



## Important Ruling on "Fracking"

April 9, 2012

Just eight weeks before ExxonMobil's annual shareholder meeting, the Securities and Exchange Commission (SEC) has sided with the company's investors in their battle to address concerns about the energy giant's hydraulic fracturing ("fracking") operations.

ExxonMobil shareholders recently filed a resolution asking the company to issue a report on the financial impact to them from the regulatory and community impacts associated with the controversial practice of fracking.

On March 28, 2012, the SEC rejected ExxonMobil's request to omit the resolution from its proxy, clearing the path for a vote on the proposal at the company's annual shareholder meeting on May 30, 2012.

"Community opposition to fracking has grown significantly in recent years, leading to bans, moratoriums, and increased regulatory scrutiny," says Michael Passoff, a senior strategist at [As You Sow](#), a shareholder advocacy non-profit that filed the resolution on behalf of the Park Foundation. "Investors need companies to disclose how they are managing these wide-ranging risks."

In response to the shareholder proposal, ExxonMobil argued to the SEC that it had substantially implemented the requests shareholders laid out in their resolution.

However, deeper research revealed a large gap between information shareholders requested and what ExxonMobil disclosed.

"ExxonMobil has provided fragmentary and incomplete information on some of the community concerns, does not disclose government enforcement actions as requested by the proposal, and has disclosed far too little analysis useful to investors on the short- and long- term risks posed by these developments," says [As You Sow's](#) attorney Sanford J. Lewis.

For example, ExxonMobil's existing reporting focuses heavily on community opposition it faced in just a single town, Southlake, Texas.

In actuality, more than 70 towns or cities and at least three states and four countries, including New York, New Jersey, Maryland, Germany, France, Bulgaria, and South Africa, have enacted bans or moratoriums on fracking, which can limit drilling operations and materially impact investors' holdings.

The company's existing reporting failed to detail where these wide-ranging developments may affect its operations.

The environmental and public health concerns from fracking centre around the toxic chemicals used in fracking fluid and the disposal of wastewater; these two critical issues could have significant financial implications for the companies involved, and are contributing to increased regulatory scrutiny.

ExxonMobil asserted to the SEC that it had no hydraulic fracturing-related environmental violations. It made this claim by limiting reportable violations to activities detectable deep underground, ignoring impacts occurring near the surface.

In fact, in Pennsylvania alone, 156 notices of violations related to natural gas extraction operations where fracking is

underway were issued to ExxonMobil or its recently acquired subsidiary, XTO, between 2010 and 2011.

The resolution also asks the company to identify risks to operations or expansion related to water supply limitations. While the company touts its recycling efforts in the Marcellus Shale, in reality its efforts are comparatively minimal.

Less than 0.2 per cent of its fluid wastes, including drilling, fracking, and produced water, from Pennsylvania is recycled by the company, whereas other companies are recycling more than 90 per cent of their wastes.

"Fracking is a major issue of concern for investors and the public," says Jon Jensen, executive director of the Park Foundation. "It is critical that we understand how companies are managing the risks to human health and the environment of communities where they operate. As the nation's largest natural gas producer, ExxonMobil needs to set the standard for disclosure on its gas exploration practices and development of safe technology."

Fracking resolutions have received significant support from shareholders since they were first filed in 2010.

In 2011, the average vote for proposals related to fracking was 40 per cent, which is double the average support for a shareholder vote on environmental or social risks.

Over 15 companies have faced similar resolutions, and many have been withdrawn in exchange for company commitments to shareholders. ExxonMobil and Ultra Petroleum are industry laggards in disclosure and are the only companies to receive resolutions focused on their fracking operations for three consecutive years.

The shareholder resolution was filed by **As You Sow** on behalf of the Park Foundation, and was co-filed by the following investor groups: Missionary Oblates of Mary Immaculate; Unitarian Universalist Service Committee; Benedictine Sisters of Boerne, Texas; Zevin Asset Management; First Affirmative Financial Network; and the Benedictine Sisters of Mount St. Scholastica.

This proposal is part of an investor coalition effort coordinated by Green Century Capital Management and the Investor Environmental Health Network

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