The Politics of Fracking
What is Fracking?

- High pressure injection of water, sand and chemicals to fracture rock formations located deep underground in order to release and capture natural gas resources.

- It is typically used in conjunction with horizontal drilling, a technology that was refined in deep sea oil & gas operations in the Gulf of Mexico.
Benefits of Fracking?

- Provides access to substantial amount of oil & gas reserves in the U.S.
- Reduces national dependence on imported energy from nations that are sometimes unstable or hostile to U.S. interests.
- Provides a growing number of well paying jobs.
- Producing a shift from dirtier coal to natural gas in the generation of electricity.
Problems with Fracking?

- 1. Adverse impacts on environmental quality
- 2. Adverse impacts on local government infrastructure, notably road damage, noise, traffic, and aesthetic concerns
- 3. Lack of information & research about health impacts on residents living close to drilling sites
Fracking Politics 101

Key factors?

- Federalism. Who decides what at differing levels of governance?
- Political party overlay
- Policy issue frame. Is fracking perceived as an energy issue or as an environmental protection issue?

Conditioning factors?

- media attention directed toward environmental incidents or prospective health risks
- manipulation of issue frames by a policy entrepreneur at any level of governance
Surge in natural gas production through the use of fracking and horizontal drilling. EIA estimates a 100 year supply of shale gas reserves in the U.S.

Congress provides a regulatory exemption for fracking operations under the Safe Drinking Water Act in 2005. Compliance by oil & gas firms is no longer required.

Documentaries produced in 2009 (*Gasland & Dan Rather Reports*) that suggest a link between fracking operations and the contamination of local water wells.

Rapid increase in media coverage of fracking operations and policy issues from 2009 thru 2011.
Congressional Democrats have introduced the “Frack Act” to reinstate EPA authority to regulate fracking under the Safe Drinking Water Act

BLM has proposed a fracking rule requiring firms to disclose fracking fluids used plus a plan for the disposal of “flowback waters”

EPA has adopted a rule under the Clean Air Act requiring oil & gas firms to reduce or recycle emissions

Congressional Republicans oppose any efforts to reinstate EPA authority to regulate fracking under the Safe Drinking Water Act

Republican Presidential Candidate Mitt Romney supported transferring oil & gas regulatory authority on BLM lands to state government

Congressional Republicans favor restrictions on EPA’s clean air regs because of economic impacts
Energy Development on BLM Lands in Colorado

- the pace of oil and gas development in CO (average of 400K acres annually from 2006-2008 under Bush compared to 50K acres annually between 2009-2011 under Obama)

- environmentally sensitive sites proposed for drilling within or near Roan Plateau, Dinosaur National Monument and Paonia (a valley containing wineries and organic farms)

- proposed fracking rule requiring firms to disclose fracking fluids used plus a plan for the disposal of “flowback waters”
Conservation in the West Poll
(Colorado College, 2013)

- Some public lands should be drilled, while environmentally sensitive places should be permanently protected. 56%
- Oil and gas drilling on public lands should be strictly limited. 25%
- Public lands should generally be open to oil and gas drilling. 17%
# Media Coverage of Hydraulic Fracturing 2009-2011

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<tr>
<th>Year</th>
<th>Newspaper</th>
<th>Philadelphia Inquirer</th>
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*Source: Lexis/Nexus*
### Mean Value of Concern about Fracking by Individual Background Characteristics

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State Regulation of Natural Gas

- 33 producer states – biggest include TX, WY, LA, OK, PA, CO, and NM

- Gas is regulated as a single industry by a multimember conservation commission (West) or an agency housed within a state environmental department (East)

- Regulation often occurs under a legislative mandate that encourages the development of oil and gas resources
State vs. Local Roles in Fracking

- Should state officials retain regulatory control at the expense of local land use authority?
  - Yes: Uniform state regs allow companies to develop natural gas resources without running into a patchwork of differing policies found in cities and counties.

- Should city and county governments be allowed to regulate fracking operations under traditional land use authority?
  - Yes: A “one size fits all” approach is inappropriate for the regulation of natural gas.
Natural Gas Policies Developed under Governor Bill Ritter, 2006-2010

- Policy that expanded membership requirements of the Colorado Oil & Gas Conservation Commission (COGCC) from 7 to 9 along with the altering the occupational mix to include wildlife and environmental protection members.

