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3 88th General Assembly
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As Engrossed: H3/11/11 H3/15/11

A Bill

HOUSE BILL 1394

5
6 By: Representatives *Lenderman, Webb*

7 Filed with: Interim House Committee on Agriculture, Forestry and Economic Development
8 pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

9 AN ACT TO PROTECT ARKANSAS' WATER IN AREAS AFFECTED
10 BY GAS DRILLING OPERATIONS; AND FOR OTHER PURPOSES.
11

Subtitle

12 AN ACT TO PROTECT ARKANSAS' WATER IN
13 AREAS AFFECTED BY GAS DRILLING
14 OPERATIONS.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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22 *SECTION 1. Arkansas Code § 15-72-201 is amended to read as follows:*
23 *15-72-201. Definitions.*

24 *As used in this act, unless the context otherwise requires:*

25 *(1) "Hydraulic fracturing fluid" means the base fluid type used*
26 *in a particular hydraulic fracturing treatment in wells;*

27 *(2) "Hydraulic fracturing treatment" means stimulating a well by*
28 *the application of hydraulic fracturing fluids and additives with force in*
29 *order to create artificial fractures in the formation for the purpose of*
30 *improving the capacity of a well to produce hydrocarbons;*

31 *~~(1)~~(3) "Operator" means the person who has the right to enter*
32 *upon the lands of another for the purpose of exploring, drilling, and*
33 *developing for the production of brine, oil, gas, and all other petroleum*
34 *hydrocarbons;*

1 ~~(2)~~(4) "Person" means any natural person, corporation,
2 association, partnership, trustee, guardian, executor, administrator,
3 fiduciary, or representative of any kind; ~~and~~

4 (5) "Pollution" means contamination or other alteration of the
5 physical, chemical, or biological properties of any waters, or discharge of
6 any liquid, gaseous, or solid substance in any waters that will, or is likely
7 to, render the waters harmful, detrimental, or injurious to:

8 (A) The public health, safety, or welfare;

9 (B) Domestic, commercial, industrial, agricultural,
10 recreational, or other legitimate beneficial use; or

11 (C) Livestock, wild animals, birds, fish, or other aquatic
12 life.

13 ~~(3)~~(6) "Surface owner" means the owner or owners of record of
14 the surface of the property on which the drilling operation is to occur.

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16 SECTION 2. Arkansas Code Title 15, Chapter 72, Subchapter 2 is amended
17 to add additional sections to read as follows:

18 15-72-220. Fracture drilling -- Water quality.

19 (a)(1) Except as provided under subdivision (a)(2) of this section,
20 the Arkansas Pollution Control and Ecology Commission shall initiate
21 rulemaking by the effective date of this act to require oil and gas
22 developers using hydraulic fracturing treatment when drilling to use the
23 United States Bureau of Land Management Gold Book Best Management Practices,
24 as in effect on February 1, 2011, and industry-made reasonable and prudent
25 practices for stabilization to provide for safe and efficient operations
26 while minimizing undesirable impacts to the environment, including without
27 limitation pollution.

28 (2) The Arkansas Pollution Control and Ecology Commission
29 alternatively may develop best management practices that are no less
30 stringent in minimizing undesirable impacts to the environment, including
31 without limitation pollution.

32 (b) Depending on availability of resources, the Arkansas Department of
33 Environmental Quality shall review the cumulative impact of multiple well
34 sites and associated infrastructure within the same watershed.

35 (c) If a surface owner or surface tenant provides credible evidence to
36 the Arkansas Department of Environmental Quality or the Arkansas Oil and Gas

1 Commission of pollution of a fresh water supply that is within two thousand
2 five hundred feet (2,500') of an oil or gas well, the well operator shall
3 test all fresh water supplies within two thousand five hundred feet (2,500')
4 of the well within sixty (60) days and make test results available to any
5 surface owners, surface tenants, and the public.

6 (d) The Arkansas Pollution Control and Ecology Commission shall
7 initiate rulemaking on the effective date of this act to amend Regulation 1
8 to:

9 (1) Require synthetic liners, clay liners, or both in all pits
10 with strength and design consistent with the best available state regulatory
11 and industry best practice standard;

12 (2) Limit the period of time that fluids can be stored
13 consistent with current scientific information and the public interest;

14 (3) Require signage to warn the public and, when deemed
15 necessary by the Arkansas Oil and Gas Commission, fencing and netting to
16 protect wildlife from the dangers of open pits;

17 (4) Require pit contents and used pit liners to be disposed
18 offsite in accordance with all applicable laws; and

19 (5) Require the installation of leak detection systems.

20 (e)(1) The Arkansas Oil and Gas Commission shall initiate rulemaking
21 on the effective date of this act to update casing requirements to
22 incorporate the American Society for Testing and Materials International
23 cementing and casing standards, as in effect on January 1, 2011, and the
24 American Petroleum Institute cementing and casing standards, as in effect on
25 January 1, 2011, and require intermediate casing in areas where wells pass
26 through fresh water.

27 (2) The Arkansas Oil and Gas Commission shall:

28 (A) Conduct and publish a risk assessment of the
29 likelihood of cementing and casing failures;

30 (B) Identify the potential risks to water supplies if a
31 casing were to fail; and

32 (C) Require that well operators always use at least two
33 (2) layers of casing, install centralizers, and pressure test all casing
34 consistent with the best regulatory and industry practice.

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36 15-72-221. Powers and duties.

1 (a) Notwithstanding any independent authority granted to the Arkansas
 2 Oil and Gas Commission, the Arkansas Pollution Control and Ecology Commission
 3 has the authority and the affirmative duty under the Arkansas Water and Air
 4 Pollution Control Act, Arkansas Code § 8-4-101 et seq., to make rules to
 5 prevent any person, including the owner, operator, or contractor involved in
 6 oil and gas operations, from causing pollution to the waters of the state, as
 7 prohibited by Arkansas Code § 8-4-217(a)(1);

8 (b) The Arkansas Department of Environmental Quality has the authority
 9 and the duty to enforce any rule concerning oil and gas operations made by
 10 the Arkansas Pollution Control and Ecology Commission; and

11 (c) The Arkansas Oil and Gas Commission has the independent authority
 12 to cooperate with the Arkansas Department of Environmental Quality and the
 13 Arkansas Pollution Control and Ecology Commission to prevent and remediate
 14 pollution of the waters of the state.

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 16 /s/Webb

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 18 Referred by the Arkansas House of Representatives
 19 Prepared by: MGF/VJF
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