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Fronteer seeks eminent domain: Company wants ranch land for gold mine

ALI HELGOTH Staff Writer Jun 3, 2010



ELKO - Fronteer Gold is hoping to use the power of eminent domain to condemn about 1,785 acres of private ranching property in Elko County for its planned Long Canyon gold mine.

In a lawsuit, Fronteer seeks approval for its Long Canyon Project to immediately occupy 16 acres where it has no mineral interests and about 400 acres where the company has mineral rights but Big Springs Ranch owns surface rights. The lawsuit also seeks condemnation of the additional acreage.

In total, the Long Canyon Project includes 12,108 acres of public and private land. About 3,732 acres in the project area have severed estates, in which Fronteer owns mineral interests and the ranch owns surface rights, according to court documents.

The land is about 28 miles southeast of Wells on the eastern flank of the Pequop Mountains.

Those named in the lawsuit include Ray Koroghli, Reza Zandian, Fred Sadri and Eli Abrishami of Big Spring Ranch LLC.

A hearing in front of Elko District Judge Andrew Puccinelli is scheduled July 1.

Fronteer, an exploration and development company, and Big Springs Ranch negotiated for about a year on a land sale before the lawsuit was filed in March. In the spring of 2009, Big Springs was offered \$12 million and 4.25 percent royalties for 8,000 acres and about 10,685 acre feet of water, according to court documents.

Through eminent domain, Fronteer could obtain acreage from the ranch for less than \$50,000.

Both sides point the finger at the other for the reason a deal was never finished.

Attorney Jim Leavitt of the law offices of Kermitt L. Waters, who is representing Big Springs Ranch, called the condemnation proceedings "an egregious situation." He said the property owners were willing to accept the offer before it was rescinded.

"I have never, ever seen a Canadian company come to the United States and try to condemn a piece of private property for private use," said Leavitt, who's worked solely in eminent domain matters for 15 years.

Fronteer is organized in Delaware but is Vancouver-based and has operations based in Elko. It is 51 percent owner in the Long Canyon Project, with AuEx Ventures owning the remainder.

Jim Lincoln, president of Fronteer USA, said "to protect our access rights and protect our mineral rights" the company was forced to file litigation.

Fronteer attorney Laura Granier said the company has been "extremely conservative" in asking for land for the project, and the company contends the acreage taken for the mining operation would not impede any ranching operations. The ranch leases the property to Dixie Valley Cattle.

The "court authorized eminent domain for circumstances just like this one," Granier said.

She said a company or individual could secure barren lands next to a planned mine to limit mining in the area.

Fronteer requested use of eminent domain to obtain surface rights for land it has mineral rights for, to obtain access easements, to obtain additional lands and for use of roads.

The company is doing exploration drilling on the Long Canyon site and hopes to develop an open pit gold mine. All the current drilling is on public land managed by the U.S. Bureau of Land Management.

While most of the land at issue is land for which Fronteer says it has mineral rights, Granier said Fronteer can use eminent domain for the other land because, as written in Nevada Revised Statutes, mining is a paramount interest of the state. She said the land requested is for the greatest public good with the least private injury.

The Long Canyon Project is expected to employ more than 200 people and has been supported by the Elko County Commission and Wells City Council. West Wendover also supports the project.

The "public benefits are factual and cannot be disputed," said Granier.

Eminent domain is just one aspect of the lawsuit, she said.

"This case really is about Fronteer confirming its rights to use of the surface under its Mineral Estate ... and its rights to continue use of public roads to access its mining claims on public lands," Granier wrote in an e-mail.

"We don't see big impact there," she said. "We don't see much harm there."

"It's unfortunate we've got four investors trying to stand in the way of the project that would mean new jobs for Elko County. This is clearly a private dispute, and it is unfortunate we have to go this route," said Fronteer consultant Debra Struhsacker of Reno.

Leavitt, however, said the state's constitution prohibits the use of eminent domain to transfer property from one private entity to another, and he contends Fronteer has never shown proof of ownership of mineral rights.

Voters in 2008 approved the amendment drafted by Kermitt Waters to prohibit private companies from using eminent domain to take property from another private company.

Leavitt also questions if Fronteer even intends to mine at the site or acquire the property and sell it for another company to mine.

If the property is taken using eminent domain, the property owner must be paid for the property, which Fronteer has had appraised at a maximum of \$300 per acre, according to Granier.

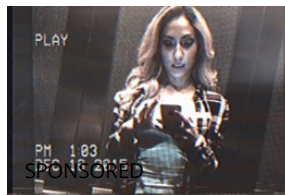
"We still have to pay them fair market value," said Struhsacker.

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