



Original research article

# Unconventional regulation for unconventional energy in Northern Colorado? Municipalities as strategic actors and innovators in the United States



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## ABSTRACT

Since the early 2000s, the U.S. has experienced a rapid increase in domestic unconventional oil and gas development (UOGD). Continuing a legacy as an oil and gas producing state, Colorado has emerged as a leader in this development. Yet these extraction practices have created a burden for municipal governments who have had little to no previous exposure to oil and gas development and were thus unprepared to regulate it. Through the application of a strategic action field (SAF) theoretical framework, this paper examines the processes through which local governments—Fort Collins and Loveland, Colorado—have pursued divergent strategies to regulate UOGD in their city limits, and the extent to which collective incumbents and challengers in the broader field environment have wielded meaning making practices and other resources to influence these strategies. To explore this understudied area of the governance process, I primarily draw from qualitative interviews with city staff and council members. Results suggest that both meaning making and power are critical components of strategic field action, and that the social skill of meaning making is in itself a form of power.

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## 1. Introduction

In the 21st century, increasing unconventional oil and gas development (UOGD) has brought changes to energy development and energy markets worldwide. Shale is an abundant global resource, but to date the U.S. has overwhelmingly seen the most success in shale development (Australian Government, Department of the Environment 2014). The unconventional boom boosted the nation's domestic energy production to such an extent that the Interior Department recently cited its success as a justification for President Obama's decision to halt progress on offshore drilling on the Eastern Atlantic seaboard.

Yet to focus solely on the national success narrative of UOGD would be to gloss over the nuanced localized conflicts that have erupted from this exogenous shock as the practice (particularly 'fracking') has moved increasingly closer to suburban and urban areas. Concerns over impacts to the environment, human health and safety, and communities have been at the forefront of debates

(see [1–11]). A core aspect of these conflicts relates to concern regarding which set of collective actors at what governance scale can control where UOGD takes place or how it occurs. Lozano-Maya [12] suggests that focusing on governance is crucial for reducing risks related to UOGD. As such, studying governance in the context of UOGD is critical.

Researchers have begun to explore the regulatory landscape of UOGD, with existing scholarship focused primarily on state or federal level governance (i.e. see [13–24,60]). When local governance is discussed, the focus has been primarily on legal outcomes, ([22,25] are notable exceptions). There remains little focus on process, or the shaping and implementation of strategies that local governments have used to regulate UOGD within the constraints of state preemption law. This is despite research demonstrating a desire for more local control over the process [26]. Furthermore, subnational comparisons of city regulations within the same state remain sparse.

Here, I utilize a theory of strategic action fields (SAFs) [27] to demonstrate the processes through which two local governments—Fort Collins and Loveland—attempt to regulate UOGD, specifically fracking. Simplified, a SAF can be understood

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as a unit of collective action in society. The underlying question I explore is: How do collective actors within an SAF and its broader field environment influence a municipality's governance process and adopted outcome? Through the comparison of the two municipal SAFs, I highlight how the jockeying between challengers and incumbent actors in the broader regulatory fields influenced the municipal governance processes in Loveland and Fort Collins.

## 2. Regulating UOGD: a review of the literature

Literature analyzing policy efforts to regulate the practice at multiscalar levels of governance has burgeoned in recent years as regulatory conflicts have festered (i.e. see [12,13,16,19,20,23,24,28–30,60]).

Davis [14] called for additional research on intergovernmental issues of fracking, such as substate analyses that explore state-local controversies over UOGD regulatory authority. We have seen research emerge on this issue primarily in law review journals, largely in relation to local-state conflicts over hydraulic fracturing (see [14,15,16,20,24,25,31–37,62,63]). Despite the similarities in these conflicts within and across states, Apple [13] rightfully points out, “the outcomes of interactions sparked by fracking development will depend on the local-regional dynamics produced by local and regional actors' unique configuration of preferences and their imperfect navigation of uncertain circumstances” (p. 224). As such, it is important to continue to explore the particulars of constraints on municipal government actors' ability to regulate UOGD within their local boundaries.

A few authors have highlighted how some local governments have successfully navigated these constraints [22,31,37]. In these studies, the primary focus remains overwhelmingly on demographic variables and regulatory outcomes. As such, the question remains: How do collective actors within an SAF and its broader field environment influence a municipality's governance process and adopted outcome? In order to better understand different local outcomes, it is imperative to examine the navigation of the local-regional dynamics, or the process of interaction and action as they occur both within a relevant SAF and between multiple relevant SAFs in the broader UOGD regulatory field environment.

