To: Robin, George[Robin.George@epa.gov]
From: Albright, David
Sent: Mon 1/12/2015 3:37:47 PM
Subject: RE: (Baksfd Californian) Political uproar over oil permitting resurfaces

Thanks George.

From: Robin, George
Sent: Monday, January 12, 2015 7:12 AM
To: R9-Deep
Subject: (Baksfd Californian) Political uproar over oil permitting resurfaces

fyi

George

http://www.bakersfieldcalifornian.com/business/kern-gusher/x1226334666/Political-uproar-over-oil-permitting-resurfaces

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Political uproar over oil permitting resurfaces

BY JOHN COX The Bakersfield Californian jcox@bakersfield.com

Kern County politicians are preparing for "war" with federal and state oil regulators over a permitting slowdown whose roots reach to a 2011 backlog that led Gov. Jerry Brown to oust two top Sacramento officials.

At issue then and now is increased scrutiny of oil producers' applications to dispose of wastewater by injecting it deep underground, an activity considered integral to Kern's petroleum industry.

INJECTION WELL TIMELINE

1974: Congress passes Safe Drinking Water Act, establishing groundwater protections.

1980: Environmental Protection Agency puts injection well regulations into place.

1981: American Petroleum Institute files lawsuit claiming EPA's regulations were overly broad and beyond SDWA's

intent.

1982: EPA amends its regulations to include a special provision for oil and gas production.

1982-1990: EPA grants 20 states, including California, authority to oversee SDWA groundwater protections.

Summer 2011: EPA-commissioned audit calls out numerous problems with California's oversight of oil field injection work.

November 2011 : Gov. Jerry Brown, under pressure from California's oil industry and lawmakers from Kern County, removes the state's top two petroleum regulators over injection well permitting delays.

June 2014: EPA calls on regional water officials to establish a "consistent and predictable process" for reviewing aquifer exemption requests required for most oil field waste disposal.

July, August 2014: State regulators shut down about a dozen disposal injection wells in Kern oil fields, saying the aquifers they target into were never exempted from the SDWA.

December 2014: The EPA sets a Feb. 6 deadline for state oil and water regulators to deliver a comprehensive plan for coming into compliance with federal groundwater protections by Feb. 15, 2017

QUOTABLE

"Congressman McCarthy is working with local industry and all involved parties on streamlining existing permitting issues."

-- spokesman Vince Fong, on behalf of Rep. Kevin McCarthy, R-Bakersfield

"We definitely want to understand what (state oil and water regulators') methodology is, what their thinking is."

-- Assemblyman Rudy Salas, D-Bakersfield

"We need to make sure people in the oil patch have jobs, and that (a) lack of government effort shouldn't be hurting out jobs."

-- State Sen. Andy Vidak, R-Hanford

"We need to press very, very hard again. As the attacks from the public heat up, this agency, DOGGR (the California Division of Oil, Gas and Geothermal Resources), needs to be able to have a solid body of science that they cite and regulations that they cite."

-- State Sen. Jean Fuller, R-Bakersfield

"We are consulting promptly because we understand the need for industry to have acceptable disposal locations, but we are also cognizant of the need to protect California's limited water resources."

-- spokesman George Kostyrko, for the tate Water Resources Control Board

"Given the reality of the drought, protecting groundwater is of paramount importance."

-- State Oil and Gas Supervisor Steve Bohlen

"We look forward to continuing our collective efforts towards achieving our shared commitment to protect California's underground sources of drinking water, and anticipate receiving your program revision plan by February 6, 2015."

-- Jane Diamond, director, water division, Region IX, U.S. Environmental Protection Agency

"What we need is just a clear path and a clear direction."

-- Assemblywoman Shannon Grove, R-Bakersfield

State officials acknowledge their reviews of injection project proposals have taken longer lately as the U.S. Environmental Protection Agency increases pressure on California to do more to protect potential sources of future drinking water from contamination.

Locally elected officials in Sacramento and Washington, D.C., contend the permitting delays are unjustifiably holding up projects that employ Kern oil workers.

"We want to be safe but, doggone it, we have to keep people working down there in Kern County," said state Sen. Andy Vidak, R-Hanford.

A key difference between the current standoff and the one three years ago is that the push for more in-depth injection project reviews is now seen as originating in Washington, not Sacramento. This distinction has put focus on the role of Rep. Kevin McCarthy, R-Bakersfield, who worked for a solution with state officials in 2011 but now is being asked to exert influence within the EPA.

A McCarthy spokesman said the congressman is aware of the problem and working to resolve it.

Kern lawmakers, meanwhile, are calling for a legislative hearing and meetings with Gov. Brown and other senior state officials. They say all parties must work together to establish a clear path for industry to secure approval of safe injection projects.

"This is a war that is going to continue to escalate," said state Sen. Jean Fuller, R-Bakersfield.

