

Landowners voice complaints at Havre oil and gas meeting

Jared Ritz
Havre Daily News
jritz@havredailynews.com

Dozens of people from around Montana on both sides of the oil and gas debate - industry people and landowners - showed up and spoke their minds Monday at the first meeting of an Environmental Quality Council subcommittee created by the Legislature.

The morning meeting, attended by about 80 people and filling a room in Montana State University-Northern's Brockmann Center, was the first in a series of meetings to discuss possible regulation of the industry. The subcommittee was created by a House resolution that passed after legislation addressing some of the issues failed. The results of the study and any recommendations for legislation will be reported to the 2007 Legislature.

The 12-person committee is made up of four state lawmakers who are on the EQC, two public members of the EQC, and five at-large members from Montana and one from Wyoming.

The majority of people who stood to testify from the audience were landowners. Each speaker had complaints specific to themselves or those they know, and most focused on inconveniences, both large and small, of the split estate system. Split estates happen when one party owns the surface and someone else owns the minerals underneath.

The most common complaints voiced at the meeting were about the need for an easier and less expensive system to settle disputes over reimbursement for damage done during and after the drilling process and the landowners' need for better notification and more input in the process.

Cole Chandler, operations manager for Klabzuba Oil and Gas Inc., a company that has drilled "a couple hundred wells and laid miles and miles of pipeline" in north-central Montana in recent years, said he knows his business has an impact on the landowners and their business.

"The goal is to minimize these problems, and to be good neighbors," he said. "There's conflict with any relationship, but through communication we can get it done."

So far, all problems have been worked out without having to turn to government regulation, he said.

State Rep. Bob Bergren, D-Havre, said some things should be simplified or changed to help the surface owner's situation.

"There's a huge boom in my county and the counties surrounding" Hill County, Bergren said, but he doesn't want to see a boom in one industry affect "the people who will be here long after the gas and oil are gone," he said.

He, along with numerous people at the meeting, said the surface owners need some form of recourse for reimbursement claims denied by the companies beside suing them in court.

The need for an arbitration process to settle disputes between the two parties was brought up frequently by landowners.

Using heavy machinery to dig wells and ditches on farm and ranch property necessitates road construction, and the process as a whole can disrupt the landowner's operations, they said. Sometimes the amount the oil and gas people think is fair to pay for the damage and what landowners would like is different, landowners said. Right now, the only recourse an upset landowner has is to take the company to court, which often costs more than the amount they feel they are owed, they said.

Some of the oil and gas companies have "more attorneys on their letterhead than there are people in Gildford," said Gildford resident Merten Freyholtz. There should be another process in which these disputes can be hammered out, he said.

Herb Vasseur, president of the Montana Land and Minerals Owners Association, said nobody wants to go to the trouble of going to court.

"It's going to cost a bundle, and often the private individual doesn't have the resources to go against a big corporation," he said.

The association filed a federal lawsuit in June against Devon Energy Corp., a major gas producer in the area. The lawsuit contends the Oklahoma City-based company owes \$5 million in royalty payments to landowners in Montana, after improperly computing the price on which it bases royalty payments and underreporting the amount of gas produced.

Vasseur said he thinks more cooperation and discussion between the two parties at the start of the process, all the way back to when the lease for the underground minerals is sold, would go a long way to relieve headaches. Right now, oil and gas companies only have to give a 10-day notice before they begin drilling on someone's land. If people are given some "common courtesy" and are filled in about the process and their rights as the process moves along, things would run better on both sides, Vasseur said.

Many landowners are not educated about the oil and gas industry, he said.

"A lot of times, their ignorance is a detriment to them," he said. "I think the (industry people) should be more up front with these people about what their rights are."

Vasseur said he would like to see the committee "come up with some guidelines that are workable from both the industry and landowner perspectives.

"Some companies are considering that surface owner," he said, "and you have other companies that are disregarding them."

Another issue brought up was water. All of the drilling and piping can upset underground water wells and springs, making drinking water and crop water unuseable, some landowners said.

