

Mining law changes would affect Wyoming State bentonite producers use 1872 law to patent claims

By TOM KURTZ
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CODY — Hearings are scheduled today in Washington, D.C. on a proposal to change the Mining Law of 1872 which allows sales of federal land for as little as \$2.50 an acre.

Currently the Bureau of Land Management is processing 26 claims in Wyoming which use the 1872 law, according to a BLM engineer in Cheyenne. The pending claims include several filed by a state bentonite producer.

Two bills in Congress, one in the Senate and one in the House of Representatives, would do away with hardrock mineral patents altogether and end the purchase of property under the 119-year-old law.

Dale Waligh, a mining engineer with the Bureau of Land Management in Cheyenne, said that while miners have filed fewer claims in Wyoming recently, an atmosphere of uncertainty about possible changes in the law could bring an increase in "mineral patent" applications.

One bill authored by Sen. Dale Bumpers, D-Ark., called the Mining Law Reform of 1991 goes to hearings before the Senate Energy and Natural Resources Committee today.

The proposal would eliminate mineral patenting and put in place a system requiring miners to pay royalties on production of minerals from federal land.

Bentonite, which is used as drilling mud, is a far more common claim seen recently by the BLM and the development cost with it run much less, Waligh said. Bentonite often lies on the surface and rarely lies more than 60 feet under the ground.

"They may want to have firm reserves in hand now, rather than trying to come up with something if those bills pass," Waligh said.

Larry Madson of Black Hills Bentonite Company said the company has mineral patent applications pending in two counties. Their Johnson County claims focus on two areas — one for 360 acres, and another totalling about 721 acres. A third claim for which the company has filed a patent application is in Natrona County, for 960 acres, he said.

Madson said his firm's need for one of the claims relates to a particular grade of bentonite sought by a customer.

The other two are to allow mining to continue onto property adjacent to prior claims.

Bentonite mining companies don't often need new patents and most lease their claims, Madson

said. "The big companies completely patented all their claims in the 50s and 60s."

Ownership of the land is not much of an incentive for bentonite miners to patent their claims, because generally the land's future usefulness is limited, he said.

"If you can't sell it to a rancher, what are you going to do with it?" he said. "It's not the kind of territory where you are going to have some recreational use."

The 1872 mining law allows miners to buy the claim's property for \$2.50 an acre for a placer claim and \$5 an acre for a lode claim, Waligh said. The prices represent the prevailing cost for land in 1872 and have never changed.

Dan Maatz, a staffer with Wyoming Republican Congressman Craig Thomas, said Bumpers' bill and its House of Representatives counterpart could turn into "a detriment for any more mineral exploration across the western United States."

The House Mining and Natural Resources Subcommittee has held hearings on West Virginia Rep. Nick Rahall's version of the mining reform bill which would be a "significant change of the 1872 mining law," Naatz said.

"Pretty much, it tracks Sen. Bumpers' bill, but there are some minor modifications," he said.

"We've heard from the American Mining Congress and they are opposed to any changes in the 1872 law," he said. "They would like to see it remain status quo."

Private companies and individuals have also voiced concerns and contend that overturning the 1872 law would be particularly hard on small mining operations, Naatz said.

Thomas said the concept behind mineral patents, which is to provide an incentive to seek and develop mineral resources, is sound and shouldn't be radically changed.

"The direction that the sponsors (of mining reform) are taking is to dismantle law," Thomas said.

Minor, administrative changes in the mineral patent law could just as effectively prevent abuses, such as real estate speculation, he said. "We've had over a hundred years of experience with this sucker to get it to perform along the lines of its original concept."

Jim Zoia, Rahall's staff member on the House mining subcommittee, called mineral patenting "the last vestige of the 19th century."

"The public should expect diligent exploitation of its natural resources and not speculation," he said. "The bottom line is there is no relationship between mineral patents and the ability to mine."

Mining Law Change Proposed

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