

Groups file suite to force more disclosure

By Travis Pearson

PINEDALE – A number of environmental groups have filed a lawsuit asking the Wyoming Oil and Gas Conservation Commission (WOGCC) to disclose fluids used in hydraulic fracturing, or fracking.

The environmental law firm Earthjustice entered the petition in Wyoming state court last Friday on behalf of the Powder River Basin Resource Council, Wyoming Outdoor Council, Earthworks and OMB Watch.

Wyoming became the first state to require oil and gas companies to reveal what fracking fluids are pumped into the earth in 2010, but the conservation groups allege the WOGCC approved 50 of 52 trade secret requests during this time period for Halliburton and other companies through a non-standardized procedure. Each of these requests can allow the omission of multiple fracking chemicals in official disclosures.

The groups held a conference call Monday to elaborate on the suit.

“We’re trying to ensure that the WOGCC honors the intent of Wyoming’s disclosure law, which requires broad disclosure of hydraulic fracturing ingredients unless the company demonstrated justifiable need for secrecy to shield a legitimate trade secret,” Earthjustice spokesperson Laura Beaton said, adding some trade secrets are valid, but “un-supported or overly broad” requests should not be permitted.

Baker Hughes, formerly called BJ Services Company; CESI Chemical; Champion Technologies; Core Laboratories; Halliburton Energy Services, Inc.; NALCO Company; SNF, Inc.; and Weatherford International each had requests approved and did not disclose certain chemicals to the public. Halliburton received 24 individual acceptance letters, and at least 145 chemicals have not been made available.

Disclosing fracking chemicals is a rule, not a law, but publishing that information for the public is a state law, according to attorney and Powder River Basin Resource Council (PRBRC) spokesperson Shannon Anderson.

“We supported the hydraulic fracturing disclosure rule as a way to obtain greater public information about chemicals used in oil and gas operations,” she said. “This public disclosure is critical to be able to assess and monitor potential impacts to water resources and public health.”

Tom Doll, supervisor of the WOGCC, said Wyoming mandates numerous disclosures for fracking and is the only state that requires

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-Shannon Anderson
spokesperson, PRBRC

“the operator to submit a plan detailing the chemical additives and receive approval of the well stimulation chemistry prior to doing well stimulation.”

“The Commission trade secret process requires the operator, service company or chemical supplier to submit a cover letter re-



The site of a hydraulic fracturing job bustles with people. What’s happening under the ground with all the chemicals involved can be even more confusing.

FracFocus courtesy photo

questing trade secret status for the product(s),” Doll wrote in an email.

The supplier must also add a justification for exemption from the public and all of the chemical information.

The WOGCC staff reviews the chemical compound disclosure and trade secret justification for compliance with the rule and the Wyoming Public Records Act.

The chemical compound, upon approval for confidentiality for trade secret status under the Wyoming Public Records Act, is then kept secret, he wrote.

All request and approval letters are available on the WOGCC’s webpage.

Even with a process WOGCC representatives insist is compliant with Wyoming rules and laws, those speaking on behalf of the suit want the

commission and state to do more. According to Steve Jones of the Wyoming Outdoor Council, 98 percent of new drilling in the state involves fracking. Water is a public resource, meaning agriculture, livestock, manufacturing, other industries and all residents have a stake in knowing about the chemicals.

The groups would like better documentation from gas companies applying for secrecy requests, as well as more sound justification for withholding what chemicals are used.

“We’re not asking for formulas or recipes, we just want to know what’s being pumped into the ground... We’re not asking if they’re putting in a quarter cup or two cups” of chemicals, Cheyenne resident and PRBRC member Marilyn Ham said.

The importance to property and health was stressed. According to a press release by the conservation groups, 78 percent of known fracking chemicals are associated with serious short-term health effects such as burning eyes, rashes, asthma-like effects, nausea, vomiting, headaches, dizziness, tremors and convulsions. Between 22 and 47 percent of those chemicals also are associated with longer-term health effects, including cancer, organ damage and harm to the endocrine system.

The case will likely not conclude for “several months,” Anderson said.

