

Ditching idea draws mixed reviews

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If landowners don't want coal-bed methane water to flood their low-lying pastureland, they may elect to have ditches dug through their pasture.

State Engineer Patrick Tyrrell brought the proposal to the Legislature's Coal-Bed Methane Task Force, which made modifications this week and agreed to submit it to legislative committees.

Tyrrell said the idea is to give landowners one more tool in the management of coal-bed methane water. While carving a ditch through a rancher's best pasture may not be his first or second choice, it could at least prevent flooding.

In fact, Tyrrell's proposal includes a provision to determine a stream's "natural capacity," which would provide a threshold for the volume of coal-bed methane water that may be flushed down a drainage.

It would be the first-ever limit on how much water coal-bed methane producers could dump on the surface.

"I don't see how it does anything but reduce the amount of water put into those channels," Tyrrell told members of the task force in Casper on Thursday.

Still, others doubted whether it offers a real solution for landowners who don't want, or can't use, large volumes of coal-bed methane water. In one high-level case, a company had to go to court to condemn its way onto private property, using the state's waterway easement.

Neighbors said the company cut a ditch zigzag across Billy Maycock's pasture, severely impeding its practical agricultural use.

Tyrrell suggested that only an affected landowner could ask his office to invoke the remedy. But industry representatives asked for access to the trigger, too, which the task force granted. Some worried industry may use the rule to maximize flows, which have already altered many ephemeral waterways in the region.

So far, more than 4.1 billion barrels of groundwater has been dumped on the surface in the Powder River Basin, according to the state. The water is pumped from coal aquifers in order to relieve the hydrostatic pressure that keeps methane locked in the coal.

Critics said ditching is not a very creative approach to the statutory charge given to the task force, part of which was to find more beneficial options for the water. Stakeholders from various sides of the issue agreed the proposal wades into sticky uncertainties such as the legal description of "natural capacity," water course, and how to divide up the cost of ditching among multiple operators in a drainage.

Several members of the task force agreed the draft legislative language is rough because there wasn't total agreement on a number of aspects, including whether it should include a provision for damage compensation. Sen. Bruce Burns, R-Sheridan, said he preferred to flesh out details of the proposal before handing it to the joint agriculture and joint minerals committees.

But Thursday was the last scheduled meeting of the task force before it dissolves. So the task force made some changes and agreed it was a good representation of its intent.

Several interest groups are likely to lobby on the measure, including the oil and gas industry -- which didn't submit a single comment to the task force regarding the state engineer's proposals, according to the task force.

The Landowners Association of Wyoming indicated it would scrutinize the proposal for implications to Wyoming's eminent domain laws. Trout Unlimited representatives said they would remain engaged because coal-bed methane development is headed for cold-water areas of the state where fish species are of concern.

The Powder River Basin Resource Council said it was concerned that ditching would take away incentives to come up with more beneficial uses of the water.

Task force member Joe Olson, representing the coal-bed methane industry, said ditching doesn't fix all of the water issues in the industry. But it is a worthwhile idea to pursue.

"I think it solves one of the significant (regulatory) gaps," Olson said.

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