

## SHAREHOLDER ACTIVISM

## 2010 U.S. Proxy Season

## Energy Issues To Give New Dimensions to Water Resolutions

By Carolyn Mathiasen

## Hydraulic Fracturing

The environmental implications of the recent explosion in the use of hydraulic fracturing—the process in which water, sand, and a mix of chemicals are blasted into tight layers of shale to extract natural gas — are the issue in resolutions that have been announced for seven companies. Miller/Howard Investments has filed at **El Paso Energy** and **Energen**, and Green Century is filing at **EOG**, **Exxon Mobil**, **Williams**, and **Ultra Petroleum**. As You Sow has joined as a filer at Ultra, and three religious groups are co-filing at EOG. The sixth resolution is pending at **Cabot Oil & Gas**, where the filer has asked not to be identified at this time.

The resolved clauses of all seven resolutions are basically the same, asking for a report by September 2010 summarizing “(1) the environmental impact of fracturing operations; (2) potential policies for the company to adopt, above and beyond regulatory requirements, to reduce or eliminate hazards to air, water, and soil quality from fracturing.” The supporting statements say the proponents would like the report to include discussion of “less toxic fracturing fluids, recycling or re-use of waste fluids, and other structural or procedural strategies to reduce fracturing hazards.”

As this “fracking” has become more widespread, environmentalists have been increasingly concerned that the wastewater produced by the process can both cause contamination at the ground level and also overload the waste treatment plants to which it is shipped. They are also concerned that chemicals mixed with sand and water to aid the fracturing process can harm the water supply — an especially tricky issue because companies aren’t required to disclose which chemicals they use in fracking mixes. (These issues are discussed in detail in the lead story in the November issue of the Sustainability Risk Monitor.)

In the resolutions, the proponents assert that “we believe uneven regulatory controls and reported contamination incidents compel companies to protect their long-term financial interests by taking measures beyond regulatory requirements to reduce environmental hazards.”

**The Halliburton angle:** Halliburton has been prominently cited in the debate over fracking chemicals because it is one of their major producers. No resolution on the issue is pending there this year, but one shareholder, Trillium Asset Manage-

ment, wrote the company in early October inquiring, as the company put it in its response, “about Halliburton’s management of risk related to its hydraulic fracturing operations.”

The company on Oct. 26 provided a three-page response from Christian Garcia, vice president for investor relations. Among other things, Garcia told Trillium that Halliburton voluntarily is in the process of developing a new Chemical Scoring Index that is designed to allow it to compare the Health, Safety, and Environmental impact of all its chemical formulations as a numerical score. The index is intended to enable operators to select formulations that have the lowest score for their application, and Halliburton expressed the hope that will become an industry-wide standard.

On the specific issue of water quality, Garcia reported that Halliburton is “actively engaged in developing new technologies to facilitate the recycling of fluids that are flowed back out of natural gas wells, resulting in the reduction of the amount of flowback fluids that needs to be disposed of and the amount of fresh water used during hydraulic fracturing operations.” Like other corporations being prodded on the fracking issue, Halliburton said it “believes that existing state oil and gas regulatory programs — combined with existing federal programs regarding chemical disclosure—are more than sufficient to ensure that any risks associated with hydraulic fracturing are properly and effectively managed.”

**ExxonMobil’s involvement:** The prescience of shareholder activists in deciding to tackle fracking earlier this year was reflected in the Dec. 14 announcement that ExxonMobil had agreed to buy **XTO Energy** for USD 41 billion in an all-stock offer. XTO, the nation’s second-largest gas producer, was a key player in the development of the Marcellus Shale in Texas that set off the hydrofracking boom earlier in this decade, and it has developed strong technical knowledge in producing gas from shale. In discussing the XTO deal, The New York Times Dec. 14 called it “the latest and most significant signal that large companies are moving to make major investments in American shale fields.”