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Court ruling reaffirms authority of Colorado oil, gas commission

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Regulation of oil drilling is back in the lap of the Colorado Oil and Gas Conservation Commission after what one Colorado Springs oilman called a "landmark decision" by the U.S. District Court.

Douglas County District Judge Richard Turelli last week overturned the county's denial of a drilling permit to oilmen Harry W. Osborne of Colorado Springs and Anthony J. Allegretti of Cheyenne, Wyo. The ruling blocked the county's attempt to impose its own drilling regulations.

It's a "landmark decision. If it had gone the other way, the Oil and Gas Conservation Commission wouldn't mean much," said Osborne.

The county had denied Osborne and Allegretti the right to drill on oil and gas leases near the high-priced Perry Park Ranch and Valley Park subdivisions.

Oil and gas operators opposed the county's action, fearing it

would set a precedent allowing 62 other Colorado counties to create a tangle of regulations and create chaos.

Osborne's and Allegretti's suit, filed in April 1984, contended that only the Colorado Oil and Gas Commission has the authority to regulate the industry in the state.

Turelli's ruling, issued in Castle Rock last Thursday, "ends up by saying that the regulation of the Oil and Gas Conservation Commission takes precedence over everything else, and that the board is ordered to issue me a permit to drill," Osborne said Tuesday.

An attorney on the legal committee of the Independent Petroleum Association — which entered the case as a friend of the court — said Turelli's action is a "sweeping decision that affects not only the Oil and Gas Conservation Commission but also the independent oil and gas operators in the state."

The court "clearly holds that the state has pre-empted the field of oil

and gas regulation" and placed the jurisdiction with the oil and gas commission, said Jeff Scott, an attorney with Gorsuch, Kirgis, Campbell, Walker and Grover.

Scott noted that Turelli found the commissioners' actions arbitrary and capricious. He also said denial of a permit was an "unlawful taking of Osborne's property."

Douglas County Attorney James Kreutz said he doesn't know if the board will appeal Turelli's ruling. Also, he made a different interpretation of the ruling.

"The decision is somewhat of a mixed bag," Kreutz said, "since he (Turelli) ordered the applications to be approved subject to 'valid conditions validly imposed.'"

The county commission felt the regulations were validly imposed, Kreutz said. He indicated it may be necessary to return to the District Court in the future. Turelli's order remanded the issue back to the commissioners, he noted, and isn't a final order.