Wally McRae of Rosebud County, representing the agriculture and conservation group Northern Plains Resource Council, said working through issues of reimbursement and notification are "minor Band-Aid solutions to the real problem" of water.

"Reimbursement cannot come close to replacing" the natural water on a farm or a ranch, he said.

Chandler said his company does its best to have a good working relationship with every landowner it works with. Even though a 10-day notice is all that is required, it is common procedure for the company to send someone to speak with the landowner months in advance to give them a heads-up and discuss preferred access and sometimes damages, he said.

At-large committee member Joe Owen, a landman from Billings, said in an interview he thought the meeting went well. He said he was expecting most of the comments to be negative toward the industry, simply because those who are happy don't come to voice their opinions.

Sen. Mike Wheat, D-Bozeman, who chairs the subcommittee, said he was happy with turnout and the responses the committee received on its trip.

"This is exactly what we hoped for in coming to communities like Havre," he said. "It went just as I hoped it would."

WYOMING

Section B
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The Source

Opinions on CBM vary at hearing

By CLAIR JOHNSON
Of The Gazette Staff

SHERIDAN, Wyo. — A Montana legislative panel studying oil and gas issues heard mixed views Thursday from Wyoming and Montana residents on whether the state needs better laws to protect surface landowners facing mineral development.

Some ranchers said their experience with developers has been good and that Montana doesn't need more regulations. Others said they've lost wells and worry about drained aquifers and long-term damage.

Members of the Montana Environmental Quality Council subcommittee met at Sheridan College to hear about Wyoming's split-estate law, which went into effect in July, and to gather comments from the public.

More than 50 people attended the session, which lasted all afternoon. The panel will tour coalbed

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methane sites in both states today.

The subcommittee was formed by the passage of House Bill 790 in the 2005 Legislature and is charged with studying surface-use agreements for all mineral development as well as reclamation and bonding for coalbed methane operations. Study results and possible recommendations will be presented to the 2007 Legislature.

Panel chairman Sen. Mike Wheat, D-Bozeman, said the committee is trying to determine whether the Legislature needs to strengthen existing laws that deal with surface owners and owners of subsurface minerals.

Much of the discussion before the panel centered on split estates, a situation that occurs when one party owns surface rights to land and another party owns the rights to minerals below the surface. Split estates are common in the mineral-rich Powder River Basin of Wyoming and Montana.

Wayne Fahsholtz, president of the Padlock Ranch, which lies in both states, said the cattle ranch has more than 100 wells drilled and that it successfully negotiated agreements with the developer, Nance Petroleum. The developer is willing to accommodate the ranch's needs by moving roads and compressor stations, and to make sure water discharges from coalbed methane wells are handled

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— Gary Packard
Powder River rancher

properly, he said.

While the Padlock is satisfied with its relationship with Nance, Fahsholtz said it was exciting that "we could be empowered as surface owners" through a split-estate law.

Overall, a split estate is a bad situation for the surface owner because of what it can do to future land values, open and scenic spaces and water resources, he said.

Carl Dewey, a rancher in Sheridan County, Wyo., and Big Horn County, Mont., has had about 40 coalbed methane wells on his property for five years. Dewey told the panel he negotiated what he needed with the developer and has benefited from having more water for irrigation and cattle. Development has cost him his privacy, he said — he can't run outside in his underwear anymore.

Dewey urged legislators to not overly restrict surface owners and to not allow special interest groups to slow down production.

Another Montana resident, Connie Morris, a nurse from Otter who also has a residence in Sheridan, talked about the country's need for energy devel-

opment and said Montana already has regulations to protect surface owners.

"We do not need more government," she said. "Redundancy is not the answer."

But others told of bad experiences and urged the panel to consider more protections for surface owners.

Powder River rancher Gary Packard, of Johnson County, Wyo., said his land has been drilled and condemned for a pipeline, a water line and power line. He has lost three artesian wells, and the topsoil wasn't saved.

