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State moves to dismiss CBM suit

By The Associated Press

CASPER - Attorney General Pat Crank says the state's courts lack the authority to order Gov. Dave Freudenthal to approve regulations to limit the amount of water discharged by coalbed methane wells.

Freudenthal in April decided against approving the rules developed by the state Environmental Quality Council. That prompted an environmental group, the Powder River Basin Resource Council, to file suit.

Crank has now filed a motion to dismiss the lawsuit, saying the courts lack jurisdiction.

"The governor is not an 'agency' when acting in his role as the 'governor' responsible for review and final approval of rules," Crank wrote in his motion filed last week.

The Powder River Basin Resource Council claims Freudenthal killed a process to enforce existing law. The group contends the state Department of Environmental Quality is required to regulate water quantities when those quantities directly affect water quality.

"The governor's conclusion that the rules reach beyond the statutory authority of the Environmental Quality Act is arbitrary, capricious, an abuse of discretion, not in accordance with the law and unsupported by substantial evidence," the group stated in its original filing for review.

Groundwater is a byproduct of coalbed methane drilling. It is pumped off coal seams to release pressure on methane that is dissolved in the water.

Some of the water is used for livestock, but most is discharged without being used, causing problems with erosion and contamination by salt.

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