

Shareholder Groups See Gains In Bid To Force Industry To Address Fracking

Shareholder activists say they are seeing growing support among institutional investors for their efforts to force key gas companies to address environmental and related financial risks posed by the hydraulic fracturing (fracking) process -- well above the average 5-percent votes environmental resolutions have gained in the past.

In a May 20 shareholder vote before the Williams Corporation, for example, the activists' resolution calling for the company to address the environmental risks posed by fracking and to outline safer alternatives won 42 percent of the vote -- what shareholder activists say is an indication of major support and well above the Securities & Exchange Commission's 3 percent requirement to allow it to be brought up again next year.

"Since a resolution addressing a new environmental issue presented for the first time at a corporate meeting typically receives supporting votes only in the single digits, the enormous votes for [this and other] resolutions amply document the considerable concern within the investor community about the lack of corporate disclosure of hazards and precautionary policies and practices," the Investor Environmental Health Network (IEHN) said in recent comments to EPA science advisors.

Fracking is the controversial practice whereby fluids containing water, sand and chemicals are injected underground to break rock formations and release hard-to-reach gas from unconventional places. While industry says the practice, which has been used for decades, is safe, its growing use around the nation to extract natural gas from unconventional formations is prompting increasing concern that it may be contaminating local drinking water supplies.

Environmentalists and others are especially concerned that Congress in 2005 exempted the practice from EPA regulation under the Safe Drinking Water Act, renewing a debate about whether -- or how -- the practice should be regulated. At the same time, EPA is conducting a congressionally requested study into the practices' environmental risks -- a study that IEHN says could provide important information about the practice.

The group is backing EPA's proposed study of fracturing "because information useful to investors about the environmental and associated financial risks from hydraulic fracturing is sorely lacking," the group said in its June 9 comments to EPA science advisors reviewing the agency's proposed study plan.

One source with As You Sow, a corporate accountability group, says that resolutions may not be formally adopted at companies where they are debated depending on the particular bylaws of the individual companies, but as a general matter when a shareholder resolution of any kind garners more than 10 percent it gains the attention of the management and will likely be addressed in one way or another.

The source says the companies have not yet decided whether or how to address fracking down the road, but those discussions will likely begin later this summer.

In their most recent push for shareholders to back their resolution, As You Sow and the Green Century Equity Fund June 14 won 21 percent support for a resolution identical to the Williams proposal, urging Ultra Petroleum Corporation to develop a report "summarizing the environmental impact of fracturing operations" and to identify "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 Ultra Petroleum resolution comes only weeks after a similar resolution was introduced for a vote during the Exxon-Mobil annual shareholder meeting, which garnered a 21 percent approval. Several other energy companies held votes on fracking resolutions as well, including Cabot Oil & Gas and EOG Resources, which garnered 36 and 31 percent shareholder approval, respectively.

While the resolutions were non-binding, they called on companies to draft a report "at reasonable cost and omitting proprietary information" that would outline the environmental risks posed by fracking and had submit proposals "above and beyond regulatory requirements, to reduce or eliminate hazards to air, water, and soil quality from fracturing."

Environmental resolutions in years past have typically garnered about 5 percent approval, the source says, and so the votes this spring show that a significant number of mainstream shareholders find the environmental risks and potential liabilities posed by fracking amount to a material risk to the company's health.

"What it does is, once you get about 10 percent or so, management starts addressing your issue," the source says. "It may not be the report you want, but that's fine because what you want is to move the company in a certain direction."

One petroleum industry source who is not directly involved in the resolutions says it is still an open question whether the higher-than-usual returns on the hydraulic fracturing resolutions are an indicator of mainstream investor concern or increased activist involvement. "That's part of the dynamic of being a publicly-traded company," the source says. "It's an indicator of how many millions of dollars people who are trying to push back on natural gas development" are willing to spend.