

Judge Invalidates Ordinance Governing Oil & Gas Waste

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A federal judge invalidated portions of a “Community Bill of Rights Ordinance” that banned the disposal of waste from oil and gas operations and eliminated the legal rights of corporations in Grant Township, Pennsylvania. Noting that municipalities are a creature of the state and can exercise only such power as may be granted by the legislature, Judge Baxter invalidated the ordinance as an unauthorized attempt by Grant Township to regulate underground injection wells and create a cause of action in itself without express statutory authority. Moreover, Judge Baxter ruled the ordinance violated Pennsylvania law as exclusionary, and is preempted by the Second Class Township Code and the Limited Liability Companies Law.

Grant Township’s ordinance made it unlawful for any corporation to “engage in the depositing of waste from oil and gas extraction” in the Township and invalidated any state or federal permit or license to the contrary. The ordinance created a cause of action for its citizens to enforce the ban and entitled them to collect attorney’s fees while stripping corporations that violate the ordinance of all legal rights, including the right to challenge the ordinance. By invalidating the ordinance under state law, the court did not consider the constitutional issues raised by Plaintiff, Pennsylvania General Energy Company, LLC in its suit against Grant Township, Indiana County, Pennsylvania.

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