

Jeff Sessions, Trump's Attorney General Pick, Introduced First Bill to Exempt Fracking from Drinking Water Rules

By Steve Horn^[1] • Wednesday, December 7, 2016 - 03:58



Senator Jeff Sessions (R-), President-elect Donald Trump's nominee for Attorney General, introduced the first so-called “Halliburton Loophole” bill back in 1999 before it was ever known as such.

Sessions co-sponsored the bill (S.724)^[2] with the climate change-denying Senator James Inhofe (R-)^[3]. The bill called for the Environmental Protection Agency () to exempt enforcement of the Safe Drinking Water Act as it relates to hydraulic fracturing (“fracking”)^[4].

The bill's language eventually became a provision in the Energy Policy Act of 2005, known today as the "Halliburton Loophole"^[5] because the company's ex- and then-Vice President Dick Cheney headed up the industry-loaded Energy Policy Task Force^[6] which helped pen the bill's language.

S.724 was introduced in 1999, in the middle of the years-long *Legal Environmental Assistance Foundation () v.* legal battle, which was heard in the Court of Appeals for the 11th Circuit.

[7]

106TH CONGRESS
1ST SESSION

S. 724

To amend the Safe Drinking Water Act to clarify that underground injection does not include certain activities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 25, 1999

Mr. INHOFE (for himself and Mr. SESSIONS) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Safe Drinking Water Act to clarify that underground injection does not include certain activities, and for other purposes.

Image Credit: Government Printing Office^[9]

v. centered around whether fracking should be regulated by the as a form of “underground injection” as defined by the Safe Drinking Water Act. The oil and gas industry, which had legal intervenors^[10], including Halliburton, in the v. case, saw Sessions and Inhofe's Senate bill as a congressional remedy for the sticky legal situation.

Alabama Fracking Water Contamination

Contamination of drinking water originally spurred the lawsuit for , a now-defunct pro-environmental law firm run at the time by the Florida-based attorney David Ludder^[11].

“In 1988, Ruben DeVaughn McMillian, a member, complained that immediately after the injection of hydraulic fracturing fluids at a nearby coalbed methane well, his private water well, which had always produced abundant and clean water, became contaminated,” wrote ^[12]Ludder^[13] in a 2000 paper^[14]. “Long 'strings' of a black oily substance flowed from his tap. A strong sulphur smell emanated from the hot shower head. His wellhouse rumbled and hissed. Eventually, Mr. McMillian had to purchase and install a \$3,000 water filter system to ensure that his water was safe to drink.”

McMillian was not alone in having his water contaminated, Ludder went on to explain.

“At least a dozen other Alabama residents have complained that coalbed methane production activities have caused a degradation in the quality of the water produced from their drinking water wells,” continued Ludder. “To silence others, landowners often evicted or threatened to evict those that complained.”

In a letter^[15] written to Senator Jeff Bingaman (D-), another Alabama resident, Peggy Hocutt, wrote about her water being contaminated by fracking by Amoco (now owned by) and subsequent personal health impacts she faced.

“I turned my dishwasher, and faucets on, and got huge globs of black, jellied grease, bearing the strong odor of petroleum,” wrote Hocutt. “I no longer wondered, but knew at once, that my suspicions were correct, and that the underground aquifer, which supplied our drinking water well was affected by the fracture of the gas well and that I, and my family, were the innocent victims of drinking and bathing in water, contaminated with toxic chemicals and radioactive materials, plus the filthy, bacteria filled water, drawn from the strip mining lake.”

“Baseless Lawsuit”

Despite these examples occurring in his own backyard, Sessions pointed to 's case as a “baseless lawsuit^[16]” as he introduced S.724 on the Senate floor. He went on to say that fracking “has never been attributed to causing even a single case of contamination to an underground drinking water source.”

Ludder responded to S.724's introduction and Sessions' floor statement in an April 1999 letter written to then-Chairman of the Senate Committee on Environment and Public Works, John Chafee (R-).

“The bill is sponsored by Senators Sessions and Inhofe who made statements on the floor of the Senate on March 25 in support of the bill which contain misinformation and half-truths, most likely the result of misinformation and half-truths provided by oil and gas industry lobbyists,” wrote ^[17]Ludder^[18].

An Oil and Gas Industry Group's Role

The initial push for a “Halliburton Loophole” didn't actually begin in the George W. Bush White House or even with the Sessions-Inhofe bill. Rather, according to documents provided to InsideClimate News by DeSmog and Greenpeace and reported in April 2016^[19], the Interstate Oil and Gas Compact Commission (IOGCC)^[20] actually implemented the first push for such a regulatory cut-out.


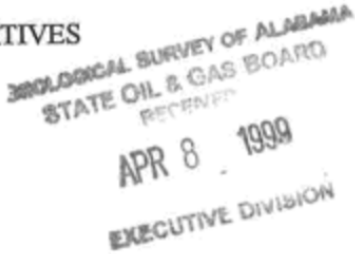
IOGCC is a collective of state-level oil and gas regulatory agency heads, coupled with industry executives and lobbyists, which exists due to a 1935 interstate compact signed by Congress and essentially functions as an industry lobbying organization. Its roster includes Harold Hamm^[21], founder and of Continental Resources, who served as an energy adviser to Trump's presidential campaign and is in the running to become Secretary of Energy^[22].

