Ethical Investor Funds Target Fracking

(Updated: March 8, 2009)

Much like the concerns by some conscientious investors concerning the Alberta Tar (Oil) Sands (i.e., *Ethical Fund Roasts Oilsands' Disclosure*, December 1, 2009, Calgary Herald), there have been recent activities in the ethical funds domain on the question of hydraulic fracturing practiced by the oil and gas industry.

In a February 2010 report with www.ethicalfunds.com,

(http://www.ethicalfunds.com/SiteCollectionDocuments/docs/Focus%20List%202010/encana_resolution.pdf) is the following:

Hydraulic Fracturing Risks Report

Whereas:

EnCana is strategically focused on the development of natural gas resource plays. Specifically, the company is relying on significant growth from unconventional gas plays.

EnCana has estimated that by 2011, 50 to 60% of its new reserves growth will come from unconventional shale gas reservoirs. The rapid rise of unconventional gas production is a result of technological advances in directional drilling and hydraulic fracturing. Hydraulic fracturing can use between 1.2 and 3.5 million gallons of water for each fracturing well (See http://geology.com/research/super-sized-thirst.shtml). Some common additives used in the fracturing fluid are benzene, ethylene glycol, naphthalene, and diesel, but companies are reluctant to disclose the chemicals used in this process.

Concerns over the quantity of water used, and the potential impacts on the quality of water, have resulted in litigation, regulatory, and social license to operate risks in both Canada and the United States.

In 2004, EnCana faced the highest fine ever levied on an oil and gas company in Colorado due to seepage from a gas well into local water sources. A recent study where the fine occurred, found that the amount of methane and chloride present in drinking water wells increased with an increase in the number of nearby hydraulic fracturing wells. In Wyoming, the US Environmental Protection Agency (EPA) recently found one of the chemicals known to be used in fracturing in at least three wells adjacent to drilling operations.

In September 2009, the New York State Department of Environmental Conservation released draft permit conditions that would require disclosure of chemicals used, specific well construction protocols, and baseline pre-testing of surrounding drinking water wells. Regulation of the unconventional gas industry is in its infancy, and the potential exists for new regulations to negatively impact EnCana's operations.

In the U.S., the Fracturing Responsibility and Awareness of Chemicals (FRAC) Act was introduced in June 2009 to repeal an exemption for hydraulic fracturing found in the Safe Drinking Water Act. This pending legislation is one indication of future regulatory risk for EnCana.

Risks to social license are illustrated by Shell, as the company was forced to halt their Klappan coalbed methane project in British Columbia over concerns about impacts on local water sources.

In the 2009 Quarterlies for the Shareholder Engagement Activity Report, written for SHARE, Shareholder Association for Research & Education (Responsible Investment for a Sustainable Economy), are correspondence accounts to companies practicing hydraulic fracturing:

> We sent letters to forty-six companies (listed in the box below) urging them to improve their disclosure on climate change issues by responding to the 2009 Carbon Disclosure Project (CDP) questionnaire.
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> Regarding toxic chemicals, SHARE wrote to EnCana Corporation on behalf of Meritas Mutual Funds and the CLC Staff Pension Plan to inquire about the use of chemicals in EnCana's hydraulic fracturing operations in the United States. Hydraulic fracturing is a technique commonly used by energy companies to improve natural gas production. We also wrote to Petro-Canada, Suncor Energy, Imperial Oil, Canadian Natural Resources and Canadian Oil Sands Trust on behalf of Meritas Mutual Funds and the CLC Staff Pension Plan to request information on tailings management and land reclamation plans for the companies' surface mining projects.
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> **Toxic Chemicals in Hydraulic Fracturing**
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> This quarter, SHARE wrote to EnCana Corporation on behalf of Meritas Mutual Funds and the CLC Staff Pension Plan to inquire about the use of chemicals that may be considered toxic in the company's hydraulic fracturing operations in the United States. Hydraulic fracturing is a method used by EnCana and other energy companies to facilitate the release of natural gas (or oil) to improve production. The process involves the injection of as much as one million gallons of fluid underground, under extremely high pressure, to open up "fractures" in the strata (e.g., shale rock). Hydraulic fracturing fluids are composed of water, sand and a variety of chemicals, and there are growing concerns that chemicals used in hydraulic fracturing fluids may be contaminating groundwater at levels that pose significant risks to human health.
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> **Oil Sands Land Reclamation**
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> This quarter, SHARE wrote to Petro-Canada, Suncor Energy, Imperial Oil, Canadian Natural Resources Ltd. and Canadian Oil Sands Trust on behalf of Meritas Mutual Funds and the CLC Staff Pension Plan. We wrote to request information on tailings management and land reclamation plans for the company's surface mining projects. Detailed responses were received from Petro-Canada and Canadian Oil Sands Trust. Imperial Oil provided SHARE with some general information about is reclamation practices, and we have yet to receive responses from Canadian Natural Resources and Suncor. (Q2/09, April 1 - June 30, 2009)

