

## COLORADO

### Federal judge tosses 'forced pooling' oil lawsuit

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An oil well is shown north of Denver. WildEarth Guardians/Flickr

A federal judge threw out an activist group's lawsuit that challenged the constitutionality of a Colorado law that forces property owners to allow the development of their oil and gas.

U.S. District Judge R. Brooke Jackson **dismissed** the Wildgrass Oil and Gas Committee's complaint, saying in part that its arguments about the state's "forced pooling" statute aren't a federal matter.

"The substance of this case involves important questions of state law, and the jurisdiction of a state administrative agency applying that law," Jackson wrote. "Although I recognize the sincerity of the plaintiff's concerns, I conclude that a federal court is not the appropriate forum to resolve these questions."

The Wildgrass committee is a neighborhood group opposed to oil development in Broomfield, Colo., a suburb of Denver. Extraction Oil & Gas, which is seeking to drill 120 wells in and around Broomfield, sent residents in the area a letter in 2016, offering to lease their mineral rights for drilling ([Energywire](#), Jan. 24, 2019).

Many of the residents in the Wildgrass area refused to sign leases, and Extraction applied for a forced pooling order from the Colorado Oil and Gas Conservation Commission.

Forced pooling is a common practice in energy-producing states, and it's seen by oil producers as a way to ensure that oil gets produced efficiently. Colorado's law allows drillers to ask for a forced pooling order that compels landowners to allow drilling, provided they've made a "reasonable offer" to lease the drilling rights. The landowners are compensated for their mineral rights.

The Wildgrass committee argued in its lawsuit that landowners should have been allowed to raise objections about the health and safety impacts of drilling before Colorado regulations allowed the pooling order. It claimed the forced pooling law violated residents' due process rights and other constitutional protections.

The American Petroleum Institute and the Colorado Oil & Gas Association intervened in the case, saying the Wildgrass plaintiffs hadn't exhausted their state remedies and that forced pooling was essentially a political question.

Jackson's ruling noted that Wildgrass has appealed several of the Colorado Oil and Gas Commission's regulatory decisions about forced pooling in state court, indicating that the group still has an avenue to pursue its complaints.

The Colorado Legislature changed the state's forced pooling law last year as part of a broader overhaul of oil and gas laws. The law now requires drillers to have consent from 50% of mineral owners before applying for a pooling

order.

The Colorado Oil and Gas Association called the decision "an important ruling for Colorado and for property rights."

"Pooling is a long-held, common practice that is particularly important in contemporary horizontal drilling," COGA President Dan Haley said in a statement.

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