

Judge tosses water lawsuit

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Monday, June 23, 2008 2:07 AM MDT

A lawsuit against the state engineer and the Wyoming Board of Control regarding coal-bed methane water was dismissed recently.

Plaintiffs Bill and Marge West, and L.J. and Karen Turner, alleged that the state engineer failed to uphold constitutional and statutory obligations to protect the state's groundwater by not managing the volumes of water pumped to the surface in the production of coal-bed methane.

First Judicial District Judge Peter G. Arnold dismissed the lawsuit based on the view that the state was acting in accordance with the state constitution.

"It was a question of whether the review was something left to a court or the Legislature. We felt it should not be left to the court, and Judge Arnold agreed," said Pete Michael with the state attorney general's office.

The plaintiffs may file an appeal, but must do so by June 30.

"Obviously we're disappointed, because we want to get to the merits of the case," said the plaintiffs' attorney, Kate Fox, of the firm Davis & Cannon.

Fox said the judge's order seemed to agree with the plaintiffs' argument that the court has jurisdiction to review the complaint.

Arnold wrote in the order, "The court has authority to determine the constitutionality of statutes and laws. However, any decision by this court would not resolve the current case and controversy. Instead, any decision by this court most certainly will evoke political, administrative, philosophical, and/or academic debate or argument."

Campbell County rancher Marge West said she and her husband have not yet decided whether they will appeal the decision. In the meantime, West said the situation hasn't changed much in the Powder River Basin. Ranchers are still prone to losing water wells to the production of coal-bed methane.

"The state engineer is supposed to consider the interests of all the parties involved -- landowners and people who lease the land," West said. "But he was considering the methane companies and not considering any of the people who have use of the land."

Massive amounts of groundwater -- more than 600 million barrels per year -- are pumped from coal seams to relieve the hydrostatic pressure that holds the methane gas in place. Some of the produced water is used in irrigation and stock watering. However, the volume of water produced in the basin far exceeds practical uses, and sometimes floods low-lying pastures.

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