



August 2016

Independent Scientific Panel Faults the EPA's Landmark Hydraulic Fracturing Study

In a detailed, [180-page report](#) released Aug. 11, the EPA's Science Advisory Board (SAB) faulted the clarity and conclusions of the agency's landmark study on the environmental impacts of hydraulic fracturing, the high-pressure injection of water, sand and chemicals to break open shale and other "tight" geologic formations to release gas and other hydrocarbons.

In that study, formally dubbed "Assessment of the Potential Impacts of Hydraulic Fracturing for Oil and Gas on Drinking Water Resources (External Review Draft)" and released in June 2015, the EPA famously concluded that it "did not find evidence that these [hydraulic fracturing] mechanisms have led to widespread, systemic impacts on drinking water resources in the United States."

That conclusion, according to the independent technical review panel of scientists from academia, industry and environmental groups, was not adequately supported by the limited evidence the EPA gathered in carrying out its study: "The SAB finds that the EPA did not support quantitatively its conclusion about lack of evidence for widespread, systemic impacts of hydraulic fracturing on drinking water resources, and did not clearly describe the system(s) of interest (e.g., groundwater, surface water), the scale of impacts (i.e., local or regional), nor the definitions of 'systemic' and 'widespread.'"

The SAB echoed this critique throughout its report, faulting, for example, the EPA's conclusion that spills of hydraulic fracturing fluid had not reached groundwater as "supported only by an absence of evidence rather than by evidence of absence of impact." The Board called on the EPA to make multiple textual corrections, to seek data from other sources and to explain the failure to include prospective case studies and status updates on federal and state investigations into alleged hydraulic fracturing impacts in Dimock, PA, Pavillion, WY and Parker County, TX.

The Board's critique was not unanimous, however. Four Board members filed a written dissent, finding that the EPA's conclusion regarding a lack of "widespread, systemic impacts" was "clear, unambiguous, concise, and does not need to be changed or modified."

The agency has yet to indicate how it plans to respond to the SAB report. The President sought \$12.1 million in the FY 2016 budget for research on hydraulic fracturing, with \$4 million earmarked for responding to comments received from the SAB and the public. In light of the SAB's far-ranging critique, it is not clear whether that funding will suffice.

This *GT Alert* was prepared by **Bernadette M. Rappold**. Questions about this information can be directed to:

- > [Bernadette M. Rappold](mailto:rappoldb@gtlaw.com) | +1 202.331.3127 | rappoldb@gtlaw.com
- > Or your [Greenberg Traurig](#) attorney

Albany +1 518.689.1400	Delaware +1 302.661.7000	New York +1 212.801.9200	Silicon Valley +1 650.328.8500
Amsterdam + 31 20 301 7300	Denver +1 303.572.6500	Northern Virginia +1 703.749.1300	Tallahassee +1 850.222.6891
Atlanta +1 678.553.2100	Fort Lauderdale +1 954.765.0500	Orange County +1 949.732.6500	Tampa +1 813.318.5700
Austin +1 512.320.7200	Houston +1 713.374.3500	Orlando +1 407.420.1000	Tel Aviv[^] +972 (0) 3.636.6000
Berlin⁻ +49 (0) 30 700 171 100	Las Vegas +1 702.792.3773	Philadelphia +1 215.988.7800	Tokyo[¤] +81 (0)3 4510 2200
Berlin-GT Restructuring⁻ +49 (0) 30 700 171 100	London[*] +44 (0)203 349 8700	Phoenix +1 602.445.8000	Warsaw[~] +48 22 690 6100
Boca Raton +1 561.955.7600	Los Angeles +1 310.586.7700	Sacramento +1 916.442.1111	Washington, D.C. +1 202.331.3100
Boston +1 617.310.6000	Mexico City⁺ +52 55 5029.0000	San Francisco +1 415.655.1300	Westchester County +1 914.286.2900
Chicago +1 312.456.8400	Miami +1 305.579.0500	Seoul[∞] +82 (0) 2.369.1000	West Palm Beach +1 561.650.7900
Dallas +1 214.665.3600	New Jersey +1 973.360.7900	Shanghai +86 (0) 21.6391.6633	

This Greenberg Traurig Alert is issued for informational purposes only and is not intended to be construed or used as general legal advice nor as a solicitation of any type. Please contact the author(s) or your Greenberg Traurig contact if you have questions regarding the currency of this information. The hiring of a lawyer is an important decision. Before you decide, ask for written information about the lawyer's legal qualifications and experience. Greenberg Traurig is a service mark and trade name of Greenberg Traurig, LLP and Greenberg Traurig, P.A. ⁻Greenberg Traurig's Berlin office is operated by Greenberg Traurig Germany, an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. ⁻ Berlin - GT Restructuring is operated by Köhler-Ma Geiser Partnerschaft Rechtsanwälte, Insolvenzverwalter. ^{}Operates as Greenberg Traurig Maher LLP. ^{**}Greenberg Traurig is not responsible for any legal or other services rendered by attorneys employed by the strategic alliance firms. ⁺Greenberg Traurig's Mexico City office is operated by Greenberg Traurig, S.C., an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. [∞]Operates as Greenberg Traurig LLP Foreign Legal Consultant Office. [^]Greenberg Traurig's Tel Aviv office is a branch of Greenberg Traurig, P.A., Florida, USA. [¤]Greenberg Traurig Tokyo Law Offices are operated by GT Tokyo Horitsu Jimusho, an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. [~]Greenberg Traurig's Warsaw office is operated by Greenberg Traurig Grzesiak sp.k., an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. Certain partners in Greenberg Traurig Grzesiak sp.k. are also shareholders in Greenberg Traurig, P.A. Images in this advertisement*

do not depict Greenberg Traurig attorneys, clients, staff or facilities. No aspect of this advertisement has been approved by the Supreme Court of New Jersey. ©2016 Greenberg Traurig, LLP. All rights reserved.