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## Wyoming mineral owners form association to deal with oil and gas permitting war

Heather Richards 307-266-0592, Heather.Richards@trib.com May 6, 2019 Updated 17 hrs ago

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A wellhead bearing Anadarko's name is seen in April 2015 at the Salt Creek oil field in Midwest. The company has played major role in the permitting war that inspired some Wyoming mineral owners to form a new association.

File, Star-Tribune

Sparked by a permitting war among Wyoming's oil and gas producers, mineral owners in eastern Wyoming say they are banding together in defense, pushing for changes to Wyoming's drilling rules and regulations.

The Wyoming Mineral and Surface Owners Association announced its formation Tuesday in a press release from Falen Law Offices, a Cheyenne firm with roots in private property, agriculture and federal land law.

The group's founders say they want to educate and motivate mineral owners to be active on issues relating to their rights, but their immediate reason for existing is a permitting war that's spread across Wyoming's oil and gas industry, particularly in the oil fields on the eastern side of the state.

“Without a united front from the mineral owners of Wyoming, we will once again be left behind by a powerful and united industry,” the group wrote in the press release.

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Mineral and landowners are targeting the rules and regulations of Wyoming, which they believe are threatening their ability to make money from leasing their minerals.

One of the key issues in their crosshairs is drilling permits.

In Wyoming, whichever oil and gas company gets a permit to drill first gains the title of “operator,” a role that comes with significant control over the drilling and spacing unit, the money that goes into drilling, and the revenue that comes from development in an area up to one mile long and two miles wide. That permit is valid for two years, with the option to extend.

These rules aren’t new, but they’ve led to a dramatic phenomenon over the last year and a half, due to a stronger oil price, a favorable political climate and recent drilling successes in the eastern plays.

Some operators in the state’s east-side oil plays have been in a rush to acquire multiple — in some cases thousands — of permits. That’s led to others seeking more permits too, in an attempt to keep a hand in the game for the future. By December the competition created a record queue of 25,000 applications for permits to drill.



Applications to drill for oil and gas in Wyoming hit record of 25,000

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The Wyoming Mineral and Surface Owners Association members argue that is damaging their interests.

Companies that lock down considerable acres are creating monopolies that reduce competition that would drive fairer prices for mineral owners. The system also encourages producers to lock up acres through permits, whether they intend to drill in the near term or not, they say.

“I’m not an expert in this but I know enough that it is unfair and unjust,” said Roger Lemaster, a dryland winter wheat farmer from Burns and the chairman of the newly formed association.

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Mineral owners have been chafed by this permitting war for some time, but particularly its application in Laramie County, where in addition to the permitting battle, one large oil and gas firm has a unique land position.

Anadarko has tremendous presence in the DJ Basin — the oil play in Laramie County — due to its ownership of minerals that previously belonged to the Union Pacific Railroad. A few years ago, Anadarko owned 1 million surface acres and 4.2 million mineral acres in Wyoming, making it one of the largest mineral and land owners in the state.

Anadarko is also one of the companies leading the permitting race. It just hasn’t been actually drilling wells.

Mineral owners in the neighborhood responded by trying to block some of Anadarko’s permits, via a protest to the Wyoming Oil and Gas Conservation Commission.

These mineral owners said that they wanted a company to drill, but with Anadarko in control of so many blocks of land that it hadn’t shown plans of drilling, other producers weren’t interested.

It was a monopoly, they claimed, driving down the value of their minerals and delaying drilling that could be happening with another operator.

Anadarko protested that it was not locked in an empty game but following the rules as they were written and establishing its ability to drill in the area.

Another group of land and mineral owners made a second attempt to block Anadarko's permits at the commission months later, with a slightly different argument that the lack of drilling constituted waste and damage to nearby mineral owner rights. That didn't work either.

That's in part why this mineral association has formed, to address the rules and regulations that allowed the permitting war to continue unabated and allowed other problems that threaten the mineral owners' position, said Conner Nicklas of Falen Law Offices, who is representing the Wyoming Mineral Owners Association.

The rules and regulations that have failed to curtail this permitting war need to be considered and revised, with mineral owners at the table, he said.

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Frustration with the rules and regs has percolated throughout the mineral and landowner communities and drawn in political support.

The second group to approach the commission included the voice of a state lawmaker, Rep John Eklund, R-Cheyenne, who told commissioners he was present both as a representative for his constituents and for his own mineral rights.

