

California Judge Denies CBD's Request To Bar Wastewater Injections

ALAMEDA, CA.—A California judge has denied a request by an anti-development group for a preliminary injunction to stop wastewater injection in 2,500 wells across the state.

Ruling in *Center for Biological Diversity v. California Department of Conservation* in California Superior Court in Alameda County, Superior Court Judge George Hernandez says the wells have not demonstrated any threat to public health by contaminating aquifers, but economic harm would occur if the wells were shut in.

According to the California Independent Petroleum Association, CDB filed the lawsuit against the Division of Oil, Gas and Geothermal Resources, claiming injections into permitted underground injection wells were unlawful and dangerous. The association successfully filed to intervene in the case.

The judge stated he found no evidence of risk of imminent harm to protected nonexempt aquifers, saying the plaintiff's evidence—generalized admissions by DOGGR that it had not effectively enforced laws and

statements concerning actual harm which he said were, at best, ambiguous—was unpersuasive, CIPA quotes.

CIPA says the ruling allows DOGGR to begin working with the U.S. Environmental Protection Agency to resolve issues surrounding aquifer classifications. Under the Safe Drinking Water Act, an aquifer may be exempted from the UIC program if it is not being used as a drinking water source and will not be used, or if it has a high total dissolved solids content, the association says.

DOGGR plans to conduct a preliminary assessment of whether disputed aquifers that it historically has treated as exempt meet the federal criteria for SDWA exemption, CIPA reports. The agency's preliminary assessment is that some of those aquifers may not meet the exemption criteria, but there are residual water quality questions to be resolved that may support exemptions, CIPA says.

In his testimony for several oil and gas companies that intervened in the case, attorney Jeffrey Dintzer pointed out that imposing an injunction on injection wells would immediately stop 17 percent of the state's oil production, and force the state's refineries to secure crude from out-of-state sources.

The end result would be an increase in gasoline prices for California drivers, Dintzer predicted, adding a second direct result of an injunction would be the loss of thousands of oil and gas jobs in California. □

Colorado Fracture Bans Sent To Supreme Court

DENVER—Declaring the issue to be of “significant public interest,” the Colorado Court of Appeals in August referred two cases seeking to overturn local hydraulic fracturing bans to the state Supreme Court.

Citing bans on fracturing in other Colorado towns, the Appeals Court stated that lawsuits against Longmont and Fort Collins were “test cases for determining whether county and local government may regulate or prohibit fracturing and related activities,” and as a result the issue is, “appropriate for the Supreme Court to decide,” according to the Appeals Court motion filed Aug. 17.

Shortly after voters in Longmont approved a ban on fracturing in 2013, the city was sued by the Colorado Oil & Gas Association. The state Oil & Gas Conservation Commission and TOP Operating Company later joined the suit as plaintiffs. The Longmont ban was overturned by a district court judge who cited the “operational conflict” doctrine under which state law pre-empts a local jurisdiction (*AOGR*, Sept. 2014, pg. 183).

The second case referred by the Appeals Court involves COGA's lawsuit against a voter-approved, five-year moratorium in Fort Collins. A district court overturned the moratorium under the same pre-emption doctrine applied in the Longmont case.

In both cases, there is strong disagreement over the pre-emption issue, with Longmont arguing that the case is “as much about the principles of pre-emption as about minerals or public health,” the Appeals Court motion notes. Longmont also argued that industry practices have changed so dramatically since a 1992 Supreme Court ruling upheld state pre-emption that the basis for the court's decision was no longer valid.

A portion of Fort Collins' appeal questions whether the pre-emption doctrine applies to a moratorium rather

Charles Moncla Jr. Selected As 2015 LAGCOE Looney



LEON CHARLES MONCLA JR.

LAFAYETTE, LA.—The Louisiana Gulf Coast Oil Exposition has selected Leon Charles Moncla Jr. as its 2015 LAGCOE Looney in recognition of his 45-plus years of industry service, announces 2015 LAGCOE Chairman Steve Maley.

Moncla is chairman and chief executive officer of Platinum Energy Solutions Inc. He founded Moncla Well Service Inc. in 1984 and served as its president until the company was sold to Key Energy Services in 2007. Moncla

also served as president of Moncla Companies LLC, and founded Moncla Marine, Brothers Oilfield Service, and Tri Energy Services.

Maley, operations manager at Badger Oil Corp., says LAGCOE Looney recipients have shaped the oil and gas industry through years of devoted hard work while continuously giving back to their communities. This year's recipient is no different.