Executive Summary

This report outlines SHARE's shareholder engagement activities for the fourth quarter of 2009. SHARE conducts focused and constructive engagement dialogues with public corporations on behalf of institutional shareholders. The goal of our program is to work with clients to improve the environmental, social and governance (ESG) performance of the companies in their investment portfolios. For more information on SHARE's Shareholder Engagement Services, please visit www.share.ca/shareholder_engagement.

During the final quarter of 2009 SHARE engaged with 31 companies on key ESG risks and opportunities.

SHARE corresponded with Fairfax Financial on behalf of Meritas Mutual Funds regarding the circulation of a shareholder proposal submitted last quarter seeking disclosure of Fairfax's climate change management strategy through the Carbon Disclosure Project (CDP). We continue evaluating the risks regarding potential marine impacts of Enbridge's Northern Gateway Project in northern British Columbia, and are engaging with the company on this issue. We are in discussions with EnCana Corporation on the environmental impacts of hydraulic fracturing operations. Shoppers Drug Mart responded to a letter sent by SHARE last quarter seeking information on how it manages risks associated with potentially toxic chemicals.

The environmental impacts of oil sands operations continue to be a focus of our shareholder engagement activities. This quarter, SHARE received responses to questions regarding land reclamation plans of Canadian Natural Resources Limited. We also held two separate conference calls with senior staff from Canadian Oil Sands Trust and Suncor Energy (Petro-Canada) regarding each company's tailings management and land reclamation plans/operations.

Executive compensation is a leading corporate governance issue. With SHARE's assistance, Meritas Mutual Funds filed several shareholder proposals on the advisory shareholder vote on executive compensation ('say on pay'). Agrium, Barrick Gold, Biovail, Canadian Pacific Railway, Enbridge, EnCana, Gennum Corporation, Major Drilling, Methanex, Russel Metals, Suncor and TransAlta all received proposals asking the company implement a say on pay vote for the 2011 proxy season.

Toxic Chemicals

SHARE's toxic chemicals engagement focuses on two issues: the risks associated with the use of toxic chemicals in hydraulic fracturing, a process commonly used to extract natural gas from unconventional sources (e.g., shale gas), and the risks related to potentially toxic ingredients in consumer products.

Regarding the first issue, we continued our dialogue with EnCana Corporation on the environmental impacts of hydraulic fracturing operations in the United States and Canada. Regarding the second issue, Shoppers Drug Mart responded to a letter we sent last quarter seeking information on the company's management of risks associated with potentially toxic chemicals in its products, and we are considering next steps. (Q4/09, October 1 - December 31, 2009)

In 2010, a resolution filed by Catholic Healthcare West and the New York State Common Retirement Fund, Hydraulic Fracturing (Toxic Chemicals), 2010 - Cabot Oil & Gas Corporation:

WHEREAS, Onshore “unconventional” natural gas production requiring hydraulic fracturing, which injects a mix of water, chemicals, and particles underground to create fractures through which gas can flow for collection, is estimated to increase by 45% between 2007 and 2030. An estimated 60-80% of natural gas wells drilled in the next decade will require hydraulic fracturing.

Fracturing operations can have significant impacts on surrounding communities including the potential for increased incidents of toxic spills, impacts to local water quantity and quality, and degradation of air quality. Government officials in Ohio, Pennsylvania and Colorado have documented methane gas linked to fracturing operations in drinking water In Wyoming, the US Environmental Protection Agency (EPA) recently found a chemical known to be used in fracturing in at least three wells adjacent to drilling operations.

