Casper, Wyoming - Tuesday, January 11, 2005

HB491

EXHIBIT 1
DATE 2.9.05
HB 491

News
AP News
AP Realtime Search
Archive
Business
Casper
Circulation
Community
Features
National
Obituaries
Opinion
Parade Magazine
Regional
RSS Feeds
Sports
World
Wyoming
Legislature Update

Classifieds
View Classifieds
Place a Classified Ad
Real Estate Monthly
Real estate ads
Wyoming Land Magazine
Employment ads
WyomingJobQuest.com
Wheels for You
Car ads

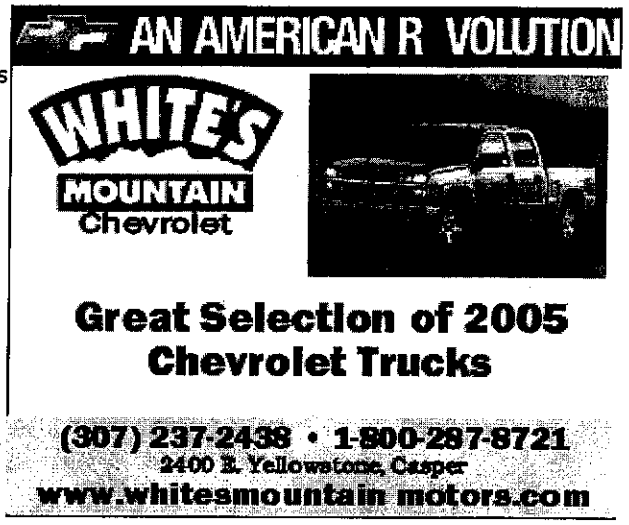
Forms
Anniversaries
Engagements
Weddings
Services
Restaurant Guide
Subscribe
Advertising
Online Advertisers
Contact Us
Newspapers In Education
Talk to Us

Regional
Lee Newspapers
Billings Gazette
Casper Journal
Jackson Hole Star-Tribune
Rapid City Journal

State steps up CBM enforcement

By DUSTIN BLEIZEFFER
Star-Tribune energy reporter Tuesday, January 11, 2005

GILLETTE -- Wyoming officials are stepping up enforcement efforts in light of rampant environmental violations in the coal-bed methane industry.



The state engineer's office recently found that 153 of 217 "on-channel" water storage reservoirs in one drainage alone were not properly permitted. The agency is asking operators to "cease storage" until the reservoirs are brought into compliance -- an action that could potentially suspend some gas production.

"What we found was stunning," State Engineer Patrick Tyrell said Monday. "We'd had allegations that reservoirs weren't all being permitted. And that was the reason we went to the Legislature to get funding for this inspection, because we didn't have the personnel that it would take to thoroughly inspect a drainage."

"On-channel" reservoirs are created to hold coal-bed methane water in existing natural drainages where water normally flows. Significant amounts of water are discharged in coal-bed methane production.

The state engineer's office expects to find hundreds more unpermitted reservoirs, considering there are dozens of drainages that have not yet been inspected.

The agency was already in the process of developing a bill to stiffen fines for violations related to water appropriations when it discovered it had no power to levy a monetary fine for reservoir violations, Tyrell said. Now, Senate File 28 includes a provision to levy fines for such violations.

"Our penalties are not enough of a disincentive," Tyrell said.

Last year, the Legislature set aside $70,000 for the state engineer's office to conduct the field inspections on coal-bed methane reservoirs. The inspections are still under way.

Tyrell said the agency is scrambling to ramp up its oversight and enforcement efforts in the Powder River Basin at the same time it tries to keep pace with about 1,000 new permit applications annually.

Prairie Star Great Falls, Mont.

Markets

Symbol(s)

Get

Symbol Lookup

NewsSource

Links to the source information used by our reporters in the writing of news stories.

Supplemental State Budget

Other problems are coming to light as well. The Wyoming Department of Environmental Quality is investigating coal-bed methane water discharges on Wild Horse Creek that have apparently caused some flooding, according to Jim Eisenhauer, a field inspector in DEQ's Sheridan office.

And the Powder River Basin Resource Council said it has documented cases in which known pollution violations in coal-bed methane water discharges have been allowed to continue beyond two years.

It's important that reservoirs be permitted in case there are problems, such as with the flooding on Wild Horse Creek between Gillette and Buffalo. In such an event, regulators have to be able to identify who is responsible for a particular reservoir. It can be a difficult task because there can be hundreds of on-channel reservoirs for any particular drainage, and a dozen different companies directing coal-bed methane water into the drainage.

Industry reacts

"We're as surprised as anyone to see there were unpermitted reservoirs. Our companies take pride in how they follow the regulations and the law," said John Robitaille, vice president of the Petroleum Association of Wyoming.

Robitaille said he has spoken directly with several companies involved and assured they are working diligently to resolve the problem.

Industry contends that many of the problems, including unpermitted reservoirs, are not willful and brazen disregard of regulations. Rather, it's a matter of oversight in the confusion of lease swaps, company mergers and ever-changing rules guiding the industry's activities.

"Over the years, the regulations have changed dramatically. We've been shooting at a moving target," Robitaille said.

Others say the problems are an indication that there's been little oversight or control of the industry since it sprang to life in the late 1990s.

"Here the state argued (in federal court) that the state is the gatekeeper. 'We're the protector. We're not going to let anything bad happen in Wyoming.' Well, it's turning out to be a complete falsehood," said Jill Morrison of the Powder River Basin Resource Council.