During the legislative session, Eklund launched a bill that would have increased the fee for applying for permits from the current \$500 to \$10,000. Most would be returned on commencement of drilling.

That bill, and others related to the frustration of mineral owners, did not succeed in the Legislature but will be taken up as a topic by lawmakers during the interim.

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Mark Watson, supervisor of the Wyoming Oil and Gas Conservation Commission, said the Anadarko situation in Laramie County was unique, and likely one that would resolve itself



One of Wyoming's largest oil companies just sold. Now what?

Heather Richards 307-266-0592, Heather.Richards@trib.com

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Anadarko gained a checkerboard of mineral leases from the railroad, which gives it tremendous advantage in establishing a land position in the area. But Anadarko's long game in Wyoming, to acquire and hold rather than acquire and drill, may be changing. The company may be bought by Chevron, and the future of its Wyoming presence is unclear.

Most expect the company, which is focused on its developments in the Permian Basin in the Southwest, will sell the Wyoming position. The odd land inheritance from the railroads will remain. However, a new company may be more willing to drill now.

The Anadarko debate notwithstanding, the permitting race does have Watson's attention. The race has been building slowly since he came into his role leasing the agency in 2014, he said.

Part of the race is down to the amount of private equity interest there is in Wyoming, a play that's cheaper than some of the bigger plays in the country. Each of those firms wants its slice of a pie, he added.

Still, it wasn't until last year when race for permits, the protests and the disputes between operators became a serious burden on the commission — and a frustration to industry and landowners, he said.

“Frankly I’m frustrated too, with the volume, with the burden that’s placed on the staff, with the burden that’s placed on the commission. It’s that breaking point, when you say, ‘All right, this is not working anymore.’”

Watson said his policies, like the creation of a drilling schedule last year to prioritize permit applications for wells that producers are ready to drill, have been aimed at managing the growing problem.

Now, the commission is working on avenues to address the issue, he continued. Watson will be presenting some background and potential solutions to state lawmakers at a minerals committee hearing May 17 in Gillette. The Petroleum Association of Wyoming, which represents industry here, and a policy advisor for the governor will also present on the permitting issue.

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Addressing the permitting challenge may be tricky.

The permitting war has been happening in plain sight. The oil and gas firms weren’t breaking any rules and have now spent significant time and money establishing their position by acquiring permits in the permitting war.

“The trick is you have to be careful you don’t drop a bomb on it, change the rules and turn all upside down,” Watson said.



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Heather Richards 307-266-0592, Heather.Richards@trib.com

Nicklas, the Falen lawyer, said his group was not against the Wyoming Oil and Gas Conservation Commission nor were they anti-oil. They wanted change and they wanted to be part of that change.

“Often these mineral owners and landowners that are part of these groups are the heart and soul of the state, the longtime residents,” Nicklas said. “They have the state’s interests in their heart in a lot of ways. I see a lot of potential that this group can do a lot of good for a

lot of people in the state.”

The law office representing the Wyoming Mineral Owners Association was founded by Frank Falen and Karen Budd Falen. The latter is a member of the Trump administration’s Interior Department. She became well-known in Western land issues in years past for her work supporting property owners and agricultural interests at times in opposition to the federal government on contentious issues like the Endangered Species Act and federal land authority.

The Wyoming Mineral Owners Association will hold three public meetings to encourage participation in the group and educate other land or mineral owners about the current challenges they have observed in the drilling permit war. The meetings will be held in early May in Pine Bluffs, Cheyenne and Wright.

*Editor's note: The original version of this article incorrectly stated that Anadarko will be bought by Chevron. That potential sale was still in flux at the time of publication.*

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## Upcoming public meetings

### **Pinebluffs**

7 p.m., May 8

Pinebluffs Community Center

### **Cheyenne**

7 p.m., May 9

Archer Center

**Yoder**

6:30 p.m., May 13

South East High School Gymnasium

**Wright**

7 p.m., May 15

Wright Hotel and Conference Center

### MORE INFORMATION



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- Anadarko monopoly complaint revived before Wyoming Oil and Gas Conservation Commission

Heather Richards

Energy Reporter

Heather Richards writes about energy and the environment. A native of the Blue Ridge Mountains in Virginia, she moved to Wyoming in 2015 to cover natural resources and government in Buffalo. Heather joined the Star Tribune later that ye