IOGCC's headquarters is located on property adjacent to the Oklahoma governor's mansion and just blocks from the Oklahoma State Capitol building. Oklahoma Republican Governor Mary Fallin is also being considered^[23] for the Energy Secretary role, as well as the Secretary of Interior job, and she has twice chaired the IOGCC.

In a 2005 IOGCC newsletter published after the passage of the Energy Policy Act of 2005, the compact credited itself with getting^[24] “statutory language that had been proposed by IOGCC” included in the Sessions-Inhofe bill.

As early as 1997, IOGCC had a model resolution on the books^[25] calling for language that eventually became what we know as the Halliburton Loophole, which may have come out of the working group put in place to deal with *v. .* IOGCC also maintained a website section^[26] in the late-1990s devoted exclusively to the *v. litigation*.

About two weeks after the introduction of S.724 in 1999, IOGCC distributed a memorandum to member state governors and official state representatives — obtained via the Alabama Public Records Law — titled, “Needed Federal Legislation” and “Immediate Action Needed.” That memo offered a sample letter template as an attachment, which IOGCC representatives could send to their state congressional delegations urging them to vote for and pass the bill.

	INTERSTATE OIL AND GAS COMPACT COMMISSION P.O. Box 53127, Oklahoma City, OK 73152-3127 • 900 N.E. 23rd Street, Oklahoma City, OK 73105 Phone: 405/525-3556 • Fax: 405/525-3592 • E-Mail: iogcc@oklaosf.state.ok.us World Wide Web http://www.iogcc.oklaosf.state.ok.us		
Chairman: Governor Bill Graves, Kansas	Vice Chairman: Carl Michael Smith, Oklahoma	Second Vice Chairman: Lawrence Bengal, Illinois	Executive Director: Christine Hansen
MEMORANDUM			
TO:	IOGCC GOVERNORS AND OFFICIAL REPRESENTATIVES		
FROM:	Christine Hansen, Executive Director		
RE:	NEEDED FEDERAL LEGISLATION		
DATE:	April 5, 1999		
<div style="border: 3px double black; padding: 10px; width: fit-content; margin: 0 auto;">IMMEDIATE ATTENTION NEEDED</div>			

Legislation has been introduced to correct a problem in the Safe Drinking Water Act made apparent through an Alabama Federal Court decision which was upheld by the 11th Circuit Court of Appeals.

I urge you to immediately write to every member of your Congressional delegation asking them to cosponsor this needed measure. It has been introduced in the Senate by Senator Jim Inhofe and is S. 724. (A sample letter is attached.)

Image Credit: IOGCC

Also in 1999, IOGCC passed a model resolution calling for the passage of S.724. IOGCC also legally intervened in *v. .*

While the bill itself never passed, its language became the law of the land in 2005, tucked into the broader energy policy bill.

“It is stunning that Senator Sessions sided with energy companies against water pollution complaints raised by his own Alabama constituents,” Tyson Slocum, Energy Program Director for Public Citizen, told DeSmog. “A lawmaker that ignores pleas and evidence from the people he is elected to represent should not serve as Attorney General of the United States.”

Like other Cabinet appointees, Sessions must receive Senate approval to land the job. Nominated for a federal judge position in 1986 by President Ronald Reagan, Sessions did not receive approval 30 years ago^[27] due to what congressional members deemed his troubling record on civil rights issues.

Main image: Senator Jeff Sessions^[28] speaking at a Trump rally in Arizona. Credit: Gage Skidmore^[29],

Links

1. <https://www.desmogblog.com/user/7018>
2. <https://www.congress.gov/106/bills/s724/BILLS-106s724is.pdf>
3. <https://www.desmogblog.com/james-inhofe>
4. <https://www.desmogblog.com/fracking-the-future/>
5. <http://www.nytimes.com/2009/11/03/opinion/03tue3.html>
6. <https://www.washingtonpost.com/wp-dyn/content/article/2007/07/17/AR2007071701987.html>
7. <https://www.congress.gov/106/bills/s724/BILLS-106s724is.pdf>
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10. <https://www.documentcloud.org/documents/2798122-LEAF-v-EPA-IOGCC-Docs.html>
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16. <https://www.gpo.gov/fdsys/pkg/CRECB-1999-pt4/pdf/CRECB-1999-pt4-Pg5915-2.pdf>
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20. <https://www.desmogblog.com/iogcc-interstate-oil-gas-lobbying-compact>
21. <https://insideclimatenews.org/news/07042016/iogcc-secret-oil-gas-lobby-interstate-compact-congress-fracking-halliburton-loophole>
22. <https://www.desmogblog.com/2016/09/06/harold-hamm-donald-trump-dakota-access-pipeline>
23. <https://www.desmogblog.com/2016/12/2/donald-trump-swamp-climate-energy-cabinet-picks>
24. <https://www.documentcloud.org/documents/2715865-IOGCC-Summer-2005-Newsletter.html>
25. <https://www.documentcloud.org/documents/2798475-RESOLUTION-97-901-LEAF-v-EPA.html>
26. <https://www.documentcloud.org/documents/2798456-IOGCC-LEAF-v-EPA-Website-Section.html>
27. http://www.huffingtonpost.com/entry/trump-attorney-general-jeff-sessions-racist-remarks_us_582cd73ae4b099512f80c0c2
28. [https://commons.wikimedia.org/wiki/File:Jeff_Sessions_\(28754197084\).jpg](https://commons.wikimedia.org/wiki/File:Jeff_Sessions_(28754197084).jpg)
29. <https://www.flickr.com/people/22007612@N05>

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