In the meantime, the case could have national implications, as several states have followed Wyoming’s lead in making a disclosure rule, or are in the process of enacting such a rule. ■

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New York town successfully bans oil and gas development

By Matthew Manguso

PINEDALE – On February 24, the town of Middlefield, N.Y. won a lawsuit effectively banning oil and gas drilling within the upstate New York town. It was the second time a court ruled in favor of a small town’s right to stop industrial gas development.

The town of Middlefield is located in New York’s Otsego County, is approximately four hours northwest of Manhattan and sits on top of the northern-most expanse of the Marcellus Shale formation. The formation runs from Virginia to New York and contains large swaths of untapped natural gas reserves. The most common way of extracting the gas is

via hydraulic fracturing, or fracking.

On June 14, 2011, the Town of Middlefield enacted a zoning law stating “heavy industry and all oil, gas or solution mining and drilling are prohibited uses.” The law became effective 14 days later and prevented Cooperstown Holstein Corporation (CHC), a dairy farm in the town, from allowing New York-based Elexco Land Service, Inc. to develop two drilling leases on the farm’s property.

The lawsuit went to Madison County Supreme Court in January and was heard by State Supreme Court Justice Donald F. Cerio Jr.,

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Gas lines tied to fracking lack oversight

By Garance Burke
Associated Press

SAN FRANCISCO – Government auditors say federal officials know nothing about thousands of miles of pipelines that carry natural gas released through the drilling method known as fracking, and government needs to step up oversight to make sure they are running safely.

Amid the gas-drilling boom, private companies have put in hundreds of small gathering pipelines in recent years to collect new fuel supplies released through the high-pressure drilling technique.

Nationwide, about 240,000 miles of gathering pipelines ferry the gas and oil to processing facilities and larger pipelines in the major energy-producing states. Many of these pipelines course through densely populated areas.

The Government Accountability Office said in its report issued Thursday that most of those miles are not regulated by the U.S. Pipeline and Hazardous Materials Safety Administration (PHMSA), which means they are not regularly inspected for leaks or corrosion.

In some states, officials don't know where the lines are.

Emily Krafjack, who lives in the gas-rich Marcellus Shale formation in Pennsylvania, said many local residents have no idea that the pipelines near their homes are not overseen by federal regulators. Gathering lines that run in the rural northeastern corner of the state receive no federal oversight if there are fewer than 10 homes within 220 yards of the pipeline.

"Who would ever think that they could run something like this next to your home and it wouldn't have any regulations attached to it?" said Krafjack, a former community liaison for Wyoming County, Pa. on gas issues.

Nationwide, there are about 200,000 miles of gas gathering lines and up to 40,000 miles of hazardous liquid gathering lines in rural and urban areas alike, ranging in diameter from about 2 to 12 inches. But only about 24,000 of those miles are regulated, accord-

ing to the report.

The industry is not required to report pipeline-related fatality, injury or property damage information about the unregulated lines. PHMSA only collects information about accidents on the small subset of gathering lines the agency regulates, but that data was not immediately available.

The pipeline agency is considering collecting more data on the unregulated gas gathering lines, but the plans are still preliminary and have met with some resistance from the natural gas industry. Agency officials are reviewing more than 100 public comments received about their proposal for gas lines, and also plan to propose a rule that will cover hazardous liquid gathering pipelines by the fall, said Jeannie Layson, a spokeswoman for PHMSA.

PHMSA delegates some enforcement of its rules to state-level pipeline safety authorities, who the Government Accountability Office surveyed to understand the array of risks associated with gathering lines.

Those state-level agencies told the auditors that construction quality, maintenance practices, unknown locations and limited or no information on current pipeline integrity all posed safety risks for federally unregulated gathering pipelines.

The expansion of hydraulic fracturing, which involves shattering rock thousands of feet underground with a combination of water, sand and chemicals, promises staggering yields, and drilling also comes with promises of job creation and economic opportunities.

But in Fort Worth, Texas, where dozens of new gathering lines have been laid in recent years to capture supplies from hundreds of new wells, some residents say there aren't enough protections from leaks and ruptures due to corrosion.