DEQ Water Quality Division Director John Wagner said if there's no immediate threat related to a known water discharge violation, the agency gives an operator time to address the problem without interfering with production activities.

Fodder for lawsuits?

Gov. Dave Freudenthal has urged state agencies to step up oversight and enforcement of rules guiding the coal-bed methane industry.

During a cabinet meeting last week, Freudenthal told state agency officials the appearance of a lack of control potentially could be used as an argument for ar injunction in pending lawsuits over coal-bed methane development.

"It's the hook that some people are looking for to say, 'The state's not doing it right, and we're going to go to federal court and say the state's not doing it right and seek an injunction,'" Freudenthal told cabinet members.

"I don't think that's in our best interests, and I don't think it's in anybody's best interests," Freudenthal added.

The fate of Wyoming's coal-bed methane industry may lie in pending litigation against the Bureau of Land Management.

EarthJustice and several other conservation groups have brought suit against the BLM. They argue that the BLM's Powder River Basin oil and gas environmental impact statement failed to take the mandatory "hard look" at the implications of allowing the coal-bed methane industry to grow to 51,000 wells here.

The state has sided with the BLM, and it also successfully fought to move the lawsuit from Montana's federal court system to federal court here in Wyoming.

Some regulators say Freudenthal's concern is valid.

Tom Johnson, coal-bed methane project coordinator for the U.S. Army Corps of Engineers' Wyoming division, noted his agency lost a legal battle last week for its general permit for coal-bed methane reservoirs.

"We don't have a good monitoring program," Johnson said. "We've only got three people for all our activities in Wyoming, and the judge did key in on that."

Energy reporter Dustin Bleizeffer can be reached at (307) 682-3388 or dzeffer@trib.com.

E-MAIL THIS STORY

PRINTABLE VERSION

BRAILLE FILE
This will download to your computer a computer braille ASCII file of the current story translated into grade 2 braille. This file may be sent to any standard braille embosser.

Copyright © 2005 by the Casper Star-Tribune published by Lee Publications, Inc., a subsidiary of Lee Enterprises, Incorporated

CASPER STAR TRIBUNE
January 12, 2005

Rancher raps state on methane reservoirs

By DUSTIN BLEIZEFFER
Star-Tribune energy reporter Wednesday, January 12, 2005

http://oas.lee.net/RealMedia/ads/click_nx.ads/casperstartribune.net/news/wyoming/top/Middle1/1@Position1,Middle,Middle1,BottomLeft,BottomRight!Middle1GILLETTE -- Long before a field inspection was commissioned last year, state regulators should have had some idea that a large number of coal-bed methane water storage ponds were without permits, a Campbell County rancher says.

Ed Swartz lives on Wildcat Creek in northern Campbell County. In 2003, the state conducted an aerial survey of Wildcat Creek in gathering information related to Swartz's lawsuit against the Wyoming Department of Environmental Quality. Initial results from that survey showed 109 "on-channel" reservoirs were being used to hold coal-bed methane water but were not permitted with the state engineer's office.

"This isn't any new (expletive) deal," Swartz said. "I'm really, really (expletive) that they're acting like, 'Oh, we had no clue that these things were happening.'"

On Monday, State Engineer Patrick Tyrrell said he was "stunned" to learn that 153 of 217 -- or 70 percent -- of the on-channel reservoirs on Rawhide Creek alone were not permitted with his office. Such reservoirs are created to hold coal-bed methane water in existing natural drainages where water normally flows. Significant amounts of water are discharged in coal-bed methane production.

On Wildcat Creek, where the aerial survey was done in 2003, Tyrrell said further investigation whittled down the number of unpermitted ponds to 23 after ruling out several road crossings and silted-in reservoirs. He said 21 of the 23 unpermitted reservoirs on Wildcat Creek have since been permitted, one was breached, and another went unresolved.

"Rawhide is a bigger problem," Tyrrell said.

Nevertheless, Swartz said state regulators have long been aware that more on-the-ground inspection is needed to ensure all the structures are on record.

Tyrrell said he does not expect to find the same ratio of unpermitted to permitted reservoirs elsewhere in the Powder River Basin because his agency and the coal-bed methane operators themselves have a better handle on what needs to be permitted as the industry moves westward across the basin.

And there are many pending permit applications being processed at the state engineer's office. The office is processing permit applications for at least 55 of the 153 unpermitted reservoirs on Rawhide Creek, according to the agency.

Industry officials say they can ask the agency to "fast-track" some permits applications, but that status can be extended to only a limited portion.

The Swartz vs. DEQ lawsuit was settled in 2003. On Tuesday, Swartz said the permitting problems on Rawhide Creek exemplify the need for more involvement from the state.

"The state of Wyoming is supposed to protect the existing water rights from unpermitted reservoirs that are interfering with (those with water rights), and they have really dropped the ball," Swartz said. "Those of us who could afford to do it, we have to take them to court to try to protect rights that the state of Wyoming should have been protecting for us all along."

The Rawhide Creek report is expected to be made public when the Legislature considers Senate File 28, a bill that includes a provision giving the state engineer's office power to impose a $1,250-per-day fine for unpermitted on-channel reservoirs.

Tyrrell said his agency sent a notice to coal-bed methane operators on Monday asking them to audit their reservoirs and make sure they are permitted.

Energy reporter Dustin Bleizeffer can be reached at (307) 682-3388 or dzeffer@trib.com