

JUDGE BLOCKS FRACKING RULE

U.S. District Court Judge Scott W. Skavdahl, sitting in Casper, Wyoming, issued a ruling late Tuesday, June 21, 2016, invalidating an Interior Department Rule setting stricter standards for hydraulic fracturing on public lands, saying that the Interior Department lacked the authority to issue it because Congress had not given the agency such authority. The fracking regulation in question was issued by the BLM in March of 2015 and applies to oil and gas drilling on federal lands, which produce 11% of the natural gas consumed in the U.S. and 5% of the oil, according to government data. The BLM regulations are applied on top of existing state regulations, when the fracking is done on federal lands. Wyoming, Utah, Colorado, North Dakota, and the Ute Indian tribe of the Uintah and Ouray Reservation based in Utah, filed briefs arguing that the BLM did not have the authority to issue the rule.

Judge Skavdahl, a President Obama nominee, agreed, holding that the BLM cannot set the rules because Congress has not authorized it to do so. Judge Skavdahl states that the issue before the court was not whether fracking "is good or bad for the environment or the citizens of the United States," but rather whether Congress had given the Interior Department the authority to regulate fracking. According to Judge Skavdahl, "it has not...and the Interior Department rule is in excess of its statutory authority and contrary to law."

The decision is a victory for states and utility companies and comes on the heels of two decisions also holding that the administrative agencies are acting without authority. In October 2015, a Federal Appeals Court blocked an Environmental Protection Agency rule that sought to put more bodies of water and wetlands under federal protection and in February 2016, the U.S. Supreme Court blocked the Environmental Protection Agency from enforcing the Clean Power Plan, which attempted to mandate the reduction of power plant emissions by one-third by 2030.

The U.S. Government is expected to appeal Judge Skavdahl's ruling to the 10th Circuit Court of Appeals. Two dozen states and numerous utilities and coal mining companies are suing to stop enforcement of the various rules being put in place throughout the country.

The decision can be accessed [here](#) *Wyoming v. Department of Interior et al.*, Case No. 2:15 cv 00043.

If you have questions about this update, please contact [Lance Shurtleff](#).