

ENERGY LAND USE FOR HYDRAULIC FRACTURING

Legal Aspects of Hydraulic Fracturing Symposium

University of Idaho College of Law

March 29, 2013

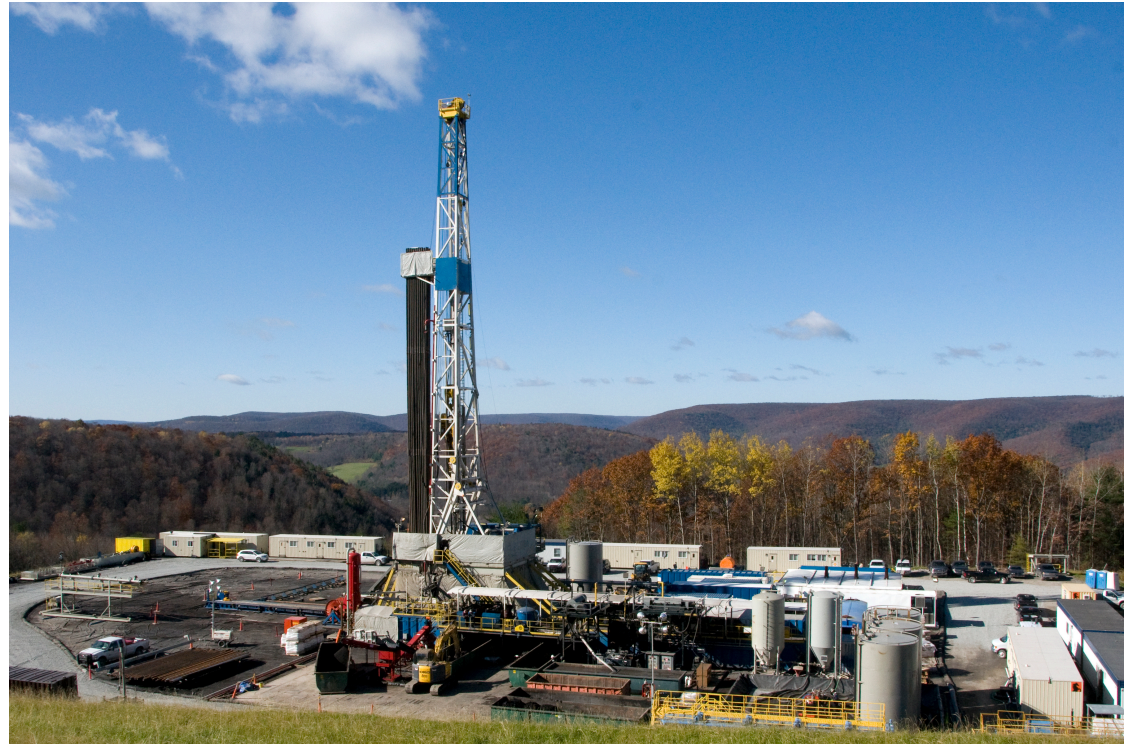
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Presentation Outline

1. Local government powers and community-scale concerns
2. Forms of official local resistance to fracking
3. State and industry responses - litigation and legislation



[Source: Nat'l Science Fndtn./Chuck Anderson]

Community-Scale Fracking Concerns

“Mapping the Movement”

