



Roni Sylvester and her husband Chuck grown corn outside LaSalle. They rely on royalty payments from oil and gas production on their farmland, to help maintain their farm. The money allowed them to repair damage to fences and other property that occurred during last September's catastrophic flooding.

JONATHAN CASTNER/FOR BIZWEST

# Mineral royalty owners add voices to fracking debate

**If local bans prevail, some say royalty owners should be paid**

By Steve Lynn, [slynn@bizwestmedia.com](mailto:slynn@bizwestmedia.com)

**L**ASALLE – Roni Sylvester worries that her oil and gas royalty payments may stop if ballot initiatives authorizing local governments to ban hydraulic fracturing pass this fall.

Sylvester and her husband, Chuck, who grow corn in LaSalle, used their royalty payments to hire people to fix their fences and other parts of the property damaged by last September's floods.

The money is critical to her family. Like other royalty owners, Sylvester views the proposed bans as a taking of her private property rights.

"The ballot initiatives do not recognize private property rights at all," she said.

The Rockies Chapter of the National Association of Royalty Owners, which represents hundreds of mineral owners in Colorado, Wyoming, New Mexico and Utah, estimates that Sylvester is one of 600,000 people who own mineral

rights in Colorado. In 2012, Colorado mineral owners received \$87.9 million in bonuses paid after signing lease agreements and another \$159.9 million in royalty payments.

The Rockies Chapter of the National Association of Royalty Owners has closely monitored the pending ballot initiatives, and contends that proponents have failed to address the effects of seizing mineral owners' property.

The multiple ballot initiatives proposed by activists seek to increase buffers between wells and to give local governments the authority to ban hydraulic fracturing, or fracking. The well-completion technique involves pumping fluid down a drilled hole to extract oil and natural-gas from shale deep underground.

Proponents must gather more than 86,000 signatures from registered vot-

ers for each initiative by Aug. 4 for them to appear on the Nov. 4 ballot. The oil industry, which contends that the initiatives would kill jobs and lead to regulatory uncertainty, already has spent millions of dollars fighting the measures.

Activists contend that local governments should have greater control over the industrial activity within their borders. Voters have passed fracking bans in Fort Collins, Longmont, Lafayette, Broomfield and Boulder, and activists hope the initiatives will uphold those bans.

One of the initiatives seeks to change state law to increase buffers between buildings and oil wells to 2,000 feet. It adds that the increased setbacks should not require the government to compensate mineral owners.

Colorado property is divided into surface rights and mineral rights, both

**“If the government is taking someone’s private property, they have to compensate the person for the value of the property that’s being taken. Under Colorado law, mineral rights are recognized as a form of property.”**

— David Neslin  
partner, Davis Graham & Stubbs; former director of the Colorado Oil and Gas Conservation Commission

of which are often owned by different people. In this split-estate arrangement, oil and gas companies are entitled to developing their mineral rights even though the minerals lie under land they don’t own.

Mineral rights owners have special protections under Colorado law, said David Neslin, a partner in the law firm Davis Graham & Stubbs in Denver and former director of the Colorado Oil and Gas Conservation Commission.

Fracking bans might constitute takings of property by the government, which in turn must pay fair market value to compensate property owners, Neslin said. In that case, a court could require local governments that have banned fracking to pay mineral owners if they cannot develop their property.

“If the government is taking someone’s private property, they have to compensate the person for the value of the property that’s being taken,” he said. “Under Colorado law, mineral rights are recognized as a form of property.”

Cliff Willmeng, a Lafayette resident who developed a ballot measure that

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**“It’s interesting that we spend a lot of time talking about mineral rights, but if property values are decreased by an inherently dangerous activity, there’s very little discussion about reimbursing the homeowners.”**

— Cliff Willmeng,  
author of a ballot measure that would give cities and towns constitutional authority to ban certain businesses


