

Driller drops suit over Calif. county fracking ban

Ellen M. Gilmer, *Environment & Energy Publishing*, 4-8-15

Proponents of local government control over hydraulic fracturing are celebrating a win this week after a California oil company withdrew a challenge to San Benito County's ban on fracking and steam injection.

Citadel Exploration Inc. filed a motion Friday in California Superior Court asking the judge to dismiss a lawsuit the company filed last month challenging San Benito's fracking ban. The ban, known as Measure J, was passed by voters in a ballot initiative last fall during a wave of local-level campaigns to block fracking in California.

Environmentalists have hailed Citadel's withdrawal as a signal that local bans on fracking are legally sound.

"So much for the oil industry's empty threats against communities that fight fracking pollution," Center for Biological Diversity attorney Hollin Kretzmann said in a statement. "With frivolous lawsuits off the table, more California communities will use their authority to ban fracking and protect their water, air, and health."

The withdrawal means California courts will not yet have the chance to weigh in on the "local control" issue that has prompted high-profile legal battles in other states grappling with the spread of oil and gas development. The lawsuit was the last remaining legal challenge to local anti-fracking measures in California after industry dropped a suit against Compton when the city repealed its moratorium late last year. Voters in Mendocino County also passed a fracking ban through a ballot initiative last year, but that measure has not been challenged in court.

Still, other lawsuits may arise in San Benito, Mendocino or other municipalities that move to establish bans. The Compton lawsuit was backed by the Western States Petroleum Association, the largest industry group in the West, and other industry players have spent big to oppose local bans. To be safe, San Benito officials have called for the creation of a legal defense fund to cover any additional litigation targeting Measure J.

"The legal and fiscal threats brought by the passage of Measure J have not been totally identified," Auditor-Controller Joe Paul Gonzalez wrote in a memo to county supervisors last month. "What we do know is that the corporate interests of energy production companies like Citadel Exploration and Occidental Petroleum with its vast mineral rights holdings in the County are directly affected by Measure J."

While some traditional drilling has occurred in San Benito for years, residents of the county south of San Jose began organizing to block development in 2013 when Citadel sought permits for 15 exploratory wells. Center for Biological Diversity attorneys filed suit, and a judge ordered Citadel to prepare an environmental impact report before proceeding with the project.

The controversy fueled further action from community organizers, who last year pushed for the outright ban. Attorneys from Shute Mihaly & Weinberger, a California firm known for its environmental practice, drafted the measure and were prepared to intervene in the latest lawsuit to defend it.

"Local governments can prohibit high-intensity oil and gas operations under their fundamental land use authority," SMW attorney Heather Minner said in a statement. "Measure J sailed onto the ballot without

any pre-election challenges and it's not surprising that Citadel dropped its post-election suit like a hot potato."

Citadel did not respond to a request for comment.