

Local Focus

Local Governments Pay the Price for Fracking Boom



The shale gas market is an economic boon for the 30-odd states that permit fracking. The severance tax that states impose on the process adds up. In 2010, it generated more than \$11 billion. The flow of that revenue goes straight into state and federal treasuries, as does increased corporate income tax revenue from energy companies profiting from fracking.

Localities, however, enjoy no such benefits. Instead, they get stuck with all the fracking problems: noise from blasting, storage of toxic chemicals, degraded water sources, and heavy truck traffic, as well as the rising costs of cleaning up the detritus fracking leaves behind. North Dakota counties affected by hydraulic fracturing have reported to the state Department of Mineral Resources' Oil and Gas Division that traffic, air pollution, job-site and highway accidents, sexual assaults, bar fights, prostitution, and drunk driving have all increased.

In addition, fracking, in many cases, negatively impacts property values, which in turn depresses property tax revenue. For property owners who own the rights to the oil and gas on their land, the effects of drilling can be offset by royalty payments. But localities have no revenue offset if properties lose value.

According to a 2013 survey by business researchers at the University of Denver, persons bidding on homes near fracking locations reduced their offers by as much as 25 percent. In North Texas, the Wise County Central Appraisal Review Board reduced the appraised value of a family's home and 10-acre ranchette by more than 70 percent. The board agreed to the extraordinary reduction as a result of numerous environmental problems related to fracking just 1 year after the first drilling rig went up on the property.

Although a number of states want to expand fracking, localities have some leverage. They control land-use policies, zoning, and property rights. In New York, the state's highest court upheld the right of two of the Empire State's local governments to establish zoning laws that keep out fracking companies. The court's 5-to-2 decision was based solely on reaffirming the towns' rights to make their own zoning choices. In its ruling, the majority noted that the towns had engaged in a "reasonable exercise" of their zoning authority, that they had "studied the issue and acted within their home-rule powers in determining that gas drilling would permanently alter and adversely affect the deliberately cultivated small-town character of their communities."

In Colorado, where the cities of Boulder, Broomfield, Fort Collins, and Lafayette have adopted antifracking measures, Governor John Hickenlooper in 2014 announced the appointment of a task force to develop recommendations that would reduce land-use conflicts when oil and gas facilities are located near homes, schools, businesses, and recreation areas. He also asked the Colorado Oil and Gas Conservation Commission to dismiss litigation challenging the city of Longmont's ban on hydraulic fracturing and to call on all parties to withdraw ballot initiatives on the topic.

Ironically, one of the earliest local-state challenges came from Exxon's chief executive officer. As a homeowner in an upscale community in Bartonville, Texas, the CEO found himself at odds with a local fracking operation. He filed suit to block construction of a water tower near his home—a tower that would increase fracking in the area—alleging that it would create "a noise nuisance and traffic hazards."