

INTERVIEW: FRACKING LAW BENEFITS COMPANIES

Comprehensive EU environmental rules on fracking could benefit the industry by allaying public concern, according to a US expert on environmental law as it relates to the controversial shale gas extraction technique.

The US experience has been that a “comprehensive regulatory system” is a boon rather than a hindrance to fracking, said **DON ELLIOTT**, an adjunct professor at Yale Law School and former chief legal advisor to the US EPA. **MR ELLIOTT** also works for a law firm, Covington & Burling, which has mining companies among its clients.

A stronger Environmental Liability Directive (ELD) would not necessarily lead to greater numbers of liability lawsuits for groundwater pollution, partly because the technology to prevent contamination is mature, he said.

Another reason is that it is extremely difficult to prove scientifically that fracking companies are responsible for groundwater problems.

To date there has been no proven case in the US, **MR ELLIOTT** said.

Europe’s water industry is worried that the ELD directive does not take into account the risk to groundwater from fracking.

Four years since the US fracking boom began, the most controversial issue now facing policymakers is disposal of the vast amounts of contaminated wastewater the process generates, according to Mr Elliot.

There is no requirement to recycle the water, so most is being treated and stored in lined pits. The US Department of the Interior is now considering whether companies should be required to use sealed tankers instead, or if some other guidance is needed to minimise potential environmental impacts.

From 2015, US fracking companies will also have to fully capture gas emissions from drilling. At present must destroy 95% of the gases through burning them. Gases emitted include volatile organic compounds, which cause smog, as well as the pollutant benzene. The potent greenhouse gas methane will also be covered.

In Europe, methane is not covered by the National Emissions Ceilings Directive, but it might be as a result of a review now underway. The 2008 directive on ambient air quality sets concentration limits for benzene.

The EU executive will bring forward proposals by the end of the year on managing the potential environmental impacts of shale gas. A recent consultation indicated strong support for some sort of guidelines or legal framework at EU level.