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Written Testimony of Christopher Phelps, Environment Connecticut Campaign Director
Before the Connecticut General Assembly Environment Committee

February 28, 2014

**Supporting Senate Bill 237: AN ACT PROHIBITING THE STORAGE OR DISPOSAL OF
FRACKING WASTE IN CONNECTICUT.**

Senator Meyer, Representative Gentile, and members of the committee: My name is Chris Phelps and I am Campaign Director for Environment Connecticut. Our organization is a nonprofit member-based environmental advocacy organization working to protect Connecticut's air, water, and natural landscape. We appreciate this opportunity to offer testimony in support of SB 237, AN ACT PROHIBITING THE STORAGE OR DISPOSAL OF FRACKING WASTE IN CONNECTICUT.

We also respectfully offer suggestions for strengthening the language of the bill to fully protect Connecticut's environment from the effects of toxic fracking waste. These suggestions are attached to the end of this testimony.

Environment strongly supports SB 237. The use of hydrolic fracturing (“fracking”) in oil and gas exploration has produced a boom in the industry across the country in recent years. This has, in turn, brought a staggering array of threats to the environment and public health for residents of communities and states impacted by fracking and the toxic wastes it produces. In community after community, families are suffering from drinking water contaminated with deadly chemicals, air pollution, and rural landscapes that have been transformed into industrial zones.

The fracking process generations millions of gallons of wastewater per well drilled. This wastewater is laced with a toxic soup of cancer-causing and even radioactive substances. As a result, this toxic wastewater has contaminated drinking water sources from Pennsylvania to New Mexico. As fracking operations march ever closer to our borders, drilling operators may soon eye our state as a dumping ground for toxic fracking waste.

Here are just some a few examples of the environmental and public health harm caused by toxic fracking waste disposal:

- ⌚ In Pennsylvania, after drilling operators dumped toxic fracking waste at treatment plants discharging to the Monongahela River, the state advised 325,000 people not to drink their tap water for a week.¹ And when this fracking waste was brought to sewage treatment plants using chlorine, the resulting mix discharged trihalomethanes – a known human carcinogen – into rivers.

- ⌚ In New Mexico, state records show that drilling waste pits leached into groundwater at more

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Joaquin Sapien, With Natural Gas Drilling Boom, Pennsylvania Faces an Onslaught of Wastewater,” ProPublica (October 4, 2009) <https://www.propublica.org/article/wastewater-from-gas-drilling-boom-may-threaten-monongahela-river>

than 421 sites in just a few years.²

- ⌚ Earthquakes: In December 2011, Youngstown, Ohio experienced a 4.0 earthquake in the vicinity of deep well injections sites for fracking waste. Similar problems have occurred in other states such as Oklahoma.
- ⌚ The sheer volume of toxic fracking wastewater invites rampant illegal dumping. In February, 2013 authorities in Ohio learned that one drilling operator had illegally dumped up to 250,000 gallons of fracking wastewater into the Mahoning River.
- ⌚ Leaks, spills, well blowouts and other accidents also release toxic fracking fluid and wastewater. Our colleagues at PennEnvironment have documented several examples of these incidents – see [In the Shadow of the Marcellus Boom](#) starting at page 19.

In addition to these examples, I have provided committee staff with five copies of the publication “Shalefield Stories” which contains personal stories and testimonials of families, businesses, and communities across the country who have been harmed by fracking and toxic fracking waste.

Why does the threat of toxic fracking waste disposal in Connecticut exist? Because fracking operations are marching ever closer to our borders and because the fracking industry produces staggeringly large quantities of toxic waste. In October, 2013 Environment Connecticut released an analysis which found that in 2012 fracking operations nationwide produced an estimated **280 billion** gallons of toxic wastewater. (“[Fracking by the Numbers](#)” - Environment Connecticut Research & Policy Center, 2013.) That volume of waste is enough to flood the city of Hartford in a *77 foot deep toxic lagoon*.

