

May 2016

## Frack On! Colorado Supreme Court Shoots Down Fracking Ban and Moratorium



Despite competing views of fracking and its economic or environmental impacts, on May 2, 2016, the Colorado Supreme Court issued two much anticipated opinions regarding whether the City of Longmont's ban and Ft. Collins' moratorium on fracking and the storage and disposal of fracking waste within city limits are preempted by state law. *See City of Longmont Colo. v. Colo. Oil & Gas Assoc.*, 2016 CO 29 and *City of Ft. Collins v. Colo. Oil & Gas Assoc.*, 2016 CO 28. Applying well-established preemption principles, Colorado's highest court concluded an operational conflict exists between Longmont's and Ft. Collins' fracking bans and applicable state law. Consequently, the Court held Longmont's ban and Ft. Collins' moratorium, which banned fracking and the storage and disposal of fracking waste, were preempted by state law, invalid and unenforceable.

Specifically, the Court held the Oil & Gas Conservation Act and the Commission's pervasive rules and regulations convinces it the state's interest in the efficient and responsible development of oil and gas resources includes strong interest in the uniform regulation of fracking. Longmont's and Ft. Collins' ordinance/moratorium prevent operators from fracking even when in total compliance with state law – rendering the state's law "superfluous." The Court concluded the ordinance/moratorium materially impeded the effectuation of the state's interest. Each cities' authority to regulate noise, lighting, traffic issues and other common complaints from fracking operations remain intact.



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