EPA Changed Course after Oil Company Protested

RAMIT PLUSHNICK-MASTI,Associated Press

WEATHERFORD, Texas (AP) — When a man in a Fort Worth suburb reported his family's drinking water had begun "bubbling" like champagne, the federal government sounded an alarm: An oil company may have tainted their wells while drilling for natural gas.

At first, the Environmental Protection Agency believed the situation was so serious that it issued a rare emergency order in late 2010 that said at least two homeowners were in immediate danger from a well saturated with flammable methane. More than a year later, the agency rescinded its mandate and refused to explain why.

Now a confidential report obtained by The Associated Press and interviews with company representatives show that the EPA had scientific evidence against the driller, Range Resources, but changed course after the company threatened not to cooperate with a national study into a common form of drilling called hydraulic fracturing. Regulators set aside an analysis that concluded the drilling could have been to blame for the contamination.

For Steve Lipsky, the EPA decision seemed to ignore the dangers of his well, which he says contains so much methane that gas coming from the water in a garden hose attached to the well head can be ignited.

"I just can't believe that an agency that knows the truth about something like that, or has evidence like this, wouldn't use it," said Lipsky, who fears he will have to abandon his dream home in an upscale neighborhood of Weatherford.

The case isn't the first in which the EPA initially linked a hydraulic fracturing operation to water contamination and then softened its position after the industry protested.

A similar dispute unfolded in west-central Wyoming in late 2011, when the EPA released an initial report that showed hydraulic fracturing could have contaminated groundwater. After industry and GOP leaders went on the attack, the agency said it had decided to do more testing. It has yet to announce a final conclusion.

Hydraulic fracturing — often called "fracking" — allows drillers to tap into oil and gas reserves that were once considered out of reach because they were locked in deep layers of rock.

The method has contributed to a surge in natural gas drilling nationwide, but environmental activists and some scientists believe it can contaminate groundwater. The industry insists the practice is safe.

Range Resources, a leading independent player in the natural gas boom, has hundreds of gas wells throughout Texas, Pennsylvania and other mineral-rich areas of the United States. Among them is a production site — now owned by Legend Natural Gas — in a wooded area about a mile from Lipsky's home in Weatherford, about a half-hour drive west of Fort Worth.

State agencies usually regulate water and air pollution, so the EPA's involvement in the Texas matter was unusual from the start. The EPA began investigating complaints about the methane in December 2010, because it said the Texas Railroad Commission, which oversees oil and gas drilling, had not responded quickly enough to the reports of bubbling water.

Government scientists believed two families, including the Lipskys, were in danger

from methane and cancer-causing benzene and ordered Range Resources to take steps to clean their water wells and provide affected homeowners with safe water. The company stopped doing that after state regulators declared in March 2011 that Range Resources was not responsible. The dispute between the EPA and the company then moved into federal court.

Believing the case was headed for a lengthy legal battle, the EPA asked an independent scientist named Geoffrey Thyne to analyze water samples taken from 32 water wells. In the report obtained by the AP, Thyne concluded from chemical testing that the gas in the drinking water could have originated from Range Resources' nearby drilling operation.

Meanwhile, the EPA was seeking industry leaders to participate in a national study

into hydraulic fracturing. Range Resources told EPA officials in Washington that so long as the agency continued to pursue a "scientifically baseless" action against the company in Weatherford, it would not take part in the study and would not allow government scientists onto its drilling sites, said company attorney David Poole.

In March 2012, the EPA retracted its emergency order, halted the court battle and set aside Thyne's report showing that the gas in Lipsky's water was nearly identical to the gases the Plano, Texas-based company was producing.

"They said that they would look into it, which I believe is exactly what they did," Poole said. "I'm proud of them. As an American, I think that's exactly what they should have done."

The EPA offered no public explanation for its change in thinking, and Lipsky said he and his family learned about it from a reporter. The agency refused to answer questions about the decision, instead issuing a statement by email that said resolving the Range Resources matter allowed the EPA to shift its "focus in this case away from litigation and toward a joint effort on the science and safety of energy extraction."

Rob Jackson, chairman of global environmental change at Duke University's Nicholas School of the Environment, reviewed Thyne's report and the raw data upon which it was based. He agreed the gas in Lipsky's well could have originated in a rock formation known as the Barnett shale, the same area where Range Resources was extracting gas.

Jackson said it was "premature" to withdraw the order and said the EPA "dropped the ball in dropping their investigation."

Lipsky, who is still tied up in a legal battle with Range Resources, now pays about $1,000 a month to haul water to his home. He, his wife and three children become unnerved when their methane detectors go off. Sometime soon, he said, the family will have to decide whether to stay in the large stone house or move.

"This has been total hell," Lipsky said. "It's been taking a huge toll on my family and on our life."

The confidential report relied on a type of testing known as isotopic analysis, which produces a unique chemical fingerprint that sometimes allows researchers to trace the origin of gas or oil.

Jackson, who studies hydraulic fracturing and specializes in isotopic analysis, acknowledged that more data is needed to determine for certain where the gas came from. But even if the gas came from elsewhere, Range Resources' drilling could have contributed to the problem in Lipsky's water because gas migrates, he added.

The company insists the gas in Lipsky's water is from natural migration and not drilling. Range Resources' testing indicates the gas came from a different rock formation called Strawn shale and not the deeper Barnett shale, Poole said.

In addition, he said, isotopic analysis cannot be used in this case because the chemical makeup of the gases in the two formations is indistinguishable. A Range Resources spokesman also dismissed Thyne and Jackson as anti-industry.

Range Resources has not shared its data with the EPA or the Railroad Commission. Poole said the data is proprietary and could only be seen by Houston-based Weatherford Laboratories, where it originated. It was analyzed for Range Resources by a Weatherford scientist, Mark McCaffrey, who did not respond to requests for an interview.

Gas has always been in the water in that area, Poole said. And years before Range Resources began drilling, at least one water well in the neighborhood contained so much methane, it went up in flames.

At another home with dangerously high methane levels in the water, the company insisted the gas had been there since the well was first dug many years ago. The homeowner was not aware of anything wrong until Range Resources began drilling in 2009.

Jackson said it was "unrealistic" to suggest that people could have tainted water and not notice.

"It bubbles like champagne or mineral waters," he said. "The notion that people would have wells and have this in their water and not see this is wrong."

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Associated Press writers Nomaan Merchant in Dallas, Allen Breed in Raleigh, N.C., and Michael Rubinkam in Allentown, Pa., contributed to this report.

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