

Ranchers lose CBM suit in Wyo Supreme Court

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CHEYENNE -- The Wyoming Supreme Court has ruled against two ranching families who argued the state should do more to regulate water produced by coal-bed methane wells.

Powder River Basin ranchers Bill and Marjorie West and L.J. and Karen Turner contended that the Wyoming State Engineer's Office and the Wyoming Board of Control had failed to manage CBM water produced from natural gas production.

The ranchers said pumping underground water to the surface in order to recover the gas has damaged their property.

Thursday's court ruling, written by Justice Marilyn S. Kite, states that the ranchers' case failed on a technical point.

Kite wrote that the ranchers don't have a case not because the state necessarily has managed CBM water correctly, but because the ranchers failed to show how any state failure to do so has caused specific harm to their property.

"By ruling that the court does not have jurisdiction over this case, we do not want to leave the impression that we approve of the state's administration of CBM water," the ruling states. "West and Turner raise serious allegations of damages to their property from CBM water and failures on the part of the state to properly regulate CBM water statewide."

The ruling states that if the proper case comes up, "we will not hesitate to determine whether the state's processes meet the constitutional and statutory directives."

Wyoming coal-bed methane wells pump massive amounts of groundwater, drawing methane to the surface by relieving hydrostatic pressure. The Wyoming Oil and Gas Conservation Commission reported more than 500 million barrels of water was pumped last year to the surface from underground coal seams.

Ranchers such as the Wests and the Turners have long complained that the pumped water both floods their lands and also draws down the aquifers they rely on for their own domestic and livestock wells.

The Wyoming Attorney General's Office argued against the ranchers' request for a declaratory judgment that the state agencies are failing in their duty to administer the water.

"We're pleased that the court affirmed the state's position in the case," Attorney General Bruce Salzburg stated by e-mail Thursday.

Harry LaBonde, deputy state engineer, said Thursday that his office welcomes the court's decision.

LaBonde said his office has always believed its processes with regard to CBM are in compliance with the statutes and the state Constitution.

"We're pleased with the decision," he said.

Pennaco Energy and Devon Energy, CBM producers, tried to intervene in the case to be in a position to make arguments if the court had ruled in favor of the ranchers. The court ultimately didn't consider the companies' arguments.

Brent Kunz, a Cheyenne lawyer representing Pennaco, didn't return a telephone call seeking comment.

Rancher L.J. Turner had a blunt response to the court ruling.

"It stinks, in simple language," Turner said. "I really thought that we had a very solid reasoning behind it, and I still think we do."

Turner said his family ranch in southern Campbell County has 14 CBM wells and 13 water wells for livestock.

"We are losing our water wells, they're pumping out the water," Turner said. He said his ranch is in one of the higher parts of the county, and he expects lower elevations will soon suffer the same fate.

Turner said he believes the state is too sensitive to the needs of the minerals industry. He said provisions of the state constitution that require the state engineer to administer the waters of the state are being ignored in the face of lucrative CBM production.

Marjorie West said Thursday she was disappointed by the decision. She said her family ranch has suffered flooding as a result of CBM runoff freezing in stream banks.

"It has just really destroyed the land," West said. She said she believes that the state has failed to regulate CBM water production.

"The worst thing about all this is once this water is gone, Wyoming is never going to be able to get it back, West said.

Kate Fox, lawyer for the ranchers, said she would have liked the court to look at the merits of the case to address the damage that CBM pumping is causing. She said the state ultimately needs to address the issue.

"When you look at the statistics and the forecast, there's a lot more water to be discharged in CBM production in the next 30 to 50 years than there has been to date," Fox said. "There's still plenty of reasons to get it right."