- Policy requiring oil and gas drilling activities to be compatible with wildlife conservation

- Policy requiring power plants using coal to make a gradual transition to natural gas as a fuel source
Fracking in Colorado, 2011-2012

- Development of the Niobrara Shale Play that lies under most municipalities along the front range from Ft. Collins to Colorado Springs

- Proliferation of wells in smaller communities like Erie and Windsor that are unaccustomed to drilling activities

- Local officials scramble to learn about fracking and about land use regulatory options to balance neighborhood concerns with development
Maintaining State Control over the Regulation of Fracking: Key Players

- Colorado Oil & Gas Conservation Commission (COGCC)
- Colorado Oil & Gas Association (COGA)
- Governor John Hickenlooper
- Western Energy Alliance
- Key companies such as EnCana, Williams Energy, Bill Barrett Corporation
Maintaining State Control over the Regulation of Fracking: Key Strategies

- Emphasis on the economic benefits of drilling (jobs, landowner royalties and severance tax rebates to affected communities)

- Assurances that fracking is safe (no recorded cases of groundwater contamination)

- Industry and COGCC testimony at local government hearings where regulatory actions are being considered

- Encourage greater use of collaboration between COGCC, industry and local officials

- Emphasise that COGCC has statutory authority to regulate on a statewise basis. Communications from COGCC and the Attorney General’s office that the state will take legal action against cities adopting stricter regs than the state
Efforts to Strengthen Environmental Protection & Preserve Local Land Use Authority: Key Players

- Western Resource Advocates
- Sierra Club
- Earthworks!
- Colorado Counties Inc.
- Ad hoc groups operating within cities & towns
Efforts to Strengthen Environmental Protection & to Preserve Local Land Use Authority: Key Strategies

- Emphasize the importance of home rule and local autonomy
- Lobby COGCC concerning the need for better enforcement of existing rules and for increased setback requirements for drilling operators
- Adoption of temporary moratoriums by local governments on fracking operations to consider regulatory options
- Adoption of policies by local governments that exceed or trump state regulatory standards
- Greater incidence of protest activities by local groups
Fracking Protest in Denver, May 2012

Task Force = Industry LAP DOGS

FRACKED
BY OUR ELECTED OFFICIALS

HOME RULE = Power to Protect

DON'T FRACK OUR QUALITY OF LIFE

DON'T SEND US BOR!

SAVE OUR WATER!!!

EVEN VAMPIRES DON'T LIKE FRACKING FLUID!!!
Fracking Politics in Ohio
Recent Policy Developments in Colorado

- Governor Hickenlooper created a Task Force in early 2012 to consider how COGCC could better cooperate with local governments. A working group was subsequently assigned the task of wrestling with the issue of setback requirements.

- COGCC adopted a rule allowing local governments to select a “local designated inspector” to supplement existing regulatory actions.

- Longmont voters decisively approved a fracking ban in November, 2012 despite $500,000 spent by industry interests to defeat the measure. A lawsuit to overturn the ban has been initiated by COGA.

- COGCC adopted new regulations in early 2013 requiring groundwater testing near drilling sites and setback limits of 500 feet for occupied structures. Proposed drilling with 1,000 feet of schools, hospitals, or government buildings would require a majority vote of all COGCC members to proceed.

- Fort Collins City Council adopted a fracking ban in March, 2013. A legal challenge from COGA and COGCC is likely.
Governor Tom Corbett campaigned and was elected on a strong pro-energy platform that encourages removal of legal barriers to fracking operations.

Act 13 was adopted in 2012 on a party line vote by the state legislature. The most controversial aspect of the bill is a provision that denies drilling impact funds to any local government that adopts policies at odds with state regs.

The new law was recently challenged in the courts by the Pennsylvania Association of Municipalities and by environmental groups like PennEnvironment.

A state court agreed with the plaintiffs in July and the state has appealed the case to the PA Supreme Court.
Unresolved Issues?

- Water use in fracking operations
- Legislation dealing with local government land use authority to regulate the conditions and proximity of fracking
- Legal test of fracking ban based on Colorado Land Use Act (1974)