There is virtually no public disclosure of chemicals used at fracturing locations. The Energy Policy Act of 2005 stripped EPA of its authority to regulate fracturing under the Safe Drinking Water Act and state regulation is uneven and limited, But recently, some new federal and state regulations have been proposed. In Tune 2009, federal legislation to reinstate EPA authority to regulate fracturing was introduced In September 2009, the New York State Department of Environmental Conservation released draft permit conditions that would require disclosure of chemicals used, specific well construction protocols, and baseline pie-testing of surrounding drinking water wells. New York sits above part of the Marcellus Shale, which some believe to be the largest onshore natural gas reserve.

Media attention has increased exponentially. A search of the Nexis Mega-News library on November 11, 2009 found 1807 articles mentioning “hydraulic fracturing” and environment in the last two years, a 265 percent increase over the prior three years.

Because of public concern, in September 2009, some natural gas operators and drillers began advocating greater disclosure of the chemical constituents used in fracturing.

In the proponents’ opinion, emerging technologies to track “chemical signatures” from chilling activities increase the potential for reputational damage and vulnerability to litigation Furthermore, we believe uneven regulatory controls and reported contamination incidents compel companies to protect their long-term financial interests by taking measures beyond regulatory requirements to reduce environmental hazards.

Investors challenge natural gas companies to increase transparency and protect the environment

News Release

Shareholder effort launched at Cabot Oil & Gas*, Chesapeake Energy*, ExxonMobil*, EOG Resources*, Hess* and other natural gas companies to ensure drilling is done responsibly

January 26, 2010 — Today investors unveiled a major new shareholder campaign to ensure that development of natural gas is done in a way that does not have unintended consequences for the environment and human health.

Production from traditional reserves of natural gas has been dwindling, and an increasing number of new wells require hydraulic fracturing— a process where water, chemicals and particles such as sand are injected into the ground under extremely high pressure—to unlock vast reserves previously unavailable. It has been estimated that up to 80 percent of new wells will require some form of hydraulic fracturing. But investors are concerned that this process comes with some very serious risks.

As use of this process has increased, a catalogue of harmful environmental and community impacts allegedly linked to fracturing has emerged, with the potential contamination of water resources being a central concern.

Amid mounting concerns about fracturing's impact on water, shareholders of major natural gas drillers, led by Green Century Capital Management and the Investor Environmental Health Network, are asking companies and their service suppliers for greater transparency about the business and environmental risks associated with fracturing. Investors and investor advisors including As You Sow, Green Century Capital Management, Miller/Howard Investments, Catholic Healthcare West, First Affirmative Financial Network, the Mercy Investment Program, the New York State Common Retirement Fund, the Shareholder Association for Research & Education, Pax World Management, the Sisters of St. Francis of Philadelphia, the Sustainability Group, and Trillium Asset Management have begun to engage approximately 20 companies, and have filed shareholder resolutions with 12 companies including **Cabot Oil & Gas Corporation (COG)*, Chesapeake Energy (CHK)*, ExxonMobil (XOM)*, Hess Corporation (HES)*, EOG Resources (EOG)*, and Range Resources (RRC)*** over these risks. The shareholder proposals ask companies to increase transparency regarding the environmental impact of their operations and encourage companies to mitigate risks by switching to less toxic fracturing fluids and adopting best practices for drilling and managing wastes.

Richard Liroff, Executive Director of the Investor Environmental Health Network explains, "High profile water contamination incidents, new litigation, and public protests that include calls for moratoria on natural gas permitting all suggest sizeable and rising business risks to companies and attendant threats to shareholder value; shareholders need assurance that companies are candidly disclosing these risks and are adopting best management practices to minimize them."

According to Larisa Ruoff, Director of Shareholder Advocacy for Green Century Capital Management, "It is critical that shareholders of natural gas companies understand and address the business risks associated with this type of gas drilling." She continues, "Companies and regulators must ensure this development is done in a way that protects the environment, especially our drinking water, and mitigates potential financial risks."

"Shareholders believe that through the adoption of best practices and policies to phase out the most toxic chemicals used in this process, companies can ensure that they are both protecting the environment and their balance sheets from unnecessary and potentially devastating risks," said Ruoff.

