



Local News - Gillette, Wyoming

Wednesday, November 14, 2007

## Judge rules for state in dispute over coal-bed methane water rules

*From staff and wire reports*

CHEYENNE — A judge has ruled that state courts lack the authority to order Gov. Dave Freudenthal to approve regulations to limit water discharged by coal-bed methane wells.

Freudenthal in April rejected rules developed by the state Environmental Quality Council. The Powder River Basin Resource Council filed suit in response.

The Wyoming Attorney General's office asked District Judge Edward Grant of Cheyenne to dismiss the case.

In a ruling last week, Grant agreed. He said the Governor's Office is not a state agency in the rule-making context. The judge ruled that there's no statutory right to petition the courts for review of the governor's actions.

"We were hopeful we could try to at least get some relief from judicial review," Resource Council Spokeswoman Jill Morrison said. "We could appeal it to the Supreme Court if we wanted to, but we're not sure if we want to do that right now."

The most significant things the water quality rules would do is regulate quantity of discharged coal-bed methane water if it had a degrading effect on quality. It also would have required data to be gathered proving that the water would be put to some use for livestock or agriculture.

In Freudenthal's rejection of the rules, he said that they were a "back door" way for the DEQ to regulate quantity, something he doesn't believe was provided for in the mandate of the Environmental Quality Act. Freudenthal was angered by the EQC's decision to hear the resource council's petition before they had exhausted the customary avenues of appeal and, in a stern letter, reprimanded them for it.

Those in the industry say it all makes sense, and that the DEQ was never the right government agency to handle issues of water quality.

"Constitutionally, all water within the state is to be managed by the state engineer," said John Robitaille, Petroleum Association of Wyoming vice president.

A bill composed by the Wyoming Coal-Bed Methane Water Management Task Force seeks explicit authority for the state engineer to manage coal-bed methane water quantity. It hasn't been picked up by any legislative committee, but Robitaille says the minerals committee may be looking at it as soon as December.

Water has been one of the key issues for the coal-bed methane industry and those who oppose the unrestrained dumping of the water into ephemeral drainages, often damaging them by sloughing off the banks and damaging the vegetation with its high salinity.

Local industry meetings were held while the EQC deliberated, decrying rules that they said would shut down gas production in the Powder River Basin.