

Sustainability Investment News

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Environmental Shareowner Resolutions Gain Record Levels of Support in 2010 Proxy Season

by Robert Kropp

SocialFunds.com speaks with Michael Passoff of As You Sow about shareowner concerns over hydraulic fracturing, coal ash waste, and other environmental issues. First of a three-part series.

SocialFunds.com -- The outcome of the climate change treaty negotiations in Copenhagen may have been disappointing, and the US Senate has yet to bring meaningful climate change legislation to a vote. But if one were to measure the evolution of public perception of environmental issues by the strength of proxy votes in favor of shareowner resolutions addressing the environment, it becomes clear that incorporating environmental and social liabilities into the financial considerations of corporate business operations is gaining widespread acceptance.

Looking back on shareowner vote totals for first-time environmental resolutions over the past decade, five of the top ten were for resolutions filed this year. Resolutions addressing coal combustion waste at CMS Energy and MDU Resources, both of which were filed by As You Sow, received more than 40% of shareowner votes, as did a resolution addressing the environmental impact of hydraulic fracturing filed at Williams by Green Century Capital Management.

To coordinate the filing of these and other environmental resolutions this year, As You Sow and Green Century formed a coalition with the Investor Environmental Health Network (IEHN). SocialFunds.com spoke with Michael Passoff, Senior Program Director of the Corporate Social Responsibility Program at As You Sow, about the success of shareowner resolutions this proxy season.

Asked for his perception of reasons why so many resolutions received such solid support this year, Passoff said, "Shareholder activists are getting better at making financial arguments about risks from environmental and social liabilities."

"The concerns of investors reflect those of the people of the country as a whole who are starting to recognize the financial risks of environmental and social liabilities," Passoff observed.

Regarding the practical aspects of improved investor education, Passoff noted that such major proxy advisory services as RiskMetrics, Glass Lewis, and Proxy Governance supported many of the resolutions this year, while in past years they might not have done so.

"We had the support of all three major proxy governance advisors on coal ash, and two of them on hydraulic fracturing," Passoff said. "That's a huge shift for the proxy services. They used to automatically advise against voting in favor of social resolutions. Now, they're starting to support many of those resolutions."

Passoff was closely involved in the shareowner resolutions addressing hydraulic fracturing, which were filed at ten oil and gas companies. Hydraulic fracturing, or fracking, is a process which is used to extract reserves of natural gas from underground pockets. The process requires the injection under extreme pressure of as much as 7.5 million gallons of water per well, as well as toxic chemicals, to crack open rock and allow the natural gas to flow to the surface.

"We contacted 20 companies and filed at 10, four of which were withdrawn," Passoff said. "Of the ten dialogues we've been involved with, all of the companies have been saying the same things. The talking points were all the same. Clearly, the oil and gas industry were following the lead of a trade association that gave them talking points."

Despite the united front put up by oil and gas companies in addressing the resolutions, many received substantial support nonetheless. In addition to the 41.8% vote at Williams, a resolution filed at Cabot Oil & Gas received a 35.9% vote, and at EOG Resources the resolution gained 30.9%. Even at ExxonMobil, where ownership is widely dispersed and a low vote total would not be unexpected, the resolution won 26.3% of shareowner support.

Regarding the resolutions that were withdrawn in favor of ongoing engagement, Passoff said, "The first year of a resolution is often about educating the company and finding some common ground. But already, Range Resources has agreed to be much more transparent on risk management by increasing disclosure on fracking fluids and other steps."

Even at ExxonMobil, "The company did come out and publicly support for disclosure of fracking fluids, which is something that they never did before," Passoff said. (Although, as Passoff noted in a subsequent email, the company is still actively lobbying against disclosure.) Yet the public support of ExxonMobil will help build industry and political support for disclosure.

Furthermore, as Passoff noted, such public support "gives political cover for politicians who call for disclosure of fracking fluids. After all, these companies don't make the fluids. Halliburton and other companies do. Why should they take a bullet for Halliburton?"

The strong shareowner votes in favor of resolutions addressing coal ash waste were especially surprising to Passoff. Coal ash, a waste product of the coal burning process that contains arsenic, mercury, lead, and other toxins, is usually stored in landfills, impoundment ponds, or abandoned mines. A December 2008 dam breach at a Tennessee Valley Authority (TVA) coal ash pond released 1.1 billion gallons of coal ash sludge over more than 300 acres in eastern Tennessee.

Regarding the coal ash waste resolutions, Passoff said, "We expected votes in the twenties, but the resolutions received shareholder votes in the forties. You figure that people who own coal companies are not going to be too concerned about that issue. It's part of the industry, and shareholders generally accept those risks. I don't think those companies ever received that kind of feedback before."

In addition to the impact of increased support for ESG-related resolutions by proxy advisory services, Passoff considered other developments that may have contributed to the success of shareowner resolutions this year. In addition to strong showings for resolutions on coal ash and hydraulic fracturing, a first-time vote on

Bisphenol A (BPA) at Coca-Cola won 21.9% of shareholder votes, and resolutions addressing oil sands development in Canada won substantial vote totals as well.

"There's another 20% of votes in favor of resolutions coming from somewhere this year," Passoff said. "I think pension funds have gotten much more active. They still invest in all the bad actors, and may have gotten more consistent in their voting on these issues."

"It's been an extraordinary year for shareholder activism," he continued. "We'll have to see if this year is the tipping point for mainstream investors now incorporating ESG risk into their concerns for shareholder value."

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