New York is currently mulling the question of whether to allow fracking to begin at Connecticut's doorstep. If they do so, a key question for the industry will be what to do with all of the toxic waste produced by new fracking wells in that state. For that reason, surrounding states – including Connecticut – could soon become a convenient dumping ground for New York's toxic fracking waste. That is part of why Vermont banned both fracking and the dumping of toxic fracking waste in 2012. Also in 2012, New Jersey's legislature approved a similar waste ban (vetoed by Governor Christie) and a similar proposal is currently under consideration in Massachusetts.

The question before this committee and the General Assembly is this: Do you want to risk Connecticut becoming the fracking industry's toxic waste dumping ground? On behalf of Environment Connecticut's statewide membership, I urge you to answer that question by acting to protect our state from the threat of fracking by approving SB237 with a strong ban on treatment, storage, disposal, or discharge of toxic fracking waste in Connecticut.

Sincerely,

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² Joanna Prukop, “Setting the Record Straight on the Pit Rule,” Farmington Daily Times (September 17, 2008) http://www.daily-times.com/columns/ci_10482677 (Former cabinet secretary Joanna Prukop of NM Energy, Minerals, and Natural Resources Department citing state records for “more than 421” documented cases of waste pits contaminating groundwater.)

Environment Connecticut Testimony re: SB 237, Attachment 1 – Suggested bill language

As introduced, SB 237 prohibits storage or disposal of “any material described in 40 CFR Part 261.4(b)(5).” The citation to 40 CFR Part 261.4(b)(5) references the “Bentsen Amendment” which exempts wastes produced by oil, gas, and geothermal drilling operations from federal hazardous waste law. (The Resource Conservation and Recovery Act, or “RCRA.”) While such reference may be appropriate in the context of HB 5308, which is before the environment committee separately, its use in the context of SB 237 could have unintended consequences and may be insufficient to accomplish the purpose of this bill. Alternatively, we suggest specifying and defining fracking wastes as prohibited from storage, disposal, related actions in Connecticut.

Additionally, we recommend that in addition to storage and disposal of fracking waste, that SB 237 be amended to also specifically prohibit “treatment” and “discharge” of such wastes.

Therefore, we respectfully suggest that the committee amend SB 237 to read as follows: (This suggested language copies relevant sections from HB 6533 reported out of the Energy & Technology Committee during the 2013 legislative session.)

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective July 1, 2013*) (a) As used in this section:

- (1) "Discharge" means any emission, other than natural seepage, intentional or unintentional, and includes, but is not limited to, spilling, leaking, pumping, pouring, emitting, emptying or dumping;
- (2) "Disposal" means the discharge, deposit, injection, dumping or placing of hydraulic fracturing waste into or on land or water so that such hydraulic fracturing waste, or any hazardous constituent of such hydraulic fracturing waste, enters the environment, is emitted into the air, or is discharged into any waters, including groundwaters;
- (3) "Hydraulic fracturing" means the process of pumping any fluid into or under the surface of the ground in order to create fractures in rock for the purpose of the production or recovery of oil or gas;
- (4) "Hydraulic fracturing waste" means any wastewater, wastewater solids, sludge, drill cuttings or other byproducts resulting from hydraulic fracturing;
- (5) "Person" means person, as defined in section 16-1 of the general statutes;
- (6) "Storage" means the holding of hydraulic fracturing waste for treatment or disposal; and
- (7) "Treatment" means any method, technique or process designed to change the physical, chemical, or biological character or composition of any hydraulic fracturing waste so as to (A) neutralize such hydraulic fracturing waste, (B) recover material resources from such

hydraulic fracturing waste, (C) render such hydraulic fracturing waste safer for transport or disposal, amenable for recovery or storage, convertible to another usable material or reduced in volume, or (D) for any hazardous constituent of such hydraulic fracturing waste, render nonhazardous.

(b) No person shall (1) engage in the treatment, discharge, disposal or storage of any hydraulic fracturing waste in the state, or (2) use hydraulic fracturing waste in the manufacture of any item, product or material or sell or offer for sale any item, product or material to which such hydraulic fracturing waste has been added,

(d) The Commissioner of Energy and Environmental Protection shall enforce the provisions of this section and shall adopt regulations, in accordance with chapter 54 of the general statutes, to establish a schedule of penalties for the violation of this section.