

Rural Water Policy Advisory [11/5/2018]

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Wisconsin Rural Water Groundwater Contamination Becomes Top Governor's Race Campaign Issue ([New York Times](#)). What is the solution to agriculture-related nitrate contamination of nearby wells?

The Argument Against Using the Safe Drinking Water Act for PFAS in Drinking Water: *“Numerous stakeholders, including Members of Congress, have recently called the USEPA to promulgate a federal regulatory standard or maximum contaminant level (MCL) under the Safe Drinking Water Act (SDWA) for PFAS compounds. However, the Agency should resist calls for a national SDWA MCL for PFAS and instead the Agency should rely on alternative federal initiatives to assist communities dealing with PFAS contamination as opposed to regulating them. MCLs are regulatory levels for local governments enforced by levying fines on local citizens (the ratepayers) for communities out of compliance. What is actually needed in affected communities is assistance (i.e., funding for treatment, monitoring assistance, on-site technical assistance for emergency operations, credible public health information, emergency access to safe drinking water, and compensation from responsible parties). The SDWA’s mechanism of levying federal fines on local consumers for violations of MCLs is not a helpful solution for small and rural communities adversely affected by PFAS contamination. Federal civil enforcement fines of up to \$25,000 a day do not help a rural, low income community afford better water.”*

Could the New Supreme Court Challenge the Safe Drinking Water Act: According to noted law professor Eric Posner with the University of Chicago Law School, *“Justices Gorsuch and Thomas [and now Kavanaugh] want to revive a discredited legal rule that was invoked by the Supreme Court in 1935 and then abandoned. The ‘nondelegation doctrine’ says that Congress may not ‘delegate’ its legislative power to administrative agencies — in other words, authorize agencies to make policy through regulation* ([NYTimes](#)).” Is there an “intelligible principle” within the Safe Drinking Water Act (SDWA), given that the Act provides the Administrator with “sole judgment” to determine new contaminants to regulate. Would the SDWA withstand a “nondelegation” challenge? The U.S. Supreme Court has determined that *“when conferring decision-making authority upon agencies, Congress must lay down an intelligible principle to which the person or body authorized to act is directed to conform* (J. W. Hampton, Jr., & Co. v. United States, 276 U. S. 394, 409).”

Senators Cardin (MD) and Wicker (MS) Announce New Legislation to Assist People Struggling with Rising Water Bills: Announced on Wednesday, the legislation establishes new pilot programs to help low-income families afford their rising water bills and ensure local utilities can continue making critical infrastructure upgrades to provide safe drinking water and wastewater services. The bipartisan bill, the Low-Income Water Customer Assistance Programs Act of 2018 (S. 3564), would establish 32 programs nationwide for low-income residents to receive aid in paying their drinking water bills and an equal number of programs designed to assist low-income residents with paying their wastewater utility bills ([Senator Wicker](#)).

Lead in Drinking Water Scaring the Public and Increasing Distrust in Local Government:

- **Newark (NJ):** *“State officials are warning that children under 6 in homes with lead pipes served by the plant should not drink unfiltered tap water. Residents frustrated at how long it took the city to admit the problem. In Newark, about a quarter of the more than 14,000 children under 6 who were tested in 2016 had measurable levels of lead in their blood, according to an analysis by Advocates for Children of New Jersey of the most recent publicly available state data. No amount of lead exposure is known to be safe for children, whose mental and physical development can be impaired, according to the Centers for Disease Control and Prevention* (NYTimes).”
- **Milwaukee:** The Black Panthers announced Saturday that its members will be going door-to-door to inform residents that they have lead laterals bringing water into their homes and the steps they can

take to minimize health risks. The Panthers announced the campaign at a news conference in front of the Mayor's home. Panther leader accused the mayor of "*dereliction of duty.*" Racism cited, "*Milwaukee still remains the most hypersegregated city in the country, the worst place to raise a black child,*" said the Panther leader ([USA Today](#)).

- **San Diego:** Elementary school with "water only" policy finds lead in drinking water ([ABC TV](#)).
- **Flint:** University of Michigan professor calls the Flint water crisis "*the most egregious example of environmental injustice and racism in my over three decades of studying this issue*" ([MI Live](#))."

[National Rural Water Association](#)

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The National Rural Water Association is the country's largest public drinking water and sanitation supply organization with over 30,000 members. Safe drinking water and sanitation are generally recognized as the most essential public health, public welfare, and civic necessities.

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