

Ranchers sue on CBM water

By the Star-Tribune staff

Two Campbell County ranch couples are suing the Wyoming Board of Control and the state engineer's office, contending their operations have been damaged by inadequate regulation of coal-bed methane discharge water.

Plaintiffs Bill and Marge West, and L.J. and Karen Turner, allege that the state engineer has failed to uphold its constitutional and statutory obligations to protect the state's groundwater by not managing the volumes of water pumped to the surface in the production of coal-bed methane.

The lawsuit was filed Friday in 1st District Court in Cheyenne.

It's the latest development in a long festering battle between agriculture and the state over coal-bed methane water. In April, Gov. Dave Freudenthal refused to sign a rule change presented by the Environmental Quality Council directing the Wyoming Department of Environmental Quality to regulate the volumes of water produced from coal-bed methane wells.

Massive amounts of groundwater -- more than 600 million barrels per year -- are pumped from coal seams to relieve the hydrostatic pressure that holds the methane gas in place. Some of the produced water is used in irrigation and stock watering. However, the volume of water produced in the basin far exceeds practical uses and sometimes floods low-lying pastures.

"The future of Wyoming's water supply, its lands, and the fabric of its society are threatened by the waste of Wyoming's ground water, and by the actual and potential damage and injury to soil, crops, vegetation, existing water wells, and ground water and surface water rights that is the result of Defendants' failure to administer water pursuant to the Wyoming Constitution and laws," the lawsuit reads.

The Wests, who have ranched for more than 50 years on their 13,000-acre property, say "saline and sodic" coal-bed methane water has mixed with water from Spotted Horse Creek, disrupting normal irrigation, killing vegetation and damaging the soil of the ranch's valuable bottom lands.

The Turners allege the draw-down of the coal aquifer has harmed their groundwater wells.

Freudenthal said he didn't approve the Environmental Quality Council's rule because he believed only the state engineer has authority to regulate water quantity.

"We've gone down with petitioners who tried to get the EQC to approve the rules, and we met with the governor down there," L.J. Turner told the Star-Tribune. "He was asked, 'If you were in our position, what would you do?' He said, 'I'd take it to the state engineer.' Well, here we come."

The plaintiffs are represented by Davis & Cannon attorney Kate Fox, who also represented the Powder River Basin Resource Council in its petition to the EQC.

"We know these are very tough issues, and the officials in charge of water have a very difficult challenge to consider not only the value of this economic boom, but also the present and long-term value of our state's water resource," Fox said. "We're 10 years into the boom now, the damage from water and the issues surrounding water waste have only increased, and these officials have yet to begin a thoughtful consideration of their obligations to manage water."

Freudenthal has said he will hold off from directing state agencies to modify their regulation of coal-bed methane water until a legislative task force makes its recommendations to the Legislature.

State Engineer Patrick Tyrrell last month did offer ideas to the task force on how his office might become more involved in resolving the issue of managing volumes of coal-bed methane water on the surface.

One possibility is that the discharge of coal-bed methane water into a natural watercourse be limited to the downstream capacity of the natural channel.

In addition, permit limits could be placed on the allowable gas-to-water production ratio from coal-bed methane wells. In other words, wells would have to produce a certain amount of gas to justify water discharge.

Tyrrell on Friday said his office had just been served with the lawsuit, and he hadn't had time to read it. While he wouldn't comment on the case, he did say his office intended to proceed with the ideas he presented regarding coal-bed methane water regulation.

"I have a pretty strong feeling they'll be implemented in some fashion," he said. "How they end up being worded, how they'll look in the end, is still up in the air... But they look to be a reasonable way to assure beneficial use" of coal-bed methane water.

Freudenthal declined to comment on the lawsuit, spokeswoman Cara Eastwood said Friday.