**As of December 31, 2009, neither the Green Century Equity Fund nor the Green Century Balanced Fund was invested in Cabot Oil & Gas, ExxonMobil or Range Resources. As of December 31, 2009, Chesapeake Energy comprised 0.00% of the Green Century Balanced Fund and 0.32% of the Green Century Equity Fund; EOG Resources comprised 0.00% of the Green Century Balanced Fund and 0.47% of the Green Century Equity Fund; Hess Corporation comprised 0.00% of the Green Century Balanced Fund and 0.38% of the Green Century Equity Fund. Portfolio composition will change due to ongoing management of the Funds. Please refer to the Green Century Funds website for current information regarding the Funds' portfolio holdings. These holdings are subject to risk as described in the Funds' prospectus. References to specific investments should not be construed as a recommendation of the securities by the Funds, their administrator, or their distributor.*

Green Century Capital Management is an investment advisory firm focused on environmentally responsible investing. Founded by a partnership of non-profit environmental advocacy organizations in 1991, Green Century's mission is to provide people who care about a clean, healthy planet the opportunity to use the clout of their investment dollars to encourage environmentally responsible corporate behavior. Green Century believes that shareholder advocacy is a critical component of responsible investing and actively advocates for greater corporate environmental accountability.

The Investor Environmental Health Network is a collaborative partnership of investment managers, advised by nongovernmental organizations, concerned about the financial and public health risks associated with corporate toxic chemicals policies. IEHN, through dialogue and shareholder resolutions, encourages companies to adopt policies to continually and systematically reduce and eliminate the toxic chemicals in their products.

You should consider the Green Century Funds' investment objectives, risks, charges, and expenses carefully before investing. For a prospectus that contains this and other information about the Funds, call 1-800-93-GREEN, visit www.greencentury.com or email info@greencentury.com. Please read the prospectus carefully before investing.

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Marc Gunther Blog - Shareholders Say: Tell the Truth About Fracking

No form of energy–not solar, wind, hydropower, obviously not coal or oil–comes without environmental tradeoffs.

One promising new energy source–a vast supplies of natural gas, trapped in shale deep beneath the earth's surface–is getting renewed scrutiny these days, and for good reason.

While natural gas is often called a "bridge" to a clean energy future, critics are **bombing the bridge with a frack attack**, says energy policy analyst Kevin Book of Clearview Energy Partners.

Book was referring to the drumbeat of questions being raised by environmentalists, community activists, reporters and members of Congress about **hydraulic fracturing**, or fracking, a process during which water, chemicals and sand are pumped underground at high pressure to cause tiny fissures in rock and force natural gas to the surface.

In the weeks ahead, new pressures will come from activist shareholders of a dozen energy companies. They've filed shareholder resolutions asking the companies to take a hard look at fracking and its risk, and they will raise the issue at annual shareholder meetings.

"Investors support natural gas drilling, but we want to make sure that it's done right," said Richard Liroff, executive director of the Investor Environmental Health Network. a group of investors and NGOs who focus on the financial and public health risks associated with corporate use of toxic chemicals. "What we are pushing companies to do is to implement the best management practices."

In a news release announcing their campaign, the investors say:

> Investors and investor advisors including As You Sow, Green Century Capital Management, Miller/Howard Investments, Catholic Healthcare West, First Affirmative Financial Network, the Mercy Investment Program, the New York State Common Retirement Fund, the Shareholder Association for Research & Education, Pax World Management, the Sisters of St. Francis of Philadelphia, the Sustainability Group, and Trillium Asset Management have begun to engage approximately 20 companies, and have filed shareholder resolutions with

> 12 companies including Cabot Oil & Gas Corporation (COG), Chesapeake Energy (CHK), ExxonMobil (XOM), Hess Corporation (HES), EOG Resources (EOG), and Range Resources (RRC) over these risks.

What's the problem with fracking? The process, which uses millions of gallons of water and unknown chemicals, has been linked to a range of health and environmental problems, including contaminated drinking water in Pennsylvania, a massive fish kill in a creek along the border between Pennsylvania and West Virginia and a chemical spill that killed cows in Shreveport, Louisiana, as the Wall Street Journal has reported.

If you want to know more, let me recommend an excellent series of prize-winning stories published by the investigative news site, Pro Publica, and written by Abrahm Lustgarten, a former colleague of mine at FORTUNE. Abrahm has spent more than a year investigating hydraulic fracturing. While the industry insists that gas drilling is sage, he writes that:

> …the issues are far less settled than the industry contends, and that hidden environmental costs could cut deeply into the anticipated benefits.
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> For example, it remains unclear how far the tiny fissures that radiate through the bedrock from hydraulic fracturing might reach, or whether they can connect underground passageways or open cracks into groundwater aquifers that could allow the chemical solution to escape into drinking water. It is not certain that the chemicals – some, such as benzene, that are known to cause cancer – are adequately contained by either the well structure beneath the earth or by the people, pipelines and trucks that handle it on the surface. And it is unclear how the voluminous waste the process creates can be disposed of safely .
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> "This is a field where there is almost no research," said Geoffrey Thyne, a former professor at the Colorado School of Mines and an environmental engineering consultant for local government officials in Colorado. "It is very much an emerging problem."