"I don't know how you can grow anything back without topsoil. This is what happened to me," he said.

Montana rancher Art Hayes Jr., of the Brown Cattle Co. near Birney, said he is concerned about the long-term effect of draining aquifers by drilling for coalbed methane. His ranch has 16 wells, 13 of which are in coalbed methane aquifers and 10 are artesian wells.

"Those wells are priceless," he said.

If he loses a well from coalbed methane drilling, a new one could be drilled, but he would lose his older water right for a newer, less valuable one, Hayes said.

Surface owners need to be guaranteed a source of water, Hayes told the panel. Having

developers offer water well mitigation agreements is not enough, he said.

Bonding and reclamation is another issue the panel is studying. Mark Fix, a Tongue River rancher near Miles City and member of the Northern Plains Resource Council, said reclamation bonds should reflect the actual reclamation costs.

Wyoming's split-estate law has not been in effect long enough to know how well it is working, said the bill's sponsor, Rep. Rosie Berger, R-Big Horn. The measure, which requires a good-faith attempt by both sides to reach a surface-use agreement, was passed after three years of negotiations among lawmakers, landowners and industry representatives.

"We're too early yet to know if this is effective legislation," Berger said. But the law has "raised the bar on doing good work and building good relationships," she said. The law makes developers more responsive and brings the landowner to the table, she said.

Laurie Goodman, of the Landowners Association of Wyoming, which supported the legislation, talked about the provisions of the split-estate law, such as having a 30-day notice to landowners when developers want to begin operations and compensation for "loss of land value."

The lost-land-value provision covers not only damages to land but also to commercial operations such as hunting or recreational opportunities, she said.

The association, she said, believes that the greatest amount of environmental protection comes by empowering the landowner.

Montana panel hears about BLM-Wyoming feud

By **BOB MOEN**

Associated Press writer

SHERIDAN — Western states need to band together and oppose a federal move to disregard state laws protecting the rights of landowners affected by mineral development, an advocate for landowners in Wyoming said.

Laurie Goodman of the Landowners Association of Wyoming told a Montana panel Thursday that the Bureau of Land Management was attempting to avoid applying a new Wyoming law to lands where it owns the mineral rights.

The Wyoming law gives surface owners more bargaining power and rights when dealing

with oil and gas producers seeking to extract the minerals owned by someone else under their land. When the land surface and minerals underneath are owned by two different parties, it is known as a split estate.

Wyoming has 11 million acres of split-estate land where the federal government owns the minerals.

Goodman told the subcommittee of the Montana Legislature's Environmental Quality Council that there are about 38 million acres across the West where the federal government owns the minerals and someone else owns the surface land.

The Montana panel, consisting of state lawmakers and private citizens, held a hearing in

Sheridan about Wyoming's new split estate law. The panel was created by the 2005 Montana Legislature to study surface use agreements for all mineral developments, and reclamation and bonding for coal-bed methane operations.

Sen. Mike Wheat, D-Bozeman, said the panel was trying to see if Montana's own split-estate law should be strengthened.

Wyoming's law took effect July 1. But the BLM has told the state that it doesn't believe the law applies to federally owned minerals under land it doesn't own. "The impact of that would be to eliminate the state's ability to regulate rights for private property owners," Goodman said. "Unbelievable. Really, it's

unbelievable."

Sen. Dan McGee, R-Laurel, said it sounds to him that the BLM is relying on following federal law that dates back to the birth of the nation rather than newer state laws that deal with modern issues.

"It will be interesting to see how they either come to the table with us or don't," McGee said. "It's interesting to see how it's currently playing out in Wyoming. This is the first we've heard about that."

But he also knows that "what we do on the state level can only go so far," he said.

"I believe in the end there will need to be a federal address to this as well," McGee said. "I'm very clear in my mind that that's

going to have to happen."

Rep. Rosie Berger, R-Big Horn, who was among the leaders in the Wyoming Legislature for the split-estate law, said the matter likely will end up in court. Berger said the Wyoming law was a good piece of legislation that should apply to private land with federal minerals.

