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Californians at Risk of Fracking Pollution Because of New Fracking Law

Judge rules that passage of California's Senate Bill 4 stops environmental review case

Oakland, Calif.— An Alameda County Superior Court judge ruled that a 2013 law put a stop to a lawsuit designed to force the state of California to examine the environmental effects of the highly controversial oil and gas drilling process called fracking.

Environmental advocates, represented by Earthjustice, were in court seeking to force the agency responsible for regulating the oil and gas industry to abide by the state's foremost law that protects public health and the environment. The conservation groups argued that the California Department of Conservation, Division of Oil, Gas, and Geothermal Resources had failed to consider or evaluate the risks of fracking, as required by the California Environmental Quality Act.

In issuing its ruling, the court agreed with oil industry arguments that after the passage of Senate Bill 4 and issuance of the agency's newly adopted emergency regulations, the environmental lawsuit must be dismissed. The Division admits it has not previously permitted or monitored fracking's impacts and has never formally evaluated the potential environmental and health effects of the practice, even as it continues to approve new permits for oil and gas wells.

“California's new fracking law creates a host of problems,” said Will Rostov, the Earthjustice attorney representing the conservation groups. “Under the new rules for the next twelve months, the state must approve any and all fracking projects without considering all the environmental harms that fracking causes.”

The agency has been rubberstamping oil and gas drilling activity without doing environmental review at all, or by issuing “negative declarations” that such activity

will have “no significant effect” on the environment, without any study or mention of the potential impacts from fracking. The emergency regulations go a step further and require the agency to blindly approve fracking.

“This ruling demonstrates that the emergency regulations under S.B. 4 are an attempt to greenlight fracking throughout California with no protection for the environment or public health,” said Hollin Kretzmann, a staff attorney with one plaintiff, the Center for Biological Diversity. “Governor Brown needs to halt fracking immediately before it causes irrevocable damage to our state.”

Fracking is a controversial procedure used by drillers in California to extract deposits of oil and gas from depleted wells or from geologic formations where conventional drilling is ineffective. Hundreds of thousands to millions of gallons of water are mixed with toxic chemicals and injected down each well at high pressure, fracturing the underground rock formation to force the oil or gas to flow to the surface.

“Californians have signaled strongly throughout the state that they want to be protected from the health and environmental impacts of fracking,” said Kathryn Phillips, director of Sierra Club California. “For years, the oil industry and regulatory agency have tried to keep the public in the dark about these impacts. Unfortunately, the court’s ruling supports this pattern of preventing Californians from having a clear picture of the oil and gas extraction practices occurring in their communities.”

“This decision greenlights DOGGR’s decision to allow the oil industry to self-regulate over the next year,” said Jennifer Krill, executive director for Earthworks. “Californians could have immediately benefited from the hard-won experience of communities around the country already harmed by fracking. But now DOGGR will continue to ignore those lessons learned. Californians living by oil and gas development will pay the consequences with their health.”

Other parts of the country are in the midst of a fracking-enabled drilling rush. Along with this rush have come troubling reports of poisoned drinking water, polluted air, mysterious animal deaths, industrial disasters, earthquakes and explosions.

Said Bill Allayaud, California director of Government Affairs for the Environmental Working Group: “When California legislators voted for SB 4, we don’t think they knew that they were voting for the elimination of environmental

review of fracking. This situation makes it more important than ever that Governor Brown step in, institute a moratorium, and allow good science to be developed.”

Environmental advocates were heartened that while the decision dismissed their suit on procedural grounds, it did not foreclose potential future challenges to the emergency fracking regulations or the implementation of S.B. 4.

California wells have been pumping oil for more than 100 years. As more easily exploited petroleum deposits have been used up and prices have climbed, oil companies have turned to fracking to increase production. Enticed by claims that more than 14 billion barrels of oil are trapped in the Monterey and Santos shale formations, oil and gas companies have commenced an exploratory drilling and fracking campaign beneath Central and Southern California. These shale formations span 1,700 square miles from the San Joaquin Valley to the Pacific Ocean, including the Los Angeles basin, a region crisscrossed with active earthquake faults.

The California Environmental Quality Act, signed into state law by Gov. Ronald Reagan, is a cornerstone of environmental protection in the state.

Earthjustice filed the lawsuit on behalf of the Center for Biological Diversity, Earthworks, Environmental Working Group and Sierra Club.

ONLINE VERSION: <http://earthjustice.org/news/press/2014/californians-at-risk-of-fracking-pollution-because-of-new-fracking-law>

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