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Mora County Takes a Stand

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The beautiful Mora Valley

It's already all over the news, in both New Mexico and the nation. Mora County has taken a stand: "It shall be unlawful for any corporation to engage in the extraction of oil, natural gas, or other hydrocarbons within Mora County." With that statement northern New Mexico's Mora County becomes the first county in the U.S. to ban oil and gas development by ordinance. On Tuesday, April 29, County Commission chair John Olivas and County Commission vice-chair Alfonso Griego voted in favor of what is officially called the "Mora County Community Water Rights and Local Self-Government Ordinance." County Commission member Paula Garcia voted against the Ordinance.

Unlike the U.S. government, or any other national government in the world today for that matter, Mora County is trying to do its part to reduce greenhouse gas emissions. Section 4.4 of the Ordinance reads: "All residents, natural communities, and ecosystems in Mora County possess a right to a sustainable energy future, which includes, but is not limited to, the development, production, and use of energy from renewable fuel sources, and the right to have an energy system based on fuel sources other than fossil fuel sources. This right shall also include the right to energy practices that do not cause harm, and which do not threaten to cause harm, to people, communities, or the natural environment."



According to recent data, the concentration of CO₂ in the atmosphere, the direct result of the burning of fossil fuels, will peak this month above 400 parts per million (ppm). Though the peak has much to do with seasonal changes in CO₂, scientists see it as a frightening trend. “At this pace,” noted climate scientist Ralph Keeling said, “we’ll hit 450 ppm within a few decades.” If Keeling is right, in the decades to come we’ll be as far above livable levels of atmospheric CO₂ than we were once below it.

It’s no surprise that as global CO₂ emissions storm past frightening thresholds, so too do the profits of the world’s largest oil companies. The combined windfall of BP, Chevron, ConocoPhillips, ExxonMobil, and Royal Dutch Shell reached a new record of nearly \$140 billion in profits in 2011. In the first half of 2012, they earned an average of nearly \$350 million each day.

Mora County’s action has been long in the making and not without contention over strategy. According to Commissioner Olivas, he and Commissioner Garica, who were both elected in 2010, drafted an ordinance, with the help of the New Mexico Environmental Law Center, that was presented to the commission in September of 2011 but wasn’t acted upon at that time. The commission then sponsored a series of ten work sessions and passed a moratorium on gas and oil development in April of 2012, which expired April 13, 2013.

During that time other local governments in New Mexico were beginning to chip away at the power of oil and gas, an industry that has for so long dominated New Mexico politics. In January of 2010 neighboring San Miguel County enacted a one-year moratorium on oil and gas drilling and exploration to give it time to strengthen county-level regulations around energy and mineral extraction. Subsequently, in April 2010, the Commission formed an Oil and Gas Ordinance Task Force to help shape new regulations. On May 19, 2010, the Las Vegas City Council, after holding two public hearings on the issue, unanimously voted in favor of Ordinance 10-16, placing a two-year moratorium “on the approval of conditional use or other permits for Oil, Gas and Geothermal Drilling, Exploration and Extraction within the City of Las Vegas city limits, San Miguel County, New Mexico” (see Pat Leahan’s article in the July 2010 issue of [La Jicarita News](#)).

According to Leahan, of the Las Vegas Peace and Justice Center, activists in both counties worked for years on strengthening regulatory oversight and are proponents of a “belt and suspenders” approach —combining essentially a ban-approach with a strict regulatory ordinance so that if one component is struck down by the legal system there is a backup in place to protect both counties. In the meantime, moratoriums enacted by the counties and city would provide adequate protection. Leahan explained that she and other activists spent years developing relationships with government leaders and community people across both counties and felt confident they would achieve a united front in their approach to “what we all want, to prevent any oil and gas development in Mora and San Miguel counties.”

