

Earth Island Journal

Fight Against Fracking in California Gathers Steam

by Maureen Nandini Mitra
March 18, 2013

Environmentalists file a slew of lawsuits and lawmakers propose bills to regulate the controversial drilling practice

In recent months, the California Department of Conservation's Division of Oil, Gas, and Geothermal Resources (DOGGR), which regulates drilling in the state, has been slapped with two lawsuits. The first, filed by a coalition of green groups including the Center for Biological Diversity, Earthworks, the Environmental Working Group, and the Sierra Club, accuses the division of failing to evaluate the risks of fracking and not complying with the California Environmental Quality Act (CEQA) when issuing drilling permits. The other, filed by the Center for Biological Diversity (CBD), challenges DOGGR's failure to regulate fracking through its underground well injection control program.

The division has long turned a blind eye to fracking in the state, claiming, as recently as early 2011, that they weren't aware where, when or to what extent the controversial drilling method was being practiced in California. Unlike other oil-producing states, California doesn't require companies to disclose if and where they are using the procedure or what chemicals they are injecting into the ground. In other words, there are no specific rules governing fracking in the state. DOGGR began working on draft regulations for the procedure last year only after the Environmental Working Group uncovered documents proving that fracking had been going on in at



Photo by Don Barrett / An oilfield in Kern County, California. A 2011 federal report that identified the Monterey Shale as containing two-thirds of the United States' oil reserves has renewed oilmen's interest in tapping the shale

least six California counties for many years. (Voluntary reporting by the industry on FrackFocus shows that more than 750 wells were being fracked in the state as of January 2011. DOGGR now says that fracking has been going on in the state for several decades.)

Another 2011 federal suit against the Bureau of Land Management seeks to prevent oil companies from fracking on public lands in Monterey and Fresno counties. The litigation, by the CBD and Sierra Club, contends that the bureau leased more than 2,500 acres in Monterey and Fresno counties to oil companies without doing a thorough analysis of the potential environmental impacts. CBD also has issued the Bureau a notice of intent (to file a suit) for Endangered Species Act violations. The Bureau auctioned off nearly 18,000 acres of oil leases on prime public lands in central California last December, in areas that house established vineyards and several endangered species.

Meanwhile, eight bills proposing to regulate the oil industry's expansion have been introduced in this year's legislative session. At

least another one, calling for a moratorium on fracking, is in the works and will likely be introduced this week. The bills include proposals requiring disclosure of the chemicals used in fracking; early intent to drill notifications to landowners and community members; ensuring drilling companies have adequate plans for handling wastewater and monitoring groundwater; levying a tax on oil production; and increasing the bond amount companies must put up in case of environmental damage.

“It’s a multi-pronged strategy,” says Andrew Grinberg, program organizer at Clean Water Action, which is sponsoring AB 982, a bill that requires groundwater monitoring before and after fracking. “We have to approach this from all sides because we are taking on literally the most wealthy companies in the world. ... We know there are hundreds of wells being fracked in the state. [With the Monterey Shale] being opened up, things are actually moving very quickly and there’s quite a bit of public pressure on our legislators to regulate fracking.”

Geologists have long known that the Monterey Shale — which stretches 1,750 square miles across the San Joaquin, Monterey, and Los Angeles basins — had vast reserves of crude. The shale, in fact, is the “source rock” for many of the region’s prolific oil fields. But the play is in close proximity to the San Andreas Fault and tectonic activity in the region has left the entire rock formation folded over like a Japanese fan, rather than stacked on top of each other like in shale formations in other parts of the country. This makes extraction difficult and prohibitively expensive. However, a 2011 federal report identified the Monterey Shale as containing two-thirds of the United States’ oil reserves. New drilling technology and \$100-a-barrel prices has renewed oilmen’s interest in tapping the shale. The US Energy Information Administration report estimates the Monterey Shale holds 15.42 billion barrels — nearly four times that of the Bakken Shale in North Dakota (which is projected to hold 3.59 billion barrels), where a fracking boom is currently wreaking environmental havoc (Read our Winter 2013 cover story, “Bombing North Dakota”).

In Bakersfield, the dusty capital of California’s oil industry, the beginnings of a boom are clearly visible. The mid-sized Central Valley city is seeing an influx of speculators and businesses eager to cash into the en-

ergy bonanza. A recent New York Times report notes that, “established companies are expanding into the Monterey Shale, while newcomers are opening offices in Bakersfield,” and “landmen are buying up leases on federal land sometimes bidding more than a thousand dollars an acre in auctions that used to fetch the minimum of \$2.”

The oil and gas industry says opening up the reserves are key to California’s economy and energy security. A Western States Petroleum Association-funded study by the University of Southern California released last week estimates that developing the Monterey shale will add nearly 3 million jobs and close to \$25 billion in tax revenues by 2020. (Read a take down of this “non-peer reviewed” study in DeSmogBlog.)

For environmentalists, all this activity signifies yet another protracted battle to protect California’s air and water and keep fossil fuels in the ground. Problems associated with fracking include massive water use, contamination of groundwater supplies, air pollution, and increased risk of earthquakes — a special concern in this seismically active region.

So far the state has given little indication that its serious about regulating fracking, environmentalists say. The draft regulations, especially, have been heavily criticized for how little they do to protect the environment. “Overall I don’t get the sense that the new regulations would give California the protections that it needs from fracking,” David Hobstetter, an attorney with CBD, said after he attended a DOGGR public workshop on the draft in Bakersfield on March 13. The draft, Hobstetter said, is “pretty disappointing.” It doesn’t address concerns like air and water quality and earthquake safety, and it doesn’t do enough to ensure people are notified if fracking will be going on next to their homes and farms. “It leaves huge loopholes for the industry,” he said. (Read a more detailed critique of the discussion draft here.)

DOGGR spokesperson Don Drysdale says criticism of the discussion draft is unwarranted since it’s not even a formal rule-making process. “This is a pre-rulemaking process, which comes prior to the formal rulemaking process,” he said. “None of this is final yet.”

Environmentalists also worry that an oil boom would slow down the state's move toward a clean energy economy and undermine California's ambitious goal of cutting back greenhouse gas emissions.

"The whole idea of expanding oil extraction is at odds with California's goal under AB 32 of reducing its emissions to pre-1990 levels," says Brian Nowicki, the Center for Biological Diversity's California climate policy director. However, since the scoping plan for the state's landmark climate legislation looks only at smokestack and tailpipe emissions, there is no clear way under AB 32 to seek to control oil and gas extraction, he says. "But it's clear that fracking [the Monterey Shale] could easily drive up oil consumption and increase methane emissions in California." Nowicki believes the California Air Resources Board, which is responsible for implementing AB 32, should also be looking at the carbon intensity of California's oil and gas supplies.

The industry, meanwhile, says fracking has proven to be safe — the Monterey Shale has, after all, been fracked for years without any major incident — and point out that the state already has very stringent environmental regulations. "Whoever is worried about oil companies setting up home before the [fracking] regulations are in place doesn't have an understanding of how strictly drilling is regulated in California," says Tupper Hull, spokesperson for the Western States Petroleum Association. Hull said legislators were jumping the gun with all the regulatory bills.

"It doesn't make sense," he said. "We think it would be prudent for the legislators to wait until the Department of Conservation comes up with the regulations". He said if there were gaps in the regulations once they were finalized, that's when lawmakers should be thinking about legislation. Hull said he "didn't have any great comment about the lawsuits."

The state intends to finalize its fracking regulations by early 2014. DOGGR is currently holding daylong workshops across the state to receive input on the discussion draft regulations. The next workshop is in Sacramento on March 21