WY Got EPA to Delay Frack Finding

MEAD GRUVER, Associated Press

CHEYENNE, Wyo. (AP) — Wyoming's governor persuaded the head of the U.S. Environmental Protection Agency to postpone an announcement linking hydraulic fracturing to groundwater contamination, giving state officials — whom the EPA had privately briefed on the study — time to attempt to debunk the finding before it rocked the oil and gas industry more than a month later, an investigation by The Associated Press has found.

During the delay, state officials raised dozens of questions about the finding that the controversial procedure that has become essential to unlocking oil and gas deposits in Wyoming and beyond may have tainted groundwater near the gas patch community of Pavillion.

Gov. Matt Mead contacted EPA Director Lisa Jackson and persuaded her to hold off any announcement, according to state emails and an interview with the governor. The more than 11,000 emails made available to AP in response to a state records request show that Wyoming officials took advantage of the postponement to "take a hard line" and coordinate an "all-out press" against the EPA in the weeks leading up to the announcement Dec. 8.

Meanwhile, the chief state regulator of oil and gas development fretted over how the finding would affect state revenue.

And even as the state questioned the EPA's science, there were internal doubts about how effective those objections would be.

"It's already too late. The White House has already seen the report with conclusions," wrote Gary Strong, an engineer with the Wyoming Oil and Gas Conservation Commission, following a presentation by EPA deputy assistant regional administrator Martin Hestmark. The emails indicate that, at least in the minds of Wyoming officials, the federal agency was being pressed by the White House to release its report.

"Once local folks received data and it showed what it did they had the responsibility to take it to HQ and in fact it ended up with them in front of the White House. HQ and White House decided that now that data is released EPA must release conclusions quickly," wrote Tom Kropatsch, a natural resource analyst for the state Oil and Gas Conservation Commission, who also took the notes at a Nov. 16 EPA-state meeting.

But the state's questions did set the stage for additional groundwater and household well water sampling in the Pavillion area that began a couple weeks ago.

The struggle by both Wyoming officials and the EPA for message control shows the

extent to which they fretted about the findings. Wyoming depends on oil and gas for its economic well-being while environmentalists have pushed the Obama administration to crack down on a process responsible for increasing U.S. onshore production.

The worry wasn't misplaced: Though the findings were unique to Pavillion, they ricocheted amid heightened scrutiny of fracking in other drilling regions including the Marcellus Shale states of New York, Ohio and Pennsylvania.

The emails also suggest an uneasy partnership now that the EPA and Wyoming, as well as U.S. Geological Survey and two American Indian tribes, say they are working together on further study of the Pavillion groundwater.

However, some recent re-sampling by the EPA of household well water in the Pavillion area took Mead and other state officials by surprise. They had presumed that only two monitoring wells the EPA had drilled to test for groundwater pollution would be retested this spring.

"I won't tell anybody not to test. But if you're going to test, you need to bring everyone in the process," Mead said in an interview Monday.

The EPA did not make Jackson available for an interview. EPA Region 8 Director Jim Martin said in a statement through spokesman Richard Mylott that the EPA "has been transparent and has relied on the best science" to inform Pavillion-area residents about their water.

Environmentalists including the Natural Resource Defense Council and Sierra Club have looked to the Obama administration EPA to get tougher on fracking, the practice of cracking open oil and gas deposits by pumping pressurized water, fine sand and chemicals down well holes. They maintain that fracking is a threat to clean groundwater.

The EPA study in the Pavillion area followed years of complaints from homeowners that their well water took on a chemical stink around the time that fracking picked up in their neighborhood about eight years ago. Environmentalists welcomed the draft report as validation of their concerns.

Wyoming is the third-ranked state for onshore gas production and ninth for onshore oil production. Nearly every new oil and gas well in Wyoming that isn't a coal-bed methane well is fracked.

In internal emails that followed the Nov. 4 briefing, state officials expressed support for fracking as critical to oil and gas extraction, a $7.7 billion a year industry in Wyoming that accounts for 20 percent of the state's gross domestic product.

