

THE ASPEN TIMES

Split-estate bill crumbles again

Ballot measure is the next step

By Dennis Webb
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State Rep. Kathleen Curry is giving up her effort to pass legislation addressing conflicts between energy developers and landowners, leaving proponents of reform pinning their hopes on a citizen initiative targeted for this fall's ballot.

Curry, D-Gunnison, and state Sen. Jim Isgar, D-Hesperus, announced Friday they were withdrawing House Bill 1185, Curry's effort to seek fair compensation for landowners impacted by oil and gas development.

At issue is the so-called "split estate," when one party owns the surface and another owns the minerals underneath. It is the fourth time since 2000 that state lawmakers will fail to address one of the state's thorniest issues.

Their decision followed unsuccessful efforts to reach a compromise with the energy industry and a wide range of other interests.

"Things were definitely unraveling," Curry said Friday.

Curry brought the measure at the urging of a coalition of groups representing landowners, environmentalists, homebuilders, real estate professionals and others concerned about the impacts of energy development. But she eventually lost support from that coalition amid fears the bill could make things worse.

"There was, I think, a lot of debate about that very question - what did the bill do and what didn't it do," Curry said.

She said she heard opposite opinions from various attorneys about the bill's implications.

The measure had won approval in the House and by two Senate committees. Curry had hoped the Senate would pass it and she could work on reconciling differences between the House and Senate versions in a conference committee. But groups involved in trying to draft a workable compromise continued to have too many areas of disagreement.

"Neither side felt comfortable with any of the language proposals, and there was a complete deadlock in the Senate on this," she said.

Curry said it didn't help that she lost the support of her own coalition, which she believes acted too quickly on misinformation.

"There were many entities calling for the bill to be killed, and that doesn't give the Legislature any room to try to fix it," she said.

She said she wasn't surprised when she lost support and she felt she had to respect her constituents' views.

"When your own district is not happy and they're calling for the bill to be killed, I have to respect the wishes of my folks," she said.

HB 790 SUBCOMMITTEE
April 24, 2006
Exhibit 2

While the bill got hung up on several issues, Curry said the key difficulty was defining what compensation should be required.

Currently, oil and gas developers that don't reach surface-use agreements with landowners can post bonds of as little as \$2,000 and proceed with drilling. Curry's measure would have raised that requirement to \$15,000. It also would have required the industry to negotiate in good faith with landowners and created a process for determining an appropriate level of compensation when the two parties disagree.

Support for the bill disappeared out of concern that amendments made at the request of the industry could result in landowners receiving less compensation than they do now.

"Everyone involved is disappointed that we couldn't reach a compromise on House Bill 1185. We applaud the hard work of Representative Curry and Senator Isgar and believe in the end they did the right thing by withdrawing the bill," Mark Pearson of the San Juan Citizens Alliance said in a statement Friday.

In a news release, Ken Wonstolen of the Colorado Oil & Gas Association also praised the efforts of lawmakers but also voiced disappointment that the bill was withdrawn. He said voluntary surface-use agreements remain the best solution.

"We pledge to continue our efforts in this respect with both individual landowners and in the public policy arena, keeping in mind our role in supplying vital domestic energy resources to Colorado consumers," he said.

But property owner advocates continue to believe change is needed.

"Today, we start looking for other options to help landowners in the oil and gas fields," Duke Cox of Silt, president of the Grand Valley Citizens Alliance, said in a statement. "The oil and gas industry proved this session that they do not want to negotiate with landowners and compensate them fairly for damage to private property. This controversy isn't going away."

John Gorman, a Glenwood Springs real estate agent who is heading the group Colorado Landowners for Fairness, said the group hopes to achieve through a ballot initiative what Curry couldn't in the Legislature.

His group already has filed the initiative with the state, which is reviewing and finalizing the language, he said. The group has until Aug. 7 to gather the 67,829 signatures required to put the measure on the November ballot.

Curry said if something is to be done on the issue, it will have to be either through a ballot initiative or by some other lawmaker with fresh ideas about how to break the deadlock. This is her second year of failing to get a bill passed.

"I think we need somebody new because I've pretty much used up everything I had as of today," she said.

"I feel that this is a really sad day for landowners," she said. "I had hoped to do something for the landowners in my district that was meaningful. I'm extremely disappointed that I was unable to make that happen," she said.

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