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## Crisis 'pulls back the curtain' on water threats

by **Ken Ward Jr.**

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CHARLESTON, W.Va. -- Last Wednesday night, Gov. Earl Ray Tomblin continued the now-familiar refrain of West Virginia officials who oppose tough environmental regulations, especially if they are aimed at the coal industry and issued by the U.S. Environmental Protection Agency.

In his State of the State address, the governor promised he would, "never back down from the EPA because of its misguided policies on coal."

By the weekend, Tomblin found himself blasting the leak of a coal-cleaning chemical into the Elk River, and confronting an ongoing emergency that's left 300,000 of his constituents unable to turn on their taps.

"A chemical leak is unacceptable and must be cleaned up as soon as possible," the governor told reporters during a briefing Saturday night.

Also at the Saturday briefing Tomblin pushed back at a reporter who connected the ongoing water crisis to the coal industry.

"This was not a coal company incident," the governor shot back. "This was a chemical company incident."

On Sunday night he did the same.

"This was not a coal company, this was a chemical supplier, where the leak occurred," he said. "As far as I know there was no coal company within miles."

But critics of the governor and his approach to regulatory matters say that the leak provides an all-too real portrait of ongoing threats to the state's public health that the state does little to address. The leak, at the chemical tank farm Freedom Industries, was just 1.5 miles upstream from West Virginia American Water's regional intake.

"We must take a critical look at how to better protect our vital drinking water sources," said Angie Rosser, executive director of the West Virginia Rivers Coalition. "Clean water is essential for life. We cannot cut corners in ensuring that our drinking water supply is protected."

Some groups, such as the Sierra Club, pointed more directly at the coal industry, which relies on products like the one involved in the Elk River spill.

"Coal mining communities are faced with the dangers of water pollution from coal mining and pollution every day," said Mary Anne Hitt, director of the Sierra Club's Beyond Coal Campaign. "This spill pulls the curtain back on the coal industry's widespread and risky use of dangerous chemicals, and is an important reminder that coal-related pollution poses a serious danger to nearby communities."

In a Friday statement, the group Appalachian Voices made a connection between the ongoing regional water crisis and the coal industry that went beyond just the chemical involved.

"An increasing number of private wells in southwestern and central West Virginia, where the spill occurred, have been contaminated by decades of coal mining and processing," the group said. "One result has been an ongoing expansion of municipal water systems to rural communities that would otherwise rely on well water."

At the same time, shrinking revenues and declining investments in public infrastructure have led more and more small communities to contract with private companies like West Virginia American Water to provide drinking water services.

"Driven by profit margins, companies have aggressively consolidated their businesses, leading them to serve ever larger distribution networks from only a handful of treatment plants and drinking water intakes," Appalachian Voices said. That's how, the group said, one chemical spill into one river cut off drinking water access to roughly 16 percent of West Virginia's population.

Meanwhile, other environmental advocates said the chemical spill shows the need for more of a focus on examining threats to major drinking water supplies and ensuring they are protected.

In West Virginia, the state Department of Health and Human Resources writes "Source Water Assessment" reports with that goal in mind.

DHHR's assessment for West Virginia American Water's Elk River intake is more than a decade old. Dated 2002, the report mentions the former Pennzoil facility that Freedom Industries now occupies. But it doesn't mention Freedom Industries, and doesn't appear to take into account the chemicals that Freedom stores on the site in large amounts. State officials have known the identities of the chemicals since at least 2007.

"The plan is very old," said Evan Hansen, president of Downstream Strategies, a Morgantown-based environmental consulting firm.

Hansen noted that the only permit Freedom Industries appears to have had from the state Department of Environmental Protection is an industrial stormwater permit, meant to cover runoff from the site.

The permit included no specific discharge limits for any chemicals, leaving it up to company "best management practices" with enforcement by DEP inspections. DEP officials, though, have said that -- prior to Thursday's leak -- the site hadn't been inspected since 1991.

Local citizens complain that state inspectors and agencies aren't aggressive enough, while local political leaders oppose a greater role for federal agencies, especially during the Obama administration.

But like DEP, the federal Occupational Safety and Health Administration hasn't exactly been all over Freedom Industries over the years. OSHA has never inspected the company, records show. And the EPA, while perhaps pushing for greater regulation of coal-fired power plant emissions, has remained far in the background in the Freedom Industries' situation, refusing to even give media interviews about any federal activities.

Most of West Virginia's representatives in Congress join with Tomblin in their harsh criticism of federal environmental policies, and even when they appear to take a leadership role, it's not always clear they are advocating the strongest possible protections.

For example, Sen. Joe Manchin, D-W.Va., has worked to try to broker a compromise bill to reform the federal Toxic Substances Control Act.

The idea is to, for the first time, require the EPA to review the safety of all chemicals used in commerce. The EPA has tested only about 200 of the 84,000 chemicals in the agency's inventory.

For the current water crisis, TSCA reform is an important issue. The chemical involved "Crude MCHM" has been the subject of very limited testing, and even experts say they don't know much about its potential health effects.

Writing on his group's Internet blog, Environmental Defense Fund senior scientist Richard Denison explained Saturday that, while accidents happen, the West Virginia water crisis "is compounded by the fact that much of the impact of this spill could have been avoided had basic safety information on this chemical been available."

Environmental groups like Denison's favor TSCA reform, but they continue to express concerns that Manchin's version of the bill would usurp the ability of states that want stronger chemical standards to set their own rules.

On the state level in West Virginia, the Tomblin administration has hardly made environmental protection a top priority.

The governor has refused to personally meet with citizen groups who oppose mountaintop removal coal-mining, and a natural gas drilling bill he pushed through the Legislature was greatly weakened after closed-door discussions with industry lobbyists.

When asked on Saturday if he thought West Virginia American Water should have done more to plan for a potential spill from a chemical plant just up the river, or noticed and acted on the contamination more quickly, the governor hedged.

"I'd like to say they should have known," Tomblin said. "But I'm not someone who runs West Virginia American Water."

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