"We did not feel it was necessary to eliminate those federal lands in our legislation because we still have a private owner on the surface," she said.

The Montana panel also took testimony from a number of ranchers, minerals owners, conservationists, oil representatives and landowners — all with varying opinions on how the state should proceed on split estates.

Clint McRae, who runs a cow-calf operation near Colstrip, Mont., said the panel needed to address surface owners' concerns about the length of notice they get about coming oil and gas activity as well as dust control, road conditions, weeds, water and other issues.

But Hugh Kendrick, whose family has land and mineral interests in southeast Montana, said the rights of mineral owners to have their minerals extracted shouldn't be usurped to protect surface owners.

The panel, which has held meetings previously in Havre and Helena, has additional meetings scheduled in January and February in Helena, Sidney and Billings.

Crossing the border for information

• Montana delegates hear about Wyoming CBM in Sheridan

By Mark Heinz

Staff reporter

What, if any, further steps Montana takes to regulate its oil and gas industry might depend in part on the opinions and experiences of Wyoming residents who have dealt with this state's booming coal-bed methane industry.

That's what brought a 14-person panel, officially known as the "Subcommittee of the Environmental Quality Council," to Sheridan College for a public hearing Thursday. The panel is made up about equally of Montana legislators and citizens.

Residents of Wyoming and southeastern Montana had plenty to say to the panel during a public comment period.

Kenneth Medicine Bull, who runs a family ranch on the Montana side of the Tongue River Valley, urged caution in CBM development.

"The state must make the rules consistent to ensure continued water and air quality," he said.

Connie Morris, a Montana resident who also keeps a home in Sheridan, said Montana's oil and gas regulations can be applied to CBM, and further restrictions might choke the industry before it can gain a real foothold in that state.

CBM gives both Montana and Wyoming a chance at a clean-burning fuel and more jobs, she said.

"Unemployment causes a migration of Montana workers and their families elsewhere and deprives the state of its greatest resource — its people," she said.

Other concerns cited during the public comment period included the effects of CBM drilling on groundwater and the fair treatment of people owning subsurface mineral rights on property where the surface is controlled by others.

Montana's Legislature has charged the panel with looking into oil and gas development around that state and nearby in Wyoming, said member Sen. Mike Wheat, D-Bozeman.

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CBM

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The panel held a public hearing in Havre, Mont., and will next travel to Sidney, Mont., to look at "more traditional" oil drilling, he said.

The group chose to come to Sheridan because of the amount of CBM development here, he said, and the potential for growth of that industry just across the border in his state.

"It's also close enough to Montana that Montana residents could come to Sheridan for this hearing if they wished to do so," he said.

Panel members also plan to tour some CBM drilling sites in Wyoming today, Wheat said.

Ultimately, the panel's findings could drive the Montana Legislature's approach toward regulating that state's oil and gas industry as a whole, he said.

The panel also heard from Wyoming Rep. Rosie Berger, R-Big Horn, regarding recent revisions to Wyoming's split-estate law.

A split estate exists when one party owns the surface of a piece of

land, but another owns the mineral rights underneath it.

Berger said Wyoming's split-estate reform worked primarily because efforts were made to get all interested parties involved — some of which included CBM industry representatives, agricultural interests and sportsman's groups.

"The coalition approach was very important," she said. "We wanted to give everybody a chance to talk."

Laurie Goodman of the Landowners Association of Wyoming said Montana needs to grasp the level of change CBM development can bring.

"Our state and our landscape is going to look very different in 10 years," she said.

Lucy Hansen, representing the Wyoming Agriculture Department's mediation program, said the informal mediation her department offers can often settle matters between CBM developers and landowners without litigation.

In many cases, mediators can help both parties reach agreement, in just a few hours and at a cost of a few hundred dollars, she said.

Residents voice concerns during public oil board meeting

By Ellen Robinson

Sidney Herald

Voices of the people were heard by a legislative subcommittee during Friday's public oil and gas discussion panel in Sidney.

