

## Earthquake Fracing Lawsuits Coincide With Renewed Scrutiny Of Texas Railroad Commission

Class Actions, Energy Law, Environmental, Insurance and Indemnity, Regulatory / November 21, 2016 / Thomas G. Ciarlone Jr.

I have written [previously](#) about the ongoing debate surrounding the causal role of hydrofracturing—"fracing" for short, as the industry spells it, without a "k"—in what critics have dubbed "man-made" seismic activity. The hot-button issue is front and center once again, as a perfect storm of mainstream media attention and high-profile litigation have brought renewed focus to the controversial practice.

Last week, the *Dallas Morning News* published a scathing exposé that not-so-subtly suggested that the elected members of the Texas Railroad Commission—the state's regulatory body tasked with keeping tabs on the oil-and-gas industry—had been influenced by campaign contributions from disposal-well drillers and other oilfield service companies that were the subjects of active earthquake investigations. A tag-along feature from the editorial board of the newspaper issued a more direct indictment of the Commission, branding "its regulatory failings on earthquake research ... stunning."

There are, of course, two sides to every story. Craig Pearson, a seismologist retained by the Railroad Commission to conduct an independent investigation into the relationship between fracing and earthquakes, [previously wrote a principled op-ed](#) in which he carefully separated fact from fiction. He encouraged the public to take a hard look at the actual data, rather than make snap judgments informed only by innuendo and sensational headlines.

In addition to the media attention lavished on fracing by the *Morning News*, last week several new lawsuits were filed in Oklahoma that took dozens of oil companies to task for causing widespread damage to homes and businesses through earthquakes allegedly induced by nearby fracing operations. [Styled as a putative class action](#), one of the lawsuits relies heavily on a [United States Geological Survey study](#) that quantified the risks attendant to fracing in areas, such as North Texas and Oklahoma, that have a geological predisposition to seismic activity.

On the heels of the class action, the Pawnee Nation of Oklahoma filed a complaint in Tulsa federal court against the U.S. Department of the Interior, the Bureau of Indian Affairs, and the Bureau of Land Management, in a bid to void drilling permits for oil-and-gas wells on tribal land that have allegedly caused earthquakes. According to the complaint, these agencies "have run roughshod over Pawnee natural resource protection laws, disregarded a tribal moratorium on new oil and gas approvals, and violated the agencies' trust responsibilities to the Pawnee."

Suffice it to say, the legal landscape remains uncertain for operators, drillers, and other oilfield service companies with a footprint in regions, like Oklahoma and North Texas, where industry watchdogs and entrepreneurial lawyers are chomping at the bit to assign blame. Often the best policy is to manage risk proactively, before it manifests itself as formal litigation, with assistance from outside counsel who understand the affirmative measures that can reduce exposure in an environment that is increasingly hostile to the industry.

## Related Attorneys

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