

# **Bond Case Briefs**

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## **PREEMPTION - CALIFORNIA**

### **Chevron U.S.A. Inc. v. County of Monterey**

**Supreme Court of California - August 3, 2023 - P.3d - 2023 WL 4940263**

Mineral rights holders brought action for declaratory and injunctive relief challenging validity of county ordinances banning land uses in support of new oil and gas wells and land uses in support of wastewater injection in unincorporated areas of county.

The Superior Court entered judgment striking down the ordinances. County appealed, the Court of Appeal affirmed. The Supreme Court granted review.

The Supreme Court held that ordinance conflicted with state statute granting state oil and gas supervisor authority to supervise drilling operations and thus was preempted.

Local law enters an area that is “fully occupied” by general law, and is thus preempted, when the Legislature has expressly manifested its intent to fully occupy the area, or when it has impliedly done so in light of one of the following indicia of intent: (1) the subject matter has been so fully and completely covered by general law as to clearly indicate that it has become exclusively a matter of state concern; (2) the subject matter has been partially covered by general law couched in such terms as to indicate clearly that a paramount state concern will not tolerate further or additional local action; or (3) the subject matter has been partially covered by general law, and the subject is of such a nature that the adverse effect of a local ordinance on the transient citizens of the state outweighs the possible benefit to the’ locality.

County ordinance banning oil and gas wastewater injection and impoundment and the drilling of new oil and gas wells conflicted with state statute granting state oil and gas supervisor authority to supervise drilling operations and thus was preempted, as while statute mandated that the state “shall” supervise oil operation in a way that permitted well operators to “utilize all methods and practices” the state oil and gas supervisor has approved, the county ordinance provided that certain oil production methods could never be used.