The subcommittee of the Environmental Quality Council toured Richland County's oil fields Thursday. The tour was followed up Friday with the subcommittee hearing a variety of perspectives from Richland County residents.

Addressing industry regulation, residents voiced concerns, thoughts and opinions about surface and operator agreement timelines, surface use agreements, damages and bonding issues.

Annual rentals to surface owners for use of the property during the long-term extraction of minerals was a top concern that many who voiced concerns had in common. According to the current Montana law, an excavation company may pay annual rental fees, but they aren't required. Many of those who shared personal experiences explained the various barriers encountered when seeking fair compensation. Testimonies illustrated the deep value lost from the extensive damages. These compromise surface use of the land and result in a lower quality of life.

Dennis Trudell, Northeastern Montana Land and Mineral Owners Association, said, an annual rental fee of \$1,000 is merely a drop in the bucket when compared to the millions spent on a well. He explained the average compensation a surface owner gets for the disturbance is between \$5,000-\$6,000 for the life of the well. Trudell argued the amount, when calculated over a well's average lifetime, is very little in comparison to the value of losing 30 years of land use along with the added inherent lifestyle disruptions.

Trudell also cut to the chase addressing some more of the association's top concerns such as extending the 10-day drilling notification surface owners receive before the process begins. He argues that 10 days is too short in many cases, such as when someone is out of town for an extended period of time.

"They are trying to cram an agreement because they are eager. Many things can go wrong in 10 days. If they show up with no notice, it's a \$50 fine and away they go," Trudell said. "We need some teeth here because we even have companies who are unaware they have to notify landowners; it happened to me."

The notification time is 30 days in Wyoming and 20 days in North Dakota.

The consistent stream of individuals sharing personal experiences brought to light the indirect impact landowners endure during the excavation process and through the aftermath.

"Today increasingly, property value is tied to recreational use and visual appeal. The real value loss is not just in the product loss from the land (being) taken out of production, it's the

depreciation which takes place on the land," Deb Reichman, area resident, said.

Residents reported thick layers of dust on crops and pastures, large rocks discarded from the oil site roads into fields damaging expensive farm equipment, and environmental impact concerns.

"We're not against the oil exploration, we just want fair compensation," Trudell said. "Annual rentals are so important. It would really improve relations and smooth a lot of this stuff over."

The subject of landowners feeling an annual rental fee would better compensate for the long-term damages properties endure from oil and gas extraction surfaced as a top issue among many who voiced concerns and ideas.

Scott Staffanson expressed the view that landowners should have input from the start of the process. He feels if oil companies would involve the landowners in the staking out process, relations would be improved.

"I'm rattled, and it's not about the money. They absolutely refused any input from me, and I know the land. It took them four or five trips back and forth across my land to come to the same conclusion that I was trying to tell them from the start about the land," Staffanson said. "We've been out there for generations. I think it could even save the oil companies money if they would just let the landowners get involved."

The difficulty of "the little person on the land" taking the big company to court also surfaced as a common frustration of those who expressed feeling violated by energy companies. The court fees, which are easy for a large company to absorb, are a great barrier for many of the surface owners. Many reported feeling intimidated through the negotiation process.

"We thought if we asked, they would give us an annual rental on our surface agreement. But they said we don't pay annual fees, if you don't like it, take us to court. It isn't easy to go up against an oil company in court," Linda Simonson, area resident, said.

A Richland County resident, who wears many hats on the subject of oil, spoke expressing his concerns as a resident, surface owner, mineral owner, rancher and politician. Don Stepler explained his position as a county commissioner, "We have been behind the eight-ball trying to keep up because of the tax holiday of the first 18 months. The dust concerns extend over 300-400 miles of county roads."

He said at a cost of \$5,000-\$6,000 a load of dust control agents, which is only enough to cover 3/4 of a mile, dust control is cost prohibitive.

"It may look like a lot of money the county is getting, but we're looking to the future when we may no longer have this money," Stepler said.

ellenr@sidneyherald.com