The natural gas industry's response to the allegations hasn't helped its cause. EOG Resources and Cabot Oil & Gas both went to the SEC, asking that the shareholder resolutions be taken off the ballot. That failed. Chesapeake Energy has also challenged the resolution.

Worse, companies refuse to disclose the chemicals used in the fracking process, calling them trade secrets. The 2005 energy bill, spearheaded by then-Vice President Dick Cheney, exempted natural gas drilling from disclosure requirements of federal clean water laws. Critics call that the "Halliburton exception" because Halliburton, the company where Cheney was once CEO, helped pioneer fracking.

Last month, Congressman Henry Waxman asked eight oil and gas companies that use fracking to provide information about the chemicals they use.

The IEHN's Rich Liroff says owners of the companies can't get the information they need to assess risk:

This is a sector-wide problem. There is virtually no meaningful disclosure from any of the companies about what safeguards they are employing and what efforts they are making to implement best management practices.

Rich Liroff

If you are an investor who wants to invest in the natural gas sector, and figure out what the risks are and the rewards are for any individual company, you just don't have enough information to make an informed judgment.

Larissa Ruoff, director of shareholder advocacy at Green Century Funds and a leader of the investor coalition, is also calling for more transparency and engagement from the companies.

An industry website, Energy in Depth, says the concerns of critics are overblown. It notes that fracking is now responsible for about 30% of the U.S.'s domestic oil and natural gase, and that 60 to 80% of wells drilled in the U.S. in the next decade will require fracturing. As for the safety issues, the industry says:

> Hydraulic fracturing is a safe, well-regulated, environmentally sound practice that has been employed over one million times without a single incidence of drinking water contamination.

If that's so, why fight the critics? Why not engage with them?

As Gil Friend, the CEO of a consulting firm called Natural Logic, writes in his 2009 book, *The Truth About Green Business*:

> Your business can wait to be dragged, kicking and screaming…or it can lead the way…. If you're constantly reacting, you risk losing market share to innovators, while you're spending more time and resources adjusting. Being reactive is no way to run a successful business.

Smart companies will be open about their practices and get ahead of this controversy before it gets out of control–unless they really do have something to hide.

DiNapoli Fights For Investors On Natural Gas Drilling

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FOR RELEASE: Immediately
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Comptroller Wins Battle as SEC Rejects Cabot Bid to Block Shareholder Vote

New York State Comptroller Thomas P. DiNapoli today said the $129.4 billion New York State Common Retirement Fund (Fund) will continue to press energy companies to disclose to their shareholders the environmental and regulatory risks associated with unconventional natural gas extraction including hydraulic fracturing.

“Natural gas stores locked in dense shale formations like the Marcellus Shale in New York are an important source of energy, but there are reasonable concerns about the environmental impact and potential liabilities inherent in its development,” DiNapoli said.

“Investors need to have quality information so they may weigh the risks and rewards of the companies they invest in. The development of the Marcellus and other shale gas plays must be done the right way. As shareholders, we want these companies to assure us that they have a full and complete appreciation of the liability risk, and that they’re taking steps to mitigate those risks.”

DiNapoli, as trustee of the Fund, has filed resolutions with five companies – Chesapeake Energy Corp., XTO Energy Inc., Range Resources Corp., Hess Corp., and Cabot Oil & Gas Corp.
The resolutions request company boards to summarize for shareholders: the environmental impact of their unconventional natural gas operations; potential policies for the company to adopt, above and beyond regulatory requirements, to reduce or eliminate hazards to air, water, and soil quality from operations including those from hydraulic fracturing; and, other information regarding the scale, likelihood, or impacts of potential material risks, short or long term, to the company’s finances or operations, due to environmental concerns regarding fracturing.

One of the companies, Cabot Gas & Oil, attempted to block the resolution from a shareholder vote. DiNapoli prevailed when the Securities and Exchange Commission in late January issued a letter disagreeing with Cabot that the company had legal grounds to keep the resolution off the shareholder ballot at its annual meeting this spring.