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NORTHERN CALIFORNIA'S LARGEST NEWSPAPER

Fracking foes in California win in court



Oil drillers hoping to access the Monterey Shale beneath the Hames Valley in Monterey County face a delay with a ruling that the land was leased without studying the risks of fracking. Photo: Michael Macor, The Chronicle

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Fracking opponents in California have won what may be their first victory in court, with a federal magistrate's ruling that federal authorities broke the law when they leased land in Monterey and Fresno counties to oil drillers without studying the possible risks of hydraulic fracturing.

The decision, made public Sunday, will probably delay fracking on four sites leased by the U.S. Bureau of Land Management in 2011.

U.S. Magistrate Paul Grewal with the U.S. District Court in San Jose ruled that the bureau did not properly assess the threat that fracking could pose to water and wildlife before selling the leases, some of which lie within the Salinas River watershed. He made clear that he was not ruling on the merits of fracking itself.

"Ultimately, BLM argues that the effects of fracking on the parcels at issue are largely unknown," Grewal wrote, in a decision dated March 31. "The court agrees. But this is precisely

why proper investigation was so crucial in this case."

The 2011 lease sale provoked an outcry from local landowners, environmentalists and Monterey County officials, who feared it could represent the start of a fracking boom. The Center for Biological Diversity and the Sierra Club sued the bureau, arguing that the federal agency had not performed the kind of in-depth environmental analysis required by law.

"Their default position is, 'Lease as much land as you can,' " said Brendan Cummings, senior counsel for the Center for Biological Diversity. "It's a recalcitrant agency that's been captured by the extractive industries."

Impact unclear

Bureau spokesman David Christy said the agency needed to study the decision before determining its next step.

"We'll be reviewing it, so we can't comment in any depth," he said.

The ruling's immediate impact on the leases in question isn't clear. Although Grewal discussed invalidating the leases or blocking activity at each site, he said he did not want to "guess" the correct remedy. He ordered the environmental groups and the bureau to meet and come up with proposals by April 15.

Cummings said his group wanted the leases tossed out. The magistrate, he said, could also leave the leases in place but forbid any drilling at each site until the bureau had conducted a proper environmental study.

"As a practical matter, the results would be the same: no fracking on these leases for the foreseeable future," Cummings said.

Two of the companies that won the leases - Vintage Production California and Lone Tree Energy & Associates - did not return calls seeking comment Monday. Another lease was purchased by

Neil Ormond of Clovis (Fresno County), who said he bought it on behalf of a company he declined to name.

Oil and water

Fracking involves blasting a high-pressure blend of water, sand and chemicals deep underground to crack rocks, freeing the oil or natural gas trapped inside. The practice has revolutionized the fossil fuel industry in America, with oil and natural gas production soaring for the first time in decades. Critics accuse it of tainting water supplies and worsening air pollution.

So far, fracking has not taken off in California the way it has in North Dakota, Pennsylvania or Texas. But oil companies are trying the technique here, focusing their attention on the Monterey Shale. A massive rock formation that lies beneath much of the southern San Joaquin Valley and parts of the central coast, the Monterey Shale could hold 15 billion barrels of oil, making it the country's largest oil shale "play."

Who's responsible?

The bureau's September 2011 lease sale involved 2,700 acres of land. Some of the parcels lie in the dry, grass-covered hills southeast of Coalinga (Fresno County). Others sit close to the Salinas River and the San Antonio Reservoir.

Despite protests, the bureau concluded that the lease sale was unlikely to cause any environmental harm. According to Grewal's decision, the bureau justified that

conclusion by estimating that only one oil exploration well would be drilled in the entire area to be leased. The bureau also argued that assessing the safety of fracking was outside the agency's jurisdiction. Grewal disagreed.

"Put another way, if (it's) not within BLM's jurisdiction, then whose?" he wrote.