Recent escalation

The long-brewing conflict, precipitated by a 2011 federal audit highly critical of California's oversight of oil field injections, escalated last summer when the state shut down about a dozen injection wells in Kern County. Officials cited concerns that "produced water," the salty solution that comes up from the ground along with crude oil, was being injected into aquifers never exempted from protections established by the federal Safe Drinking Water Act.

In September, Bakersfield oil producer Chad Hathaway sued the state Department of Conservation, alleging it has refused to process his injection well application. The lawsuit is pending.

The department's Division of Oil, Gas and Geothermal Resources acknowledged a slowdown in permitting as it requests more data than it used to from oil producers seeking injection approvals.

Evidence of a slowdown

Between Jan. 1, 2014, and the third week in December, DOGGR said, it issued approvals for 74

percent of the 561 applications it received for what are known as Class II Underground Injection Control projects, which can be for disposal activity or the oil well stimulation activity known as cyclic steaming.

By comparison, the division said, it approved 817, or 89 percent, of the UIC Class II applications it received during the same period a year before.

DOGGR chief Steve Bohlen said in a written statement the agency is "proceeding responsibly and cautiously" after findings that injections were being made into improper zones. He said state and regional water officials, which work with the division on UIC reviews, also are giving more scrutiny to injection work.

A spokesman for the State Water Resources Control Board asserted its staff is "consulting promptly" with DOGGR on UIC reviews because it understands the oil industry's need for acceptable disposal sites. But, he added in an email, "we are also cognizant of the need to protect California's limited water resources."

Both agencies have been under increasing pressure not only to dedicate more attention to UIC reviews, but also draw up procedures required by California's landmark 2013 law regulating hydraulic fracturing and other controversial well stimulation techniques. Complications associated with the latter effort have only added to complaints that oil field permitting in the state has become untenable.

EPA pressure

On Dec. 22, the EPA sent the two state agencies a letter ordering them to submit a comprehensive plan by Feb. 6 for complying with federal UIC regulations, then reach full compliance by Feb. 15, 2017. It pledged $550,000 in federal money to help the state accomplish the goal.

The letter was the first to explicitly raise the prospect that, depending on the state's actions, the EPA could move to rescind a 1982 agreement that gave California authority to enforce federal groundwater protections.

In a further indication of the high stakes involved, the EPA's letter also urged the state to decide whether to halt injections into 11 aquifers historically considered to be exempt from the drinking water act. It said the aquifers, which were not identified in the letter, did not contain oil or gas for production and, at least in the 1980s, had water of a high enough quality to qualify for federal protection.

DOGGR, the state's lead agency on UIC reviews, said eight of the 11 aquifers are in Kern County's district. But it was unable to provide information Friday about injections into the aquifers.

Political pressure

Besides McCarthy and Vidak, locally elected lawmakers pushing to resolve the UIC permitting slowdown include Fuller, and two assembly members: Shannon Grove, R-Bakersfield, and Rudy Salas, D-Bakersfield.

Of these, Fuller, Grove and McCarthy were in their current offices in 2011 and participated in the campaign that led Brown to remove former DOGGR Chief Elena Miller, a lawyer appointed to the position by former Gov. Arnold Schwarzenegger, and her boss, Derek Chernow, then-acting director of the state Department of Conservation.

That effort three years ago shared several themes with the latest campaign.

Central to both have been demands for clear and consistent guidance on UIC application requirements, calls to give local DOGGR officials greater discretion on project approvals and worries about potential job losses in Kern. Recently, low oil prices now weigh more heavily on local employment than permitting holdups.

Fuller said the fact that the EPA is more closely involved in the latest conflict means a "bigger approach" is needed to address the issue.

Instead of simply clarifying vague rules at the heart of the last crisis, she said, there will now be an "all-out fight on what the policy should be and whether we use political solutions or scientific-based solutions" to UIC project reviews.

Grove said the situation highlights the need for clear regulations, calling the conflict a result of "bureaucracy at its absolute, positive worst."

Salas said he is trying to organize a legislative hearing, in Sacramento or Bakersfield, where the different agencies involved would be invited to clarify how they see UIC reviews. He said such a meeting would provide better information than the strictly anecdotal evidence he has heard about the permitting slowdown.

Although Salas emphasized no one is calling on the governor to fire anyone at this point, he did say the time has come to identify "who" is causing the delays.

"If it's the head (Bohlen, of DOGGR), I think that the governor would want to make sure that he has somebody who's going to be more efficient and more proactive."

The governor's office declined comment for this story.

Vidak said he is trying to bring together local elected officials, representatives of the governor's office and other top state officials to "just kind of get to the bottom of this."

Meanwhile, he continues to receive input from Kern oil producers about their permitting frustrations.

"We're hearing it, that's for sure," he said.

A leading oil industry trade group in California, the Western States Petroleum Association, said in a written statement it encourages DOGGR and the EPA to resolve UIC concerns "as quickly as possible."

"While WSPA and it members take concerns about groundwater quality very seriously, it is important to note that there has been no evidence presented that underground injection activities in Kern County have in any way been detrimental to drinking water or the

environment," it wrote.