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MUNICIPAL ORDINANCE - NEW MEXICO

[Swepi, LP v. Mora County, N.M.](#)

United States District Court, D. New Mexico - January 19, 2015 - F.Supp.3d - 2015 WL 365923

On April 29, 2013, the Mora County Board of County Commissioners adopted the (insufferably self-righteous) “Mora County Community Water Rights and Local Self-Government Ordinance” prohibiting (among many other things) the extraction of oil, natural gas, or other hydrocarbons within the County.

SWEPI, LP, which had entered into an oil-and-gas lease with the State of New Mexico in 2010, sought an injunction to prohibit the County from enforcing the Ordinance and seeking monetary damages.

The District Court invalidated the Ordinance, finding that:

- SWEPI, LP had standing to bring each of its claims, because it had suffered an injury in fact;
- Because the County had already enacted the Ordinance, and because SWEPI, LP would suffer harm if the Court delayed considering its claims, each of SWEPI, LP’s claims was ripe, except for its claim under the Takings Clause;
Because SWEPI, LP had not sought just compensation through a state inverse condemnation action, its takings claim was not ripe;
- SWEPI, LP could bring its claim under the Supremacy Clause, because it could bring independent claims, through 42 U.S.C. § 1983, under the constitutional provisions that it asserted trumped the Ordinance;
- The Ordinance violated the Supremacy Clause, because it conflicted with federal law;
- The Ordinance did not violate SWEPI, LP’s substantive due-process rights or the Equal Protection Clause, because the County had a legitimate state interest for enacting the Ordinance;
- The Ordinance violated the First Amendment by chilling protected First Amendment conduct;
- Because the County lacked the authority to enforce zoning laws on New Mexico state lands, it could not enforce the Ordinance on state lands;
- Because there is room for concurrent jurisdiction between state and local law, New Mexico state law does not preempt the entire oil-and-gas production field;
- The Ordinance conflicted with state law by prohibiting activities that state law permits: the production and extraction of oil and gas; and
- The invalid provisions of the Ordinance were not severable from the valid provisions, making the Ordinance, in its entirety, invalid.

I read a 100-page opinion for you ingrates!

Shout out to my peeps at Holland & Hart for surviving this nonsense.