that is available from Federal agencies such as United States Geological Survey, or State agencies (*e.g.*, public water supply data). Failure to adequately put naturally-occurring substances into the proper context is inappropriate and is inconsistent with the ATSDR Manual Table 3-1 and Section 5.3.
- In several of these reviews, ATSDR has failed to consider data available from all of the sources. For example, in the Health Consultation for Chesapeake ATGAS 2H Well Site, ATSDR reviewed sampling data from a single sampling event. For this site, data was available for at least 20 more sampling events for the wells being studied. ATSDR similarly did not consider all of the data available for Dimock in its December 6, 2011, Record of Activity/Technical Assist. These failures are inconsistent with the ATSDR guidance document that states “... Efforts should focus on obtaining as extensive a data set as possible for those media ...” (Section 3.1.3). Failure to adequately include and review all of the available field and analytical data has and can lead to erroneous conclusions.

The application of appropriate peer review is another important issue ATSDR must consider. Under the Information Quality Act and the Office of Management and Budget (OMB) and HHS guidelines for government science, ATSDR should follow a rigorous peer review process in order to


improve the quality and credibility of the scientific information it generates. The studies ATSDR is conducting are of extreme scientific, economic, and public policy importance and should be considered "highly influential scientific assessments" or HISAs. Accordingly, ATSDR should formally designate these studies as such and ensure that the appropriate levels of funding, rigor, and transparency are applied to ensure the studies are properly carried out.

We also urge you to consult with State regulatory and public health officials who have much deeper experience monitoring the effects of hydraulic fracturing than most Federal officials have. In particular, we recommend the Groundwater Protection Council and the Interstate Oil and Gas Compact Commission.


Committee staff outlined our concerns and requested a CDC briefing on September 12, 2012. The fact that the agency has not yet provided or scheduled the briefing – two months after it was first requested – raises significant concerns that the agency does not intend to include Congress, the states, or the public in a process that is of critical importance to and could have a lasting impact on our economy and job creation. We urge you and your staff to promptly provide a briefing for Committee staff so we may understand what CDC is doing, whether it is being done transparently, and if it is being held to high standards of scientific objectivity and validity.

We look forward to your expeditious reply. If you have any questions regarding this request, please contact Committee staff at (202) 225-2927.

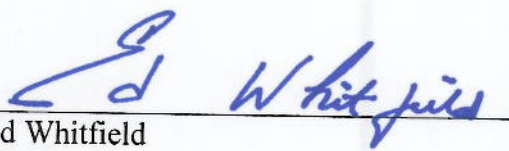
Sincerely,



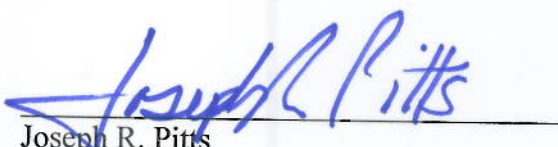
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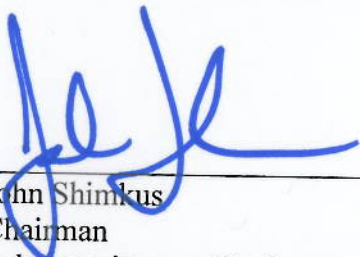
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Subcommittee on Health



John Shimkus
Chairman
Subcommittee on Environment and
the Economy

cc: The Honorable Henry A. Waxman, Ranking Member

The Honorable Bobby L. Rush, Ranking Member
Subcommittee on Energy and Power

The Honorable Frank Pallone, Jr., Ranking Member
Subcommittee on Health

The Honorable Gene Green, Ranking Member
Subcommittee on Environment and the Economy