"The limiting of the hydraulic fracturing process will result in negative impacts to the oil and gas revenues to the state of Wyoming. A further outcome will be the questioning of the economic viability of all unconventional and tight oil and gas reservoirs in Wyoming, across the United States, and ultimately in the world," wrote

Tom Doll, supervisor of the Oil and Gas Conservation Commission, in a long email that circulated among top state officials.

Wyoming's top state regulator of oil and gas development, including essentially all fracking in the state, Doll was a district manager for Tulsa, Okla.-based Williams Production Company until 2008.

The spark for Doll's missive was the closed-door meeting at Wyoming Department of Environmental Quality headquarters in Cheyenne two days earlier. EPA administrator Martin briefed Wyoming officials about what the EPA was about to announce based on its research in Pavillion. Doll took part by phone.

"Contaminants present at high concentrations in the deep monitoring wells are likely a result of hydraulic fracturing," read a "Key Findings" slide in an EPA PowerPoint shown at the meeting. Each slide was marked "Confidential--Do Not Disclose."

The public announcement more than a month later stated that the groundwater "contains compounds likely associated with gas production practices, including hydraulic fracturing."

The EPA also suggested at the private meeting that gas development likely had contaminated household well water in the Pavillion area but that current data did not definitively support such a link. The EPA has made no such claim in public to date.

Emails show that Mead sought to reach Jackson within hours. Mead confirmed that he got her to hold off on the findings report until state officials could review the data.

"When I talked to Lisa Jackson they were going to release the findings regardless. That wasn't even the question. The question was on the timing of it. We wanted a chance to see what are they basing this on," Mead told the AP.

"She said, 'Well, maybe we can hold off a couple weeks to give you guys this data.'"

The EPA released raw data on pollution in the two monitoring wells at a public meeting in Pavillion on Nov. 9, five days after the private state briefing. Among the pollutants was the carcinogen benzene as high as 50 times the EPA limit. The EPA showed a PowerPoint similar to the one shown at the private meeting but without announcing any findings. There was no "Key Findings" slide.

Releasing the data and findings outside of the purview of two "working groups" angered state regulators. The working groups made up of state and EPA officials had been examining the Pavillion pollution for the better part of a year.

Wyoming didn't take the news from the private EPA briefing sitting down.

The state could "get ahead of the curve" by assigning its own experts to review the

data, suggested John Corra, the environmental quality director.

"Sort of an all out press," Corra wrote to Doll and others Nov. 7.

Doll suggested to Corra and others in a Nov. 19 email that Wyoming take "a hard line" after one EPA official told them to drop their concerns.

"EPA has not substantially defended their explanation, the data is questionable on many levels, and EPA has ignored our alternative explanations," Doll wrote.

Dozens of questions from state regulators followed. They included why the monitoring well water samples had high pH readings. The EPA report referred to the high pH and mentioned the detection of potassium hydroxide, a basic chemical used in fracking.

Pavillion residents didn't hear about the finding before the public announcement, said John Fenton, chairman of Pavillion Area Concerned Citizens.

Fenton said he was unhappy that regulators hadn't kept local residents fully apprised of the latest developments concerning their water supply. Yet he held EPA in higher regard than the state officials he said ignored Pavillion for years, prompting residents to request the EPA investigation.

"Those of us living out here, we don't trust the state," he said.

State officials actively kept the media in the dark about the upcoming EPA announcement, even as reporters questioned them about the data.

"My sense is that the reporter was searching for a conflict to write about, and I tried to head that off," Corra wrote Nov. 29 to several other state officials about one reporter's questions.

Another state regulator suggested that Wyoming officials keep in mind how they're perceived while they questioned the EPA data.

"This could go on for a long time, during which we'll likely continue to be in an adversarial discussion with EPA, the public and the press," the Department of Environmental Quality's groundwater chief, Kevin Frederick, wrote to Corra on Dec. 2. "Is there a way to shift the focus of discussion to show the State in a more positive light while the present uncertainties continue to simmer?"

The additional sampling since agreed to has extended the study of the Pavillion groundwater. Peer review of the sampling results, set to begin this spring, now is scheduled for this fall.

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