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Colorado District Court Rules Against City of Thornton

DENVER – A Colorado District Court ruled Tuesday that the City of Thornton illegally passed oil and gas regulations last year that conflicted with state and federal law and were therefore illegal. The Colorado Oil & Gas Association (COGA) and the American Petroleum Institute (API) jointly filed suit in October to overturn the regulations.

“This ruling, again, spells out quite clearly that local governments cannot pass rules that conflict with the state’s authority to regulate oil and gas development and the federal government’s authority to regulate gathering lines. Those communities that choose to do so will simply continue wasting the hard-earned dollars of their taxpayers,” said Dan Haley, President & CEO of COGA. “This ruling should be used as a guide for those local governments on the northern Front Range that are currently re-working their oil and gas regulations.”

Tracee Bentley, Executive Director of the Colorado Petroleum Council, a division of API, said: “Local governments have some amount of existing regulatory authority, but as the courts have determined time and again, the state is the primary regulator of oil and gas development and local governments may not preempt this authority by passing conflicting regulations.”

The District Court decision supports the lengthy history of preemption doctrine, which determines whether federal, state, or local governments have primary authority to regulate. As cited in this case, a local government cannot forbid what state law authorizes or authorize what state law forbids when it comes to oil and gas development. For example, a local government does not have the legal authority to establish setback standards for oil and gas locations that are in conflict with state setback rules.

Haley added, “Thornton could have avoided this outcome. Instead, they passed these regulations with little to no feedback from impacted stakeholders. It’s always better to work together to produce our energy in ways that meet each community’s unique needs. All sides must agree to stay within the boundaries of the law, and take the time to sit down and find workable solutions.”

“The oil and gas industry in Colorado is continually committed to working with all stakeholders, but we also stand firm on our state and federal laws that exist to support commerce, communication, transportation, security, the utilization of our public lands, agriculture production, and also the beneficial use of domestic energy production,” API’s Bentley said.