Eventually, Mora County and the City of Las Vegas relied on the expertise of the non-profit group Community Environmental Legal Defense Fund (CELDF) based in Pennsylvania, a state that has been dealing with oil and gas development for many years, particularly by means of hydraulic fracturing, or fracking, a process where water and chemicals are pumped into a wellbore with enough force to crack the rock and release the gas, oil, or other hydrocarbons. The CELDF provided a template ordinance, and on April 2, 2012, the city enacted the Las Vegas Community Water Rights and Local Self-Government Ordinance that bans fracking within the city limits. Mora County officials used the same template and consulted with the organization on all of the wording included in the final Ordinance.

Leahan has mixed feelings about the Ordinance. “They have no regulatory ordinance in place to back up their ban. They’ve got the belt but no suspenders. It seems inevitable that the State of New Mexico or the oil and gas industry, or both, will sue Mora County. As one of the most economically disadvantaged communities in the state and the nation, how will they be able to afford such a huge legal battle? On the other hand, what better county than Mora to call attention to the David vs. Goliath struggle many communities face against the extractive industries? I just hope it’s not at the expense of the people of Mora County.



Mora County Commissioner John Olivas. lvdailytimes.com photo

I e-mailed Paula Garcia and asked why she voted against the Ordinance but she didn’t respond. Olivas expressed disappointment that as both head of the Mora Land Grant and executive director of the New Mexico Acequia Association she failed to support this measure but that she,

like Leahan and others, had expressed concern about legal action from the oil and gas industry. Olivas feels that the county is adequately prepared to defend its position; the CELDF will act as legal counsel if the county is sued by the oil and gas industry. That service will be pro bono, but the county will have to raise the money to pay for the Pennsylvania lawyers travel expenses. Olivas told me that to his knowledge over one hundred communities have passed ordinances regulating oil and gas development and none have been challenged (according to Leahan, this has not been confirmed). But with Shell Oil holding leases on around 100,000 acres in the eastern part of the county, the ordinance seems likely to wind up in court. "I'd rather fight industry in court," Olivas told the press, "than clean up after them when they leave our community,"

The County lays claim to its authority in passing the Ordinance in Section 2., citing the Treaty of Guadalupe Hidalgo, Article VIII and Article IX, the Declaration of Independence, the New Mexico Constitution, Article 2, and the Mora County Comprehensive Land Use Plan, which states, "[t]he connection between our land, our water and our people has sustained our culture since the first settlements in Mora County, and our future depends on keeping these connections strong. Water is a vital link, which, if severed from the land, will also fragment our people from their land. The allocation of our limited water resources must recognize traditional subsistence agricultural and grazing activities as a priority over other types of more profitable land uses. Water is not just a commodity to be bought and sold, or exploited for short-term gains. Water is the lifeblood of Mora County's traditions, culture and land use. A sustainable future for Mora County requires protection of the most valuable resource for our communities—the Water!"

The Mora County Commission issued a news release calling on the New Mexico state legislature to follow suit in passing a bill that would ban oil and gas drilling and related activities statewide. Unfortunately, in the 2013 session one senator tried to achieve just the opposite: Carlos Cisneros (D-Taos) introduced Senate Bill 463 that would have prohibited any municipalities or counties from regulating the "exploration, development, production and transportation of oil and gas and any associated remediation and reclamation activities related thereto." (see *La Jicarita* [article](#) "Legislative Update on a Really Bad Bill"). Fortunately, the bill never made it out of committee, but it brought to the forefront the problems counties such as Mora and neighboring San Miguel County face as the oil and gas industry intensifies efforts to secure leases without adequate regulatory oversight.

Nearly 20 percent of Mora's less than 5,000 residents live below the poverty line. And at a density of less than three people per square mile, it's just the kind of sparsely populated, rural place oil and gas firms like best. But County Commissioners Olivas and Griego mean business: under Section 8, Enforcement, is this provision: "In the event that this ordinance is overturned or nullified, for any reason, a moratorium on the extraction of oil and gas within the County of Mora shall become effective on the date that this ordinance becomes inactive. That temporary moratorium shall have a duration of no more than six months, during which the Board of County Commissioners shall adopt another ordinance which permanently bans hydrocarbon extraction within the County of Mora."