EXECUTIVE PROFILE

Six Questions for the president of Colorado Alliance of Mineral and Royalty Owners

NEIL RAY

BY DAN LARSON • FOR ENERGY PIPELINE

CAMRO WAS ORGANIZED LAST FALL to "represent the interests of mineral owners across the state and to encourage and promote exploration and production of minerals." On June 6, Energy Pipeline interviewed Neil Ray, president of CAMRO, to discuss, among other things, formation of this new mineral royalty owners group and why recent pooling legislation was ill-conceived and unnecessary.

Energy Pipeline: In September, the board of NARO-Colorado voted to withdraw as an affiliate of the national group and form an independent non-profit organization to represent Colorado mineral royalty owners. What brought you to make that decision?

Neil Ray: For most of NARO's existence, the state chapters were fairly autonomous. For example, each state group needed its own IRS charter under the 501(c)(6) rules for non-profits and each group elected its own board of directors.

More recently, NARO became more of a top-down organization, adding paid staff to provide added services to members. From our perspective, it didn't work out that way. When we saw the increase of anti-oil and gas advocacy along the Front Range and we wanted to send our members calls-to-action for hearings at the Capitol or local government meetings, our messages were delayed by two or three days. It just wasn't working for us.

EP: What benefits does CAMRO provide to its members?

Ray: We represent the interests of all mineral owners in Colorado. We connect with our members through newsletters and events such as our conference and annual meeting in June. We have a lobbyist in the statehouse to get our message to legislators and, as a volunteer-driven group, our members support mineral owner interests by testifying at hearings and local meetings. We have also supported quite a few members with their individual royalty issues.

EP: What bills were you involved with in this year's legislative session?
Ray: We fought against a particularly pernicious bill that would have upended pooling law in Colorado and we won. Our mission is to protect our members by keeping Colorado oil and gas law from being changed in such a way that would harm royalty owners.

There were many people who were dissatisfied that more control was not given to local governments in the rulemaking that came out of the governor's task force two years ago. As introduced by Rep. Mike Foote, HB 1336 would have increased the threshold to 51 percent of royalty owners for a pooling request to go before the oil and gas commission. This could have been used to delay or deny new oil and gas development. That provision was removed from the bill in order to get it passed in the House, but it still would have required the producer to give 90-days notice to identified members of the pool and the creation of a public database of who had leased and who had not.

The 90-notice is nearly a moot point since under oil and gas commission rules for an urban mitigation area, the company has to provide notice not just to the mineral owner but to local planning and zoning departments, city councils and the local government designee. After all the required hearings, it could be 270 days before the commission issues a permit. For a mineral owner to say they did not realize the company planned to drill is foolish.

What worried the industry was the database issue. If industry were forced to publish a database of who had been leased and who had not, it would encourage modern-day claim jumping. We saw it as a way to encourage lawyers to go in and offer the mineral owner a much higher rate on a lease and bonus with no intention of ever allowing that lease to be drilled. There are others who would take a lease from a non-consenting mineral owner and sell it back to the company at a horrible rate.

Ultimately, industry put language into the bill that prohibited the database from publishing trade secrets, which in this case was the name of the person they were trying to lease. The bill was eventually killed in the Senate.

EP: How do pooling laws protect mineral royalty owners?

Ray: Mineral ownership is property

ownership and is protected under the state and federal constitutions. One of the rights afforded a property owner is the right of exclusion. This gives the property owner the right to say no when someone says you have to do something to your property.

Oil and gas development can trample on the right of exclusion because fluids and gases flow to the lowest pressure point and that's where the well is. If the minerals you own are going to be drained by someone else, you have a right to be compensated. That's called a correlative right and that is how oil and gas development compensates the mineral owner for losing the right of exclusion.

When a company wants to develop a field where there are multiple tracts, it must go to the oil and gas commission for permission to drain the pool. Often, there are unidentifiable mineral owners due to complex probates or there might be non-consenting mineral owners. States pass pooling statutes to protect those with leased minerals who would benefit from development. It is also in the state's interest to see minerals developed for the eventual taxation and economic improvement that a producing well provides.

EP: What happens when a producer might be unfairly draining oil and gas from a neighboring mineral owner?

Ray: Not long ago, we helped a member who farmed on a tract along the Poudre River. When the mineral owner across the river drilled a well on his property, our member was concerned her minerals were being drained as well. We helped her petition the oil and gas commission and they added her to the pool. She then hired a lawyer who forced the producer to compensate her.

This is a good example of how pooling laws protect those with a minority interest from being put at a disadvantage by the majority interest owner.

EP: What can a mineral owner do about unfair deductions a company might take on the cost of production?

Ray: Post-production fees can be a very complex issue. Often the producer's contract with a midstream company comes into play. A midstream company that takes natural gas liquids has to work in a commodity market that swings up and down and may find that the cost of stripping out liquids might be more than they are worth on the market.

Other times, a company from out of state acquires interests in Colorado and they might not be familiar with Colorado case law. As a result, their accounting department might operate under other rules and take deductions on processing and transportation costs that are allowed elsewhere but not allowed here.

Mineral owners should always look carefully at the check stub attached to their royalty payments. In Colorado, mineral owners are protected by our check stub law that clearly states what is to be included on the statement. We also urge them to talk with their neighbors and compare statements. If they suspect something is wrong, we can recommend accounting firms that specialize in oil and gas revenue. They should also contact the revenue accounting department at the company. We find that most of the time, the company does not want to get involved in litigation over mineral owner payments.