“LAGCOE Looney 2015 epitomizes the qualities of a true Southwest Louisiana oilman: entrepreneurial risk taking, perseverance during tough times, and enjoying life to the fullest,” Maley comments. “In the end, you pay it forward by giving back to the community and bringing the next generation along. These are the values of LAGCOE, and these are marks of the character of Charlie Moncla.” □

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than a total ban, notes the Appeals Court.

In either case, because the Appeals Court is bound by precedent and only the Supreme Court can overturn its own rulings, the high court is “best suited” to rule on the issue, the motion states.

COGA responded to the Appeals Court decision by noting the action did not legitimize local bans and that thus far, “every Colorado court has declared bans and moratoria on hydraulic fracturing illegal.”

Meanwhile, the Erie, Co., Planning Commission approved new rules for oil and gas development in August, according to published reports. The rules, which designate operator plans as “type A, B or C,” depending on adherence to the town’s guidelines, were protested in letters from COGA and Anadarko Petroleum Corp.

The protest letters charge Erie’s guidelines with overstepping state law and exposing the town to possible litigation, according to reports. □

Injunction On Mancos Shale Drilling Rejected

ALBUQUERQUE, N.M.—Oil and natural gas activity in New Mexico’s Mancos Shale can continue unabated for the present, as a federal judge denied a request by environmental groups for a preliminary injunction against producers’ drilling permits, New Mexico industry groups report.

According to the New Mexico Oil & Gas Association, U.S. District Judge James Browning rejected the injunction requested by the Navajo Tribe and environmental groups, including the WildEarth Guardians. The groups have filed a lawsuit against the U.S. Bureau of Land Management, arguing that it should not allow oil and gas companies to drill or hydraulically fracture tribal and federally managed lands near the Chaco Culture National Historical Park (see stories page 145 and 156).

In his decision, Browning writes that while the groups had put forth enough evidence to cast doubt on the

capital, and an increase in royalties paid to the state and federal governments—from opening the Mancos Shale formation to economically viable drilling now, rather than waiting until the resolution of this case,” he states. “The plaintiffs have failed to demonstrate with the requisite specificity a countervailing environmental interest that outweighs the public’s strong economic interest.”

Browning also comments that the balance of harms weighs in the BLM’s favor, because if the injunction was issued, “then the (oil and gas companies) would almost certainly lose whatever income their BLM-approved wells would have produced between the issuance of the preliminary injunction and the resolution of the case.”

NMOGA and the Independent Petroleum Association of New Mexico point out the case was filed in May and sought to stop BLM from approving drilling permits in the Mancos Shale area. The environmental groups claimed increased truck traffic and well pads

in the region.

Chaco Culture National

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that the company still expects the project to go forward. “From our perspective, given that we are under a cease and desist order anyway, it doesn’t change anything,” press accounts quote Helis spokesman Greg Beuerman.

The vacated permit is the latest development regarding the local government’s efforts to stop Helis from drilling and fracturing a well. Earlier in the spring, a Louisiana district judge rejected St. Tammany’s plans to use its zoning code to stop the project on the grounds that the OC had sole jurisdiction over oil and gas drilling (AOG, May 2015, pg. 16). □

Higher TENORM Limits Advance In North Dakota

BISMARCK, N.D.—The North Dakota Health Council has adopted new rules governing the disposal of technically enhanced naturally occurring radioactive material (TENORM) recommended by the state Department of Health’s (DoH) Environmental Health Section.

According to a department press release, the proposed rules were drafted and revised after public hearings and a comment period that ended in March. Before the rules take effect, it adds, the attorney general’s office and the Legislative Council’s Administrative Rules Committee must approve them.

DoH indicates the change includes an increase from 5 picocuries/gram to 50 pCi/g in the allowable amount of TENORM that can be disposed in specialized landfills. It says the figure is derived from analysis by Argonne National Laboratories. “The study, which was released in 2014, determined that TENORM of 50 pCi/g could be disposed of safely in North Dakota under certain conditions,” the department details. “The rules also contain requirements for registering generators; licensing storage, treatment and disposal facilities; tracking the waste; and reporting to the department.”

Under the current limits, DoH

Drilling Permits Issued In Many Parish

MONROE, LA.—A drilling permit for many Parish issued to the Louisiana Department of Natural Resources’ Office of Conservation (OC) was approved in August by state Judge James Browning on the grounds the state had not shown its due diligence. According to press accounts, the OC failed to show its due diligence.

“The OC failed to show its due diligence,” Browning said. “Alternative sites were not considered in the benefit analysis of the