

Oil And Gas Bills Stymied In Wyoming

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CASPER, WY.—Attempts to revise state well permitting rules provided a primary theme for oil and gas issues during the 2019 Wyoming Legislature, reports the new head of the Petroleum Association of Wyoming.

“The idea of operator capture was behind five bills introduced this year, none of which passed,” details PAW President Pete Obermueller, who was hired for the position following the January retirement of his predecessor, Bruce Hinchey.

The 65th Wyoming Legislature was notable for concerns that peaked at mid-session about several oil and gas bills that ultimately did not pass. The issues that arose from that experience, however, opened the door to a busy interim, Obermueller indicates.

Meanwhile, the final bill debated this session, SF 134, involved a severance tax exemption and the legislation kept legislators in the Capitol past midnight on the final day. SF 134 would have reduced the tax on recompleted, workover or otherwise shut-in well production to 4 percent from the regular 6 percent state severance tax.

While some voices raised concern about lost revenue, the projected production increase would have led to a net tax revenue gain, Obermueller estimates.

“It certainly was an interesting debate with plenty of twists and turns,” he describes. Different severance tax bills passed each chamber, he recounts, but when a conference committee compromise bill passed the Senate but not the House, sponsors decided to pull the plug.

Dormant Permits

According to Obermueller, one of the most controversial oil and gas bills to appear in 2019 was HB 261, which would have increased the state’s permit application fee to \$10,000 and refunded \$9,500 of that after the well was drilled. HB 261 also set

a two-year statutory limit on a permit’s validity, with the possibility of a two-year extension, pending approval by the Wyoming Oil & Gas Conservation Commission.

HB 261 and four others bills aimed at permitting issues were referred to committee or not read on the floor and died with the end of the session, Obermueller observes.

The bills originate in concerns expressed by oil and gas companies, mineral interest owners and elected officials that center on claims that long lateral drilling has rendered the state’s well permitting regulations obsolete, Obermueller notes. Permitting a well in Wyoming has become “a race to be first in the door with a permit application,” Obermueller describes. “The first permit holder becomes the operator of the entire unit. With 1,280-acre spacing and diverse interests within a unit, it causes heartburn. There is concern this secondary market for permits does nothing for actual production; that was the driver for these bills.”

Current state permitting regulations were written during the state’s coalbed methane boom 30 years ago, he recounts, and those rules did not anticipate how lateral drilling technology would evolve. According to state rules, “unit spacing is based only on the area one well will drain” and limits the number of wells allowed in a unit. The state commission can approve increased well density when an operator “finds a single well in a drilling and spacing unit will not drain the acreage.”

Once a unit has been spaced, the first operator to file an APD is recognized as holding ownership of drilling rights for the entire unit, the regulations state. It is then up to the other acreage holders to reach a joint operating agreement or form a pool. The WOGCC is “sitting on more than 25,000 permits and of those that are approved, only a small fraction are being produced,” Obermueller notes.

Commission records show that as of last summer, more than 18,000 permits were held by 10 companies. PAW recog-

nizes the frustration behind the legislative proposals, Obermueller assures, but none of the bills merited PAW support. “The controversy also brought forth a number of surface owner complaints that muddied the water,” he adds.

At the upcoming interim discussions on operator capture, PAW will offer a set of discussion points to outline how regulations can incentivize production while not restraining operator planning and development practices, Obermueller reports.

“With an issue such as this, we are unlikely to get 100 percent consensus from our membership,” Obermueller acknowledges. “We are looking to reach a critical mass that gives some breathing room so we can work on a way forward with regulators and landowners.”

Equipment Exemption Veto

One industry tax bill, HB 120, had PAW’s backing and passed the House 41-18 and the Senate 21-8. Written to provide an ad valorem tax exemption on energy production equipment, HB 120 was among the six bills Governor Mark Gordon vetoed on March 15.

HB 120 initially was written for wind energy producers in 2018 and it failed, Obermueller recalls. “They use these big laydown facilities for equipment and operating them has become an economic driver,” he explains. “This year, the bill was revised to include equipment used for production of any energy source as a way of widening support. For the most part, the oil and gas industry does not store new production equipment long enough to qualify.”

Gordon’s letter about his veto faults the bill for not being specific on the equipment in question, giving unfair preference to counties in which a laydown facility is located versus where the energy will be produced, and suggests that oil and gas producers’ tendency to obtain equipment almost immediately before they need it means the exemption is of little value. □