Ritchie [25] gets at this question of process via an exploration of policy development in Mora County and Santa Fe County, New Mexico. He found that the difference in the county policy processes was due in part to the role that special interest group Community Environmental Legal Defense Fund played in Mora County's policy development process. His findings demonstrate the extent to which an SAF in the broader UOGD regulatory field, through jockeying and strategic action, can wield great influence over a municipal SAF and their policy development process. Here, I build on previous research by developing a detailed analysis of the process by which two neighboring local governments on Colorado's Front Range act to develop local level UOGD regulations, and how their relationship to other sets of SAFs in their broader UOGD regulatory fields influenced this process.

## 3. Utilizing the SAF theory

In their SAF theory, Fligstein and McAdam [27] work to synthesize several critical approaches focused on collective strategic action. They draw on “social movement studies, organizational theory, economic sociology, and historical institutionalism,” (p. 4) to develop a theory of SAFs, where SAFs are understood as *socially constructed* “fundamental units of collective action in society, [which serve as] a mesolevel social order in which actors are attuned to and interact with one another on the basis of shared understandings about the purposes of the field, the relationships to others in the

field, and the rules governing legitimate action in the field,” ([27], p. 9). Here, ‘strategic action’ can be understood as “the attempt by social actors to create and sustain social worlds by securing the cooperation of others [and] is about control in a given context” ([27], p. 17). In other words, individuals or collectives of individuals act strategically within their own collectivity, and often at the same time within a broader, external field that consists of other collective units.

Fligstein and McAdam [27] draw in large part on the work of Bourdieu to develop their conceptualization of a field. For Bourdieu, fields exist as objective social spaces, with particular sets of rules, wherein social agents or actors work to either change or maintain the field's boundaries and form, as well as their position within the field (see [38,57]). In this conceptualization of fields, actors come into a field with a set of capital or resources, as well as a “cognitive framework” for understanding how others in the field act, drawn out from what Bourdieu terms ‘habitus’ [39]. This determines their position within a field and their relative power. Their actions within this field, then, are driven by the struggle to retain or gain positionality and power within a particular field (see [38,56]).

Bourdieu's approach to action fields is lacking in three critical ways (see [27]). First, it is focused primarily on individual actions and actors within a field, who act in the pursuit of only self-interest. In SAF, collective action requires actors to also act to seek out cooperation. In addition, Bourdieu's work spent little time focusing on how a field comes into being [39]. Finally, Bourdieu's work did not elaborate a theory of connectedness across fields. Fligstein and McAdam's [27] approach to SAFs addresses these issues by developing a framework for understanding the emergence of new fields and collective strategic action as it occurs both within a field and in a broader field environment. This allows for a better understanding of how fields might influence one another across space and time. It is for these reasons the SAF framework developed by Fligstein and McAdam [27] is appropriate for understanding the UOGD regulatory fields in Loveland and Fort Collins.

As conceptualized by Fligstein and McAdam [27] SAFs may contain three type of actors, which may be individual or collective. There are incumbents, challengers, and governance units. Incumbents are those who hold more than their fair share of influence within a field, and as such, the field tends to mirror their interests, while challengers hold proportionately less influence and privilege over the organization of a field. Often, fields also contain internal governance units, charged with ensuring actors comply with the rules of the field [27,39].

In this study, I demonstrate how resources, struggles for power, and meaning making and interactionism are all critical for understanding regulatory processes and outcomes. Fligstein and McAdam's [27] approach to what drives behavior in fields are focused more on meaning making and interactionism, as opposed to resources, power, and motivations. The authors rely on a discussion of social skill, or the capacity to keep groups together, and the human need for shared meaning and identity as drivers of collective action. While Fligstein and McAdam [27] suggest that does not mean that power does not matter, they do shift their focus for understanding collective action away from power. Here, I do not de-emphasize motivations and power in understanding SAFs, as both may still be driven by and drivers of interactions. Instead, I suggest that motivation, power, action, and shared meaning making are all essential for understanding collective strategic action. In the development of regulatory policy—social skill and meaning making are critical, but so is power (defined by collective actors' field positions and their possession of and access to field resources).

Meaning making and power may align or be in conflict, shared meaning making may even become a means of power, but both are imperative for the process of “field jockeying,” or vying to maintain or upend the social order of a field. They are both at play

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