



Implementation of BLM Hydraulic Fracturing Rule Delayed by Wyoming Federal District Court

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On June 23, 2015, a Wyoming federal district court judge agreed to temporarily halt implementation of the Obama administration's far reaching hydraulic fracturing rule ("HF Rule") just hours before the provisions were scheduled to take effect. Four Western states – Colorado, North Dakota, Utah and Wyoming – along with intervenors Western Energy Alliance and the Independent Petroleum Association of America, argued that BLM lacked authority to regulate environmental aspects of oil and gas development, and that the scheduled implementation of the HF Rule on June 24, 2015 would result in irreparable harm to the Western states and industry. The federal government and a coalition of six environmental groups have defended the HF Rule, which would require the BLM to approve frac'ing operations on federal lands.

The June 23 hearing concerned an emergency injunction request made by the Western states and industry (Petitioners), for purposes of delaying implementation of the HF Rule until the court determines its efficacy. The oral arguments focused primarily on the harm caused to Petitioners absent the grant of a preliminary injunction, and the likelihood of Petitioners prevailing on the merits of the case.

The hearing resulted in a delay of the HF Rule's implementation, pending the lodging of the administrative record (the federal government has until July 22 to complete the record).

While Judge Skavdahl agreed that certain issues related to imminent and irreparable harm and the likelihood of each party prevailing on the merits could be resolved absent the administrative record, certain bases for and against the injunction required that the court review the complete record. As such, Judge Skavdahl postponed implementation of the HF Rule pending submission of the administrative record. Upon submission of the complete record, the parties will have seven calendar days to provide the court citations from the record supporting their positions. An order on the motion for a preliminary injunction will be issued thereafter within two weeks.

While Judge Skavdahl emphasized the nature of the order being only a stay as opposed to the granting of the motion for a preliminary injunction, he concluded that Petitioners have established a credible threat of irreparable harm and that a balancing of the harms of implementation of the HF Rule favored Petitioners, as 99% of the land subject to the HF Rule is

already covered by existing state rules. Accordingly, Petitioners' need only establish a likelihood of success on the merits during future oral arguments on the motion for preliminary injunction – proving that yesterday's decision was a victory for industry.

For further information regarding the BLM Hydraulic Fracturing Rule, please contact [Bret Sumner](#) or [Samuel R. Yemington](#).