ENERGY LAND USE FOR HYDRAULIC FRACTURING

*Legal Aspects of Hydraulic Fracturing Symposium*
University of Idaho College of Law
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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

NEW YORK:
Anschutz Exploration Corp. v. Town of Dryden (35 Misc. 3d 450) (2012)

PENNSYLVANIA:
On appeal

WEST VIRGINIA:
Northeast Natural Energy v. City of Morgantown No. 11-c-411 (Aug. 2011)
Pending

COLORADO:
Pending

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Pending

Source: Energy Information Administration based on data from various published studies.
Updated: May 9, 2011
State Legislative Responses

**Pennsylvania – Act 13**
- Sweeping preemption of local governments
- Eminent domain for natural gas corporations

**Overturned, in part:**

*Robinson Township v. Commonwealth*

- 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 oversimplification
3. Community voices in national energy policy
4. Pressure on higher levels of government
5. Energy/environment divide