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Bill an end-run on holdouts

Skeptical landowners' mineral rights treated as obstacle to more drilling

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POSTED: July 14, 2010

Proposed legislation by a local lawmaker would allow companies to drill in the Marcellus Shale beneath properties of those without gas leases.

State Rep. Garth Everett, R-Muncy, co-sponsor of the Conservation Pooling Act, called it a potential win-win prospect for both drillers and landowners.

The bill, which has not yet been introduced, calls for compensating holdout landowners while preventing them from blocking development of the gas from leased properties around them.

While acknowledging that some opponents may call into question eminent domain issues, Everett does not see it that way.

"Eminent domain is taking surface land. These people won't even know it's taking place," he said.

Susquehanna County resident Ron Livermore, who owns properties in Cogan House and Lycoming townships, said he is adamantly opposed to giving up his rights to his land.

"A small landowner has no recourse if things go bad," he said. "Will I be compensated by the state?"

Everett contended that, the concept known as "forced pooling" is a means of extracting gas from the ground most efficiently. From a conservation standpoint, it will mean less drill pads and gas lines.

Beyond that, landowners will be compensated.

The bill requires a gas company to have leases to drill 75 percent of the land in a proposed unit before applying for a pooling order of a parcel.

Everett noted that the bill is partly in response to "stranded" landowners looking to lease their properties but skipped over by gas companies drilling at nearby larger tracts.

The legislation defines a drilling unit as 640 acres, calls for a public hearing procedure, sets a royalty of 12.5 percent for gas produced, and protects unleased landowners from surface impacts of drilling.

Ross Pifer, director of the Agricultural Law Resource and Reference Center at Penn State University's Dickinson School of Law, noted the legislation raises some interesting questions.

He dismissed the question of eminent domain, saying that occurs when the government seizes land.

"My concern is how is it going to impact the lease market. If the company doesn't have to negotiate, that's going to impact what they are going to pay."

Livermore agreed.

But he's also concerned about the potential environmental impact, particularly a landowner's drinking water, if something goes awry in the drilling process.

He pointed to landowners in Dimock Township whose wells were contaminated by a gas well accident there.

"Someone ought to ride over here to Dimock and talk to these people who have no drinking water," he said.

Everett said he can understand that some opposed to the legislation will see it as a violation of their property rights. Others will stand in opposition to anything that promotes drilling, he added.

"If it's not something fair for landowners, I won't support it," he said. "It's a complicated issue, it will take some education."

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