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## BUSINESS REPORT LIST

## Largest Natural-Gas Production Companies

Ranked by gas production

RANK	Company	Gas production MCF 2013 Gas production MCF 2012	Oil production STB 2013 Oil production STB 2012	Phone/Fax E-mail Website	Person in charge Year founded
1	<b>KERR-MCGEE OIL &amp; GAS ONSHORE LP</b> 4000 Burlington Ave. Evans, CO 80620-2508	112,938,927 97,591,040	16,920,263 10,793,890	800-800-1101 www.anadarko.com	R. A. Walker CEO/president/chairman 1929
2	<b>NOBLE ENERGY INC.</b> 1125 Broadway, Suite 2200 Denver, CO 80202	110,115,701 108,840,005	17,067,426 13,713,642	303-389-3600/303-595-7403 info@nobleenergyinc.com www.nobleenergyinc.com	Charles D. Davidson CEO 2000
3	<b>ENCANA NATURAL GAS INC.</b> 370 17th St., Suite 1700 Denver, CO 80202	30,903,162 23,010,115	3,869,413 1,843,062	303-623-2300/303-623-2400 NGV.info@encana.com www.encana.com	David Hill vice president, natural gas economy operations 2009
4	<b>PDC ENERGY INC.</b> 1775 Sherman St., Suite 3000 Denver, CO 80203	19,103,421 14,878,558	3,421,567 2,293,032	303-860-5800/303-831-3988 www.pdc.com	James M. Trimble CEO/president 1969
5	<b>BONANZA CREEK ENERGY INC.</b> 410 17th St., Suite 1400 Denver, CO 80202	8,433,358 3,621,425	3,537,059 1,525,709	720-440-6100/720-305-0804 www.bonanzacreek.com	Marin Chronister interim president/CEO 1999
6	<b>BILL BARRETT CORP.</b> 1099 18th St., Suite 2300 Denver, CO 80202	3,280,501 1,262,215	883,763 275,417	303-293-9100/303-291-0420 www.billbarrettcorp.com	Scott Woodall CEO/president 2002
7	<b>SYNERGY RESOURCES CORP.</b> 20203 Colorado Highway 60 Platteville, CO 80651	2,733,269 1,570,567	565,325 338,918	970-737-1073/970-737-1045 isandquis@synginfo.com www.synginfo.com	William E. Scaff Jr. Edward Holloway co-CEOs 2008
8	<b>K P KAUFFMAN CO. INC.</b> 11675 Broadway, Suite 2800 Denver, CO 80202	2,032,884 2,112,543	263,883 282,360	303-825-4822/303-825-4825 kpk@kauffmanllp.com www.kpk.com	Kevin P. Kaufman CEO 1998
9	<b>CARRIZO OIL &amp; GAS INC.</b> 500 Dallas St., Suite 2300 Houston, TX 77002	1,829,526 1,037,854	1,288,496 569,441	713-328-1000/713-358-6437 info@ccza.net www.ccza.net	S. P. "Chip" Johnson IV CEO/president 1993
10	<b>GREAT WESTERN OIL &amp; GAS COMPANY</b> 1801 Broadway, Suite 500 Denver, CO 80202	1,827,505 1,430,404	523,388 408,166	303-398-0302/866-742-1787 info@gwogco.com www.gwogco.com	Rich Fommmer CEO/president 2005
11	<b>MINERAL RESOURCES INC.</b> 5200 W. 20th St. Greeley, CO 80634	1,576,206 1,427,208	196,172 84,347	970-352-9446/970-339-8321 info@mineralresourcesinc.com www.mineralresourcesinc.com	Ado Richardson president 1981
12	<b>EOG RESOURCES INC.</b> 600 17th St., Suite 1000N Denver, CO 80202	1,523,406 2,111,324	648,275 1,296,026	303-572-9000/303-824-5400 www.eogresources.com	William R. Thomas chairman/CEO 1999

Region surveyed is Larimer and Weld counties.

Source: Colorado Oil and Gas Conservation Commission.

Production is in MCF, 1,000 standard metric cubic feet. STB = Stock Tank Barrels, 42 U.S. gallons liquid volume.

Researched by Mariah Tauer

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would give cities and towns constitutional authority to ban certain businesses, believes that oil and gas development lowers property values surrounding the industrial activity.

"It's interesting that we spend a lot of time talking about mineral rights, but if property values are decreased by an inherently dangerous activity, there's very little discussion about reimbursing the homeowners," he said.

If property values decline, the tax base also will decline, leading to cuts in services, Willmeng said.

"A lot of these industries tend to make communities quite unlivable," he said. "I think that the full costs of communities sacrificing their fundamental rights to these industries need to be looked at a little more closely. I think looking at mineral rights exclusively is an extremely narrow view."

But mineral owners believe

that proponents of local-control measures have failed to consider their property rights.

Michelle Smith, a mineral owner and president of the Rockies Chapter, received money for a lease bonus she signed for an oil and gas company to develop her property. Smith declined to disclose the amount of the payments, but she said she receives enough to offset high feed prices at her organic goat's milk farm in Elbert County.





Colorado taxpayers ultimately will have to reimburse mineral owners if local-control measures uphold fracking bans, Smith said.

"Somebody has to pay for that," she said. "It's a very important issue, and I don't think it's an issue the general public has thought about."

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