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Downstream Strategies Issues New Water Protection Report to Judiciary Committee

By [AARON PAYNE](#) (/PEOPLE/AARON-PAYNE)

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[Senate Bill 373](http://www.legis.state.wv.us/Bill_Status/bills_text.cfm?billdoc=SB373%20SUB2.htm&yr=2014&sesstype=RS&i=373) (http://www.legis.state.wv.us/Bill_Status/bills_text.cfm?billdoc=SB373%20SUB2.htm&yr=2014&sesstype=RS&i=373) relating to water resources protection was sent to the House nearly one month ago to go through three committee stops. Two weeks ago the bill made it through the Health and Human Resource Committee with amendments to be sent to the Judiciary Committee. Wednesday, the second committee used its meeting to hear from Downstream Strategies President Evan Hansen.

The environmental consulting service recently did a preliminary study on potential pollution sources in what is called a zone of critical concern on the Elk River that was contaminated by the chemical spill from Freedom Industries.

The study took into account a combination of driving around the river, looking on Google Earth at the area and



receiving reports from various agencies for potential contaminants in the zone where contaminants in the water would take five hours to reach a water intake.

[Enlarge image \(http://mediad.publicbroadcasting.net/p/wvpr/files/201402/Hansen.jpeg\)](http://mediad.publicbroadcasting.net/p/wvpr/files/201402/Hansen.jpeg)

Downstream Strategies President Evan Hansen presents a new report to the House Judiciary Committee.
Credit Aaron Payne

The report found 62 potential sources including car dealerships, gas stations and discharge pipes along the river leading to West Virginia American Water's intake.

This information frightened some lawmakers but Hansen assured this was positive news due the ability to manage the threat.

"It's true there's a lot of potential significant contaminant sources but I think this is largely a good news report not a bad news report," Hansen said. "Most of these are relatively small, easily managed potential sources that already have systems in place. For example underground storage tanks at gas stations are regulated well and unlikely to leak."

The report also looked at potential contaminant sites which hold the same permit Freedom Industries had leading to some confusion in regard to regulation. Hansen said he discovered 12 similar sites and offered a suggestion to help regulate them by way of issuing permits specific to each.

"Number one they would have to go out for public notice and comment so that the local public water utility, and emergency planners and local governments would be alerted to the fact that these permits are being written and can comment on them and number two the DEP could include site-specific provisions that require them to take steps that are consistent with the source water protection plan."

Hansen believes that if this had been in place, the recent spill would have been prevented.

After the presentation, delegates had many questions.

One of which was asked by Delegate John McCuskey on how the zone of critical concern was determined.

"Well the five hours is to try to protect an area such that if a spill occurred it would get to the intake quickly," Hansen replied. "Obviously that is the most critical area

and my understanding of the way that zone is delineated is through some type of computer model that determines how fast the river flows in some conditions and where it takes five hours to get to the intake.”

The original Senate bill included a number of exceptions when for some storage tanks. Delegate Mike Manypenny asked Hansen what his recommendation for those exemptions would be.

“My recommendation because the session is ending soon and we need to take action sooner rather than later is to remove the exclusions for now,” Hansen said. “That doesn’t mean that there might be some valid exclusions that should be included later. Keep in mind that the act requires the DEP to go through a rule making process related to these permits so that would be an appropriate time for the case to be made for why exclusions are necessary.”

Having heard the report, the Judiciary Committee will later determine if any amendments are needed before they approve the bill. Then Senate Bill 373 moves on to the Finance Committee.

The full report can be found [here](http://downstreamstrategies.com/documents/reports_publication/pacs-above-charleston-intake_final_2-23-2014.pdf) (http://downstreamstrategies.com/documents/reports_publication/pacs-above-charleston-intake_final_2-23-2014.pdf).

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