<http://www.foodandwaterwatch.org/water/fracking/fracking-action-center/map/>

Local Governments Respond to Fracking

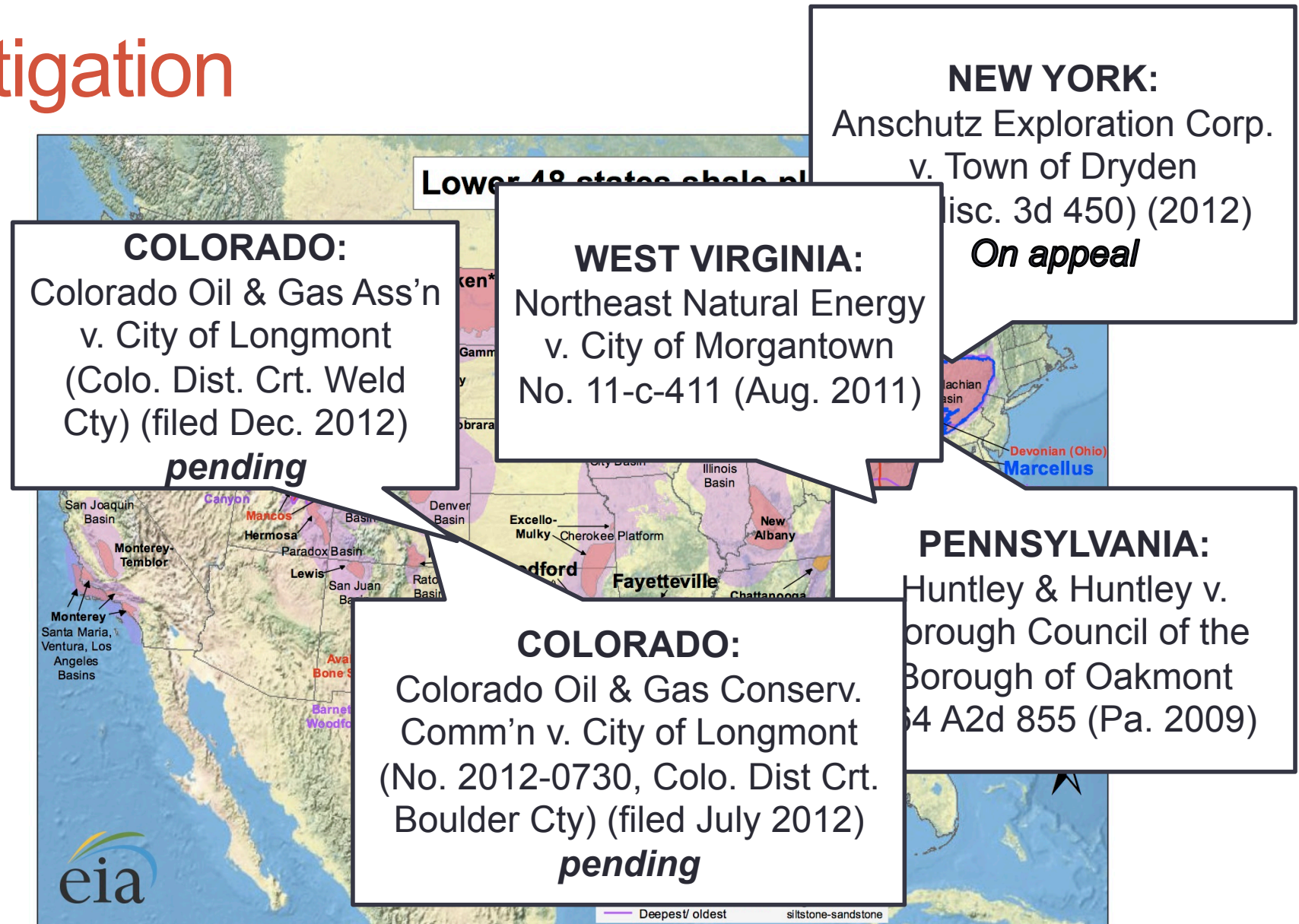
Bans

Moratoria

Restrictions/Requirements

*Resolutions Supporting
State/Federal Regulation*

Litigation



State Legislative Responses

Pennsylvania – Act 13

- Sweeping preemption of local governments
- Eminent domain for natural gas corporations

Overtured, in part:

Robinson Township v. Commonwealth
52 A.3d 463 (Pa. Cmwlt. 2012)

- HELD: Act 13 requirement that localities amend municipal zoning ordinances to include oil and gas operations in all districts → unconstitutional
- ***Appeal pending***

State Legislative Responses

Other States in 2012

Enacted:

- Idaho: HB 464
- Kansas: HB 2526
- North Carolina: SB 820

Failed bills to reinforce local authority:

New York, Ohio, West Virginia

And more

Observations / Conclusions

1. Contours of local authority
2. Risk of over-simplification
3. Community voices in national energy policy
4. Pressure on higher levels of government
5. Energy/environment divide

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