

Environmentalists Sue over Fracking Fluid

MEAD GRUVER, Associated Press

CHEYENNE, Wyo. (AP) — Environmentalists are suing the Wyoming Oil and Gas Conservation Commission, saying the regulatory agency hasn't done enough to justify honoring requests by companies to keep the public from reviewing ingredients in hydraulic fracturing fluids.

The groups Powder River Basin Resource Council, Wyoming Outdoor Council, Earthworks and OMB Watch sued in Natrona County District Court on Monday. They allege the commission denied their state open records requests to review fracking fluid ingredients.

Hydraulic fracturing involves pumping water, sand and chemicals into oil and gas wells to crack open fissures. Wyoming has required oilfield service companies to disclose to state officials the ingredients in their fracking fluids since 2010.

Environmentalists have raised alarm for years that fracking could contaminate groundwater. Few if any such cases are confirmed although last year the U.S. Environmental Protection Agency theorized that fracking may have contaminated the groundwater near Pavillion, a small community in central Fremont County.

Testing groundwater for fracking-related pollution gets complicated because what goes into fracking fluids isn't generally known outside the companies that make it.

Wyoming's open records law provides an exception for public disclosure of trade secrets. The groups say the commission has repeatedly allowed companies to invoke the exception — on flimsy grounds — to keep fracking fluid ingredients out of the public realm.

"The law requires that a company provide detailed support for its claim. Unfortunately, the commission has approved almost every trade secret request it has received regardless of how unsupported or overly broad these trade secret requests are," said Laura Beaton, an attorney with Earthjustice, which is working with the groups.

The commission didn't provide "factual support" for withholding as trade secrets information from Baker Hughes; CESI Chemical; Champion Technologies; Core Laboratories; Halliburton Energy Services, Inc.; NALCO Company; SNF, Inc.; and Weatherford International, according to the complaint.

The commission approved 50 of 52 applications for trade secret confidentiality in 2010 and 2011, according to the groups.

How frequently companies request trade secret confidentiality is difficult to determine, however. Companies sometimes seek confidentiality of certain

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ingredients that may be used in a number of different frack jobs, said Beaton.

Beaton and other representatives of the groups said they didn't know how often companies have had the option but did not request trade secret confidentiality.

State Oil and Gas Supervisor Tom Doll said the commission has been adhering to its regulation and the state open records law.

"Wyoming is the only state to require the operator to submit a plan detailing the chemical additives and receive approval of the well stimulation chemistry prior to doing well stimulation," he said by email.

He pointed out that companies must also track fracking fluids after they've been used and account for their reuse, storage or disposal.

Wyoming led the nation in its fracking disclosure regulations and other states are following suit, Gov. Matt Mead said in a statement.

"Wyoming and the additional states requiring disclosure believe it is the states rather than the federal government that should regulate hydraulic fracturing," said Mead, who as governor is chairman of the commission.

"We will watch this case closely to determine if either the rules or the administration of the rules need work. If improvements need to be made we will make them."

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