

## **Colorado Oil and Gas Association (COGA) Sues Broomfield Seeking to Invalidate its Hydraulic Fracturing Ban**

Article By:

Lori A. Dawkins

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A slim, 20-person majority of Broomfield City and County residents voted last year to ban the use of hydraulic fracturing within the area for five years. The Colorado Oil & Gas Association (COGA), however, filed a lawsuit last week asking the District Court for the City and County of Broomfield to find that the ban is invalid and unenforceable.

COGA asserts that the ban effectively prohibits all oil and gas development in Broomfield. This is because the only economically viable oil and gas there is currently trapped in tight sand and shale formations where hydraulic fracturing would be necessary for extraction. COGA points out that Colorado law and related regulations expressly allow for oil and gas operations, including hydraulic fracturing, which Broomfield's ban rules out. Because the local ban conflicts with the State's significant interest in the efficient production of oil and gas resources, COGA argues that the ban is "preempted" by State law and should, therefore, be invalidated.

Importantly, the legal wind is at COGA's back in these arguments. Similar hydraulic fracturing moratoriums in Longmont, Lafayette, and Ft. Collins were previously shot down by other Colorado courts on preemption grounds. While these decisions are not binding on the Broomfield court, COGA was sure to highlight them to at least suggest that it should reach the same result. Energy companies whose eyes are on Broomfield would do well to monitor this litigation, as the current ban would end much sooner than was first expected if COGA succeeds.

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National Law Review, Volume IV, Number 337

Source URL: <https://natlawreview.com/article/colorado-oil-and-gas-association-coga-sues-broomfield-seeking-to-invalidate-its-hydr>