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California Fracking Lawsuit: Judge Slams Obama Administration



By Aaron Sankin

SAN FRANCISCO -- A federal judge struck a major blow against fracking in California this week, ruling that the government was wrong to allow energy companies to drill for oil on 2,700 acres of public land without first considering environmental impacts.

The Bureau of Land Management's assessment of the land "did not adequately consider the development impact of hydraulic fracturing techniques," wrote U.S. Magistrate Judge Paul Grewal in a decision made public on Monday that sided with environmental groups that sued the BLM.

The land in question sits atop the Monterey Shale, a formation of sedimentary rock stretching beneath much of Central California, which the U.S. Energy Information Administration estimates contains more than 15 billion barrels of oil. But the oil can



A pumpjack operates at the Inglewood Oil Field in Los Angeles. A federal judge this week ruled in favor of environmental groups in a California fracking lawsuit. .

only be reached through hydraulic fracturing, or fracking, an invasive process that injects vast amounts of water, sand and chemicals to create cracks in the rock and force the oil to the surface.

Before auctioning off mineral rights to the land in 2011, BLM was required to analyze potential environmental consequences. The agency's 125-page report, however, characterized fracking as "not relevant to the analysis of impacts ... because the reasonable foreseeable development scenario anticipates very little (if any) disturbance to the human environment." Based on this, BLM declared that drilling into federal lands would create "no significant environmental impact" and signed off on the leases.

A coalition of environmental groups, including the Center for Biological Diversity and the Sierra Club, sued BLM over the auction, arguing that fracking threatened significant detrimental effects on water quality and on endangered species.

Judge Grewal sided with the plaintiffs, charging that the government didn't take fracking sufficiently into account. "Rather than engaging in this reality by at least considering what impact might result from fracking on the leased lands, whatever its ultimate conclusion, BLM chose simply to ignore it, asserting that 'these issues are outside the scope of this ... [environmental analysis] because they are not under the authority or within the jurisdiction of the BLM,' the judge wrote. "If not within BLM's jurisdiction, then whose?"

"The Bureau of Land Management has been issuing leases as if by rote without any real concern about the potential detrimental impacts of oil production in the state," said Brendan Cummings, senior counsel for the Arizona-based Center for Biological Diversity. "If BLM is going to make the choice to lease the public's land to be fracked, they have to do a thorough review."

Cummings said the BLM's failure to consider fracking shows the Obama administration prioritizes fossil fuel exploration over the environment and public health.

"BLM is an agency that institutionally believes its job is to provide land for oil companies," Cummings said. "At least in California, BLM is wholly controlled by the oil industry. ... Hopefully this ruling will result in the agency putting the brakes on things."

As fracking has grown more popular, environmentalists and residents have intensified concerns about the practice's impact on natural resources. New fracking techniques

and breakthroughs in horizontal drilling have opened an underground ocean of oil and natural gas deposits that were previously too expensive for energy producers to tap. A recent study by the University of Southern California found that exploiting the resources of the Monterey Shale could boost California's economy by 14.3 percent and create hundreds of thousands of jobs in the state.

BLM officials declined to comment on the ruling, saying they were reviewing it.

Grewal declined to invalidate the leases outright. Still, the ruling likely will mean that all energy exploration will cease until a new environmental impact study is completed to more carefully consider fracking.

Since the 2011 lease auction, BLM has held a number of similar events, including a high-profile auction late last year in which energy companies gobbled up the mineral rights to 18,000 acres of land in Monterey, San Benito and Fresno counties. It remains unclear as to how this ruling will affect those sales.

A report issued by Democratic members of the U.S. House of Representatives found that, from 2005 to 2009, energy firms used 29 known or suspected carcinogens in fracking fluid -- the substance they inject under high pressure into the ground to fracture rock formations.

Recent months have seen attempts, at both the regulatory and legislative levels, to put controls on fracking in California.