

## Landowners Discuss Fortuna Lease Surrender Option

by Sue Smith-Heavenrich

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At this time last year natural gas companies, in particular Chesapeake Energy and Fortuna Energy, courted local landowners with leasing bonuses that seemed to escalate by the week. At one point Chesapeake was offering \$1500/acre and 13.5 percent royalties – and that was for a top lease, a lease that would go into effect once the existing lease expired. Fortuna's initial offer of \$600/acre climbed to \$1500 and then to \$2000/acre with 13.5 percent royalties before mid-June.

What a difference a year makes. Late last fall, Chesapeake began sending out letters to landowners rescinding their leases. Last month Fortuna Energy mailed certified letters to about 800 area landowners explaining that they would not be able to make further lease payments and asking landowners to extend Fortuna the option to renew their leases until May 2010.

On Tuesday, April 7, over 100 landowners affected by the letters gathered in Candor High School's auditorium to discuss their options. The meeting, hastily organized by Tioga County Landowners Group and Tioga County Farm Bureau, addressed issues involved in surrendering gas leases, and opportunities open to landowners.

Nick Schoonover, Tioga County Landowners Group, opened the meeting with a close reading and examination of Fortuna's offer. Hank Ferris, Tioga County Farm Bureau president, and Ashur Terwilliger, Chemung County Farm Bureau president, added comments and answered questions. No one from Fortuna attended the meeting in spite of receiving numerous invitations from landowners.

The landowners affected by this letter are people who signed top-leases last summer and some people with yearly rental payments due this year. Fortuna spokesperson Mark Scheuerman, who spoke with *Broader View Weekly* prior to the landowner meeting, explained that the letters were sent to landowners whose renewal leases hadn't begun.

"We've already paid them some money," Scheuerman said, adding "We're not asking for that back." The issue is that, given the deteriorating economic climate and the "delay in obtaining drilling permits" for exploring Marcellus, Fortuna can't afford to pay for leases they may not be able to exploit in a timely manner, Scheuerman said.

At Tuesday's meeting, with a copy of Fortuna's letter projected onto a screen, Schoonover explained some of the background for the financial woes of the natural gas companies. The price of natural gas fell from a wellhead price of over \$10.62 /mcf (thousand cubic feet) in July to the current level of \$5.15/mcf; Talisman (Fortuna's parent company) stock is hovering around \$12.50, down from last summer's high of \$21.95; and bank loans are hard to get.

"Energy companies get their money from the banks, and use leases as collateral,"

Schoonover explained. But banks have reduced their speculative lending and, coupled with the reluctance of natural gas companies to drill into the Marcellus before DEC completes its review of horizontal drilling and hydraulic fracturing, this creates economic uncertainty.

It is important to note that although natural gas companies claim that they can't drill in the Marcellus in New York, the Department of Environmental Conservation (DEC) has not issued a moratorium on horizontal drilling. According to DEC, companies may continue to drill vertical wells and, until such time as the Supplemental Generic Environmental Impact Statement (SGEIS) is complete, they are welcome to conduct their own environmental impact studies (EIS) for any horizontal Marcellus wells they wish to drill.

With a few back-of-the-envelope calculations, based on the average acreage Tioga landowners leased and the number of letters sent out, Schoonover estimated that Fortuna would need to pay out close to \$90 million to retain the leases signed last summer.

“What they are asking is that landowners extend them the option to enter into the renewal lease by next May, and that they be allowed to decide at that time whether they want to renew the lease,” Schoonover explained. Landowners would not receive any payment until leases are renewed and, should the leases not be renewed, landowners would be out their bonus payments and they would not be able to lease with another company during that time.

Your best option is to surrender your lease and leave yourself the option to negotiate future leases, Schoonover told the landowners. Two landowners related discussions they had with David Whedbee, Fortuna's supervisor of land acquisition.

The letter from Fortuna states that if Fortuna chooses to enter into the renewal lease “all terms and conditions will remain the same as currently set forth in that document.”

“But,” said one landowner, “when I called David [Whedbee] he said there would be no guarantee of what they will pay if they renew. It may not be the promised \$1500/acre; it might be only \$100, and the primary term might be increased to as long as ten years.”

A second landowner confirmed that he had received the same information. “The first time I called him [Whedbee] he said every term and condition would remain the same. But when I spoke to him a week or so later he said that the payment terms were not guaranteed.” Fortuna did not respond to a request for comments.

Another person reported that Scheuerman had told him that it was possible that Marcellus didn't spread as far north as people thought it did.

“There is a lot of data to support that Marcellus is here,” Schoonover said. He noted that Utica shale runs below this area as well, and holds as much promise of gas reserve as the Marcellus. One thing to keep in mind, Schoonover reminded landowners, is that

Marcellus wells are long-lived and that production over a 15 – 30 year period can bring in over \$100 million per well.

Ashur Terwilliger, who has followed foreign investment news and industry analyses, pointed out that foreign investment firms still rank NY gas reserves as a worthwhile investment. That's because of the low royalties, he pointed out.

The gas is there, Terwilliger assured people. “Cabot and Range Resources say that the Marcellus play exceeds their expectations, out-producing the Barnett shale. And what are landowners getting in the Barnett shale? Twenty-five percent royalties.”

As for the Fortuna letter, Terwilliger said, “If someone came up to me and said they weren't going to honor that lease renewal I'd be glad to get out of it.”

Schoonover invited Tioga County landowners who are surrendering their leases to join with other landowners in the group. “By standing together we can negotiate better terms,” he told the landowners. “Better financial terms for you, better environmental protections for your land.” Schoonover then went over the documentation needed to surrender a lease.

You can learn more about the Tioga County Landowners Group at their website, [www.tiogagaslease.org](http://www.tiogagaslease.org) or contact Nick Schoonover at 687-2800.