



## **Court Strikes Down Local Inspection Fee**

**By:** [Ruth Moore](#)

The Weld County District Court recently issued an order striking down an oil and gas well inspection fee assessed by the Town of Frederick. The Town's fee required operators to pay \$400 per well per year for the Town's inspections of items on the Town's inspection forms. The Court found that this fee violates a section of Colorado's Oil and Gas Conservation Act that prohibits any local government from charging a tax or fee "to conduct inspections or monitoring of oil and gas operations with regard to matters that are subject to rule, regulation, order, or permit condition administered by the [Colorado Oil and Gas Conservation Commission]."

The challenge to the Town's fee was brought by K.P. Kauffman Company, Inc., an independent oil and gas production and well service company, represented by Beatty & Wozniak, P.C. and local co-counsel.

The Court made its determination after conducting an evidentiary hearing on the coverage of the Town's inspection fee and the Oil and Gas Conservation Commission's Rules and Regulations. The Court found that the Town's fee covers inspections of matters subject to the Commission's Rules and Regulations such as brush, fencing, rubbish, weeds, access roads, signage, and spills.

It further found that the fee does not fit into the category of a "nondiscriminatory fee for inspection and monitoring for road damage and compliance with local fire codes, land use permit conditions, and local building codes," which would be allowable under the Oil and Gas Conservation Act.

The Court also found that the fee of \$400 per year per well was unreasonable for the types of inspections carried out by Town personnel, which consisted of general visual inspections of oil and gas sites.

The Town has filed an appeal of the Court's order, although it acknowledges that a judgment has not been entered. K.P. Kauffman Company has filed a motion for summary judgment on remaining issues in the case to secure entry of judgment.

For more information, please contact [Ken Wonstolen](#) or [Ruth Moore](#).



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