"It's ridiculous," Jerry Lobdill said. A retired chemical engineer who lives in a Fort Worth neighborhood near several new gas wells, he has several lines running near his



AP Photo/Keith Stokoe, File

In this July 27, 2011 file photo, Range Resources workers stand near the rig that drills into the shale at a well site in Washington, Pa. The company is one of many drilling and fracking in the area to release natural gas. The federal government needs to track safety hazards tied to thousands of unregulated pipelines gathering new oil and gas supplies released through the fracking process, according to a new report by the Government Accountability Office.

home. "The gathering lines are unregulated, the city doesn't know where they are, and they're buried so you can't see them."

The recent surge in drilling also has led California lawmakers to write new laws to increase oversight of the industry.

California Assemblyman Bill Wieckowski (D-Fremont) is sponsoring a bill now pend-

ing before a state Senate committee that would require gas and oil producers to disclose what chemicals they are using when they engage in hydraulic fracturing.

"If we're on this cusp of a boom then maybe we at the very least need to know where these lines are," Wieckowski said. ■

BAN: Small New York town bans development

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with CHC hoping to have the town's zoning law voided.

CHC's legal representation noted "the New York State Environmental Conservation Law preempts any regulations emanating from local authorities with respect to the regulation of gas, oil and solution drilling or mining, and that defendant's zoning law is thereby preempted by exclusive state jurisdiction," the court ruling read.

The Town of Middlefield argued municipalities, not the state, have the legal right to exclude industry, oil and gas or

and gas drilling within the geographical borders of the township," the ruling read.

It was the second time in a single week a small, upstate New York town prevented the oil and gas industry from executing leases and drilling.

Prior to CHC's lawsuit against the Town of Middlefield, Denver-based Anschutz Exploration Corporation filed a lawsuit against the Town of Dryden in New York.

"It will be a good opportunity to let the courts decide whether municipalities can, under the guise of zoning or otherwise, ban or regulate drilling," Thomas West, Anschutz attorney, stated in a release.

Like CHC, Anschutz's attorneys argued oil and gas drilling could only be regulated by the state and not by municipalities. Like the Town of Middlefield, the Town of Dryden argued the state cannot dictate how a town regulates other industries, and the oil and gas industry should be no exception.

Both cases will set a precedent for other towns looking to prevent oil and gas development from occurring.

"A court has ruled local municipalities have the right to decide what industrial activities are appropriate for their communities," Deborah Goldberg, Earthjustice managing attorney, wrote in a release. "This is terrific news, not only for the people of Middlefield and the people of Dryden, but for communities across New York State trying to defend their way of life from destructive gas development. The people went toe-to-toe with the oil and gas industry. And, this week, the people won." ■

Coalition launched to work for NY fracking ban

Associated Press

ALBANY, N.Y. – Dozens of grassroots environmental groups are joining forces to launch a coordinated campaign to ban natural gas development using high-volume hydraulic fracturing in New York state.

The effort launched Monday comes as the state Department of Environmental Conservation works to complete a four-year review of whether shale gas development using the controversial technology known as fracking can be done safely under strict regulations.

Gov. Andrew Cuomo has said a decision on whether to permit fracking in New York is likely in several months.

Sandra Steingraber is a biologist who recently won the Heinz Award for her work on how chemical contaminants in air, water and food endanger human health. She said she would donate much of her prize money to start the anti-fracking coalition. ■

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—Deborah Goldberg
managing attorney, Earthjustice

otherwise, within a township.

The nonprofit environmental law firm Earthjustice filed a brief on behalf of Brewery Ommegang, the Village of Cooperstown, Otsego 200, Natural Resources Defense Council, Theodore Gordon Flyfishers, Riverkeeper and Catskill Mountainkeeper, all of which had a desire to keep oil and gas development from happening in the area and supported the town's zoning law.

The court ultimately ruled in favor of the Town of Middlefield's zoning law.

"Therefore, it is evident that the defendant has, by the enactment of the June 2011 zoning law, effectively banned oil

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