

Tinker: In oil and gas regulations, one size doesn't fit all

By Scott W. Tinker | July 21, 2016

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Photo: Jerry Lara, Staff

A Wyoming federal judge was right to strike down stiffer rules for fracking on federal land.

In striking down the Obama administration's hydraulic fracturing rule that would have put more regulations on "fracking" on federal lands, Judge Scott Skavdahl in the U.S. District Court of Wyoming got it right for the environment.



When it comes to oil and gas production, each state is different because the geology, regulatory frameworks, infrastructure, economics, industries, tax laws and political climate are different. One size does not fit all.

State regulators and policymakers have more experience, expertise and local knowledge than the federal government does. Thus, states are better at ensuring that industry, government and other stakeholders work together to produce oil and gas; protect the land, water and air; disclose the composition of frack fluids; and provide a local tax base that allows for further environmental protection in the state.

State primacy is the best solution for the environment in this case and other issues as well. Should agricultural practices in Florida follow the exact standards as those in Oregon? Should Colorado be told it cannot sell marijuana? Should New York be required to allow fracking in the Marcellus Shale? Are there cases where federal regulation makes sense? Of course. For example particulate pollution, or safety standards for food, which cross state boundaries.

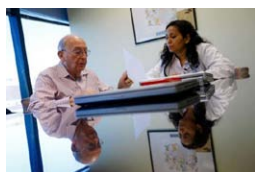
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Is the state oil and gas regulatory process perfect? Of course not. That is why state regulators share best practices and experiences and are always improving. Are all states prepared today to regulate oil and gas? No. But does that justify the Interior Department's statement that Judge Skavdahl's ruling "prevents regulators from using 21st century standards to ensure that oil and gas operations are conducted safely and responsibly on public and tribal lands?" No, it does not.

There are local, and mostly temporary, effects of drilling, such as increased noise, dust, roads and lights. On rare occasion, wells can leak methane through surface casing designed to protect groundwater; valves can leak methane; and surface storage pits can leak water. Also on rare occasion, pressure from disposal of produced water deep in the earth can cause a natural fault to shift sooner than it would have on its own, creating a low-magnitude earthquake.

Are these environmental impacts acceptable? No. The industry must continue to improve, and it does. Are the impacts large-scale and systemic? No. They are local, and they are the exception. Of course, understanding the rarity doesn't help if such an event happens in your backyard, any more than would occurrences of contamination from an industrial-scale chicken farm or a chemical battery, fertilizer, or solar-panel manufacturing plant.

Do we have energy options better than oil and natural gas that can be deployed immediately? Some say yes, but that is mostly a political answer. Thermodynamics are less definitive. To replace 50 percent of baseload coal, natural gas and nuclear-generated electricity with intermittent solar and wind power is a massive undertaking, because these alternatives are very low-density sources of energy. Collecting and converting them into dense, useful energy will result in environmental impacts on a major scale, including construction, mining, land use, power lines, shipping and transport, chemical-battery manufacturing, waste disposal, bird kills, and other forms of heavy industry. Unfortunately, scale matters. No form of energy is environmentally perfect.

As we consider energy, the economy and the environment, and how to improve all three, it is best to remain objective, fact-based and educated. Balanced research funding - from government, nongovernment, and, yes, industry sources - helps to ensure that the most complete data are used, that the results do not stray too deeply

into the potentially biased worlds of any particular group, and that rigorous and thoughtful exchange and peer review among experts goes on throughout the process. When dealing with topics that we are passionate about, we all migrate toward results and outcomes that confirm our biases, even when faced with objective, measurable, repeatable results that may not agree.

In environmental regulation, the road to green is not always a federal highway.

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