

Gas Leasing Considerations For Farm and Forest Owners



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Topics

Why is Natural Gas Leasing a Big Deal Today?

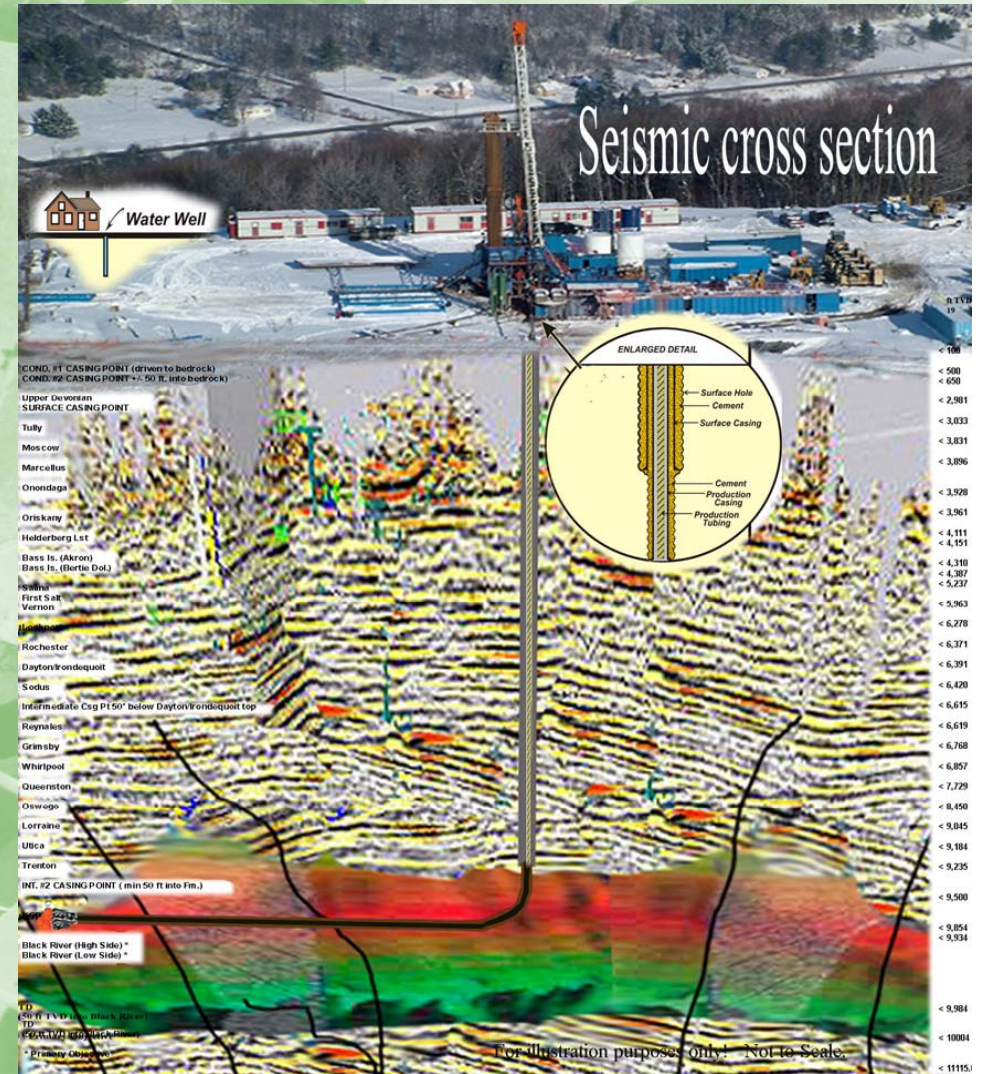
Why Sign a Lease (and What Happens if I Don't?)

Major Recommendations

Lease Addendums for Farms and Woodlands

Background

- New technologies and markets have created new opportunities for forest owners to lease natural gas formations deep below the surface of their properties, such as the Marcellus Shale in the southern tier



However...

The development of gas plays through:

- seismic testing
- drilling operations
- access roads
- pipeline construction and right-of-ways

can also have enduring negative impacts on your property if not carefully contemplated and executed



It's Not Just About Gas Wells...

- **Wind Farm Development**



- **Powerline and Pipeline Right-of-Ways**



So Why Lease?

- Landowners in New York own the rights to the natural gas beneath their properties unless they have transferred these rights to another party through a lease or conveyance
- Most landowners don't have the necessary capital or expertise to successfully extract their gas, so leasing their rights to an energy company in exchange for rent and royalty payments allows them to take advantage of this valuable resource
- A well-executed lease serves as an operating agreement between two parties to achieve the goals of each and minimize risks to both
- As with any important business transaction, you should fully understand the terms of the agreement and research the market before signing

What Happens if I Don't Sign a Lease?

- Probably nothing – but...
- If a company has leased at least 60% of the acreage in a proposed drilling unit, portions of your property could be included – a process known as “**Compulsory Integration**”
- In the case that your property has been integrated, the company will have no surface rights, and can only extract gas from the target formation
- You will be entitled to one of three compensation options (active, passive and delayed partnership)

Leasing Recommendations

1 - Be patient and learn more



... Numerous factors may cause short-term swings in lease values, but neither the natural gas nor the companies interested in developing this multi-billion dollar resource are going to disappear. Leasing your gas rights or right-of-way is an important decision that will have lasting consequences on both your forest land and finances, so avoid hasty decisions

Leasing Recommendations

2 – Use a Consulting Forester (or Ag Consultant)

... For a relatively small fee, a Forester will represent your interests throughout the gas development process, overseeing numerous technical tasks that most forest owners lack expertise in. Contact your local DEC office or CCE Association for a list of local Foresters



Leasing Recommendations

3- Consider Joining a Local Gas Leasing Coalition

- Many counties now have landowner coalitions that facilitate the pooling of properties into units that can be competitively bid out to legitimate companies
- Most coalitions do not have a fee to join, and the coalition's consultant is normally compensated only if you choose to sign the lease agreement that he or she has negotiated with a suitable bidder. The collective bargaining power of coalitions often allows landowners to obtain compensations and lease terms that would not otherwise be made available to individuals
- If no coalition exists in your county, you can form your own by organizing neighbors into a contiguous block of at least 500 acres
- Contact your county Farm Bureau (www.nyfb.org) or CCE Association for more information on local coalitions

Leasing Recommendations

4 - Start with a sound lease

... Protecting your interests will be much easier if the lease terms are crafted to avoid potential negative impacts. Terms specific to forest land are usually placed in the lease addendum

OIL & GAS LEASE Lease No. _____

This Lease made this 2nd day of April, 2004, by and between:

Erin, New York 14938

hereinafter collectively called "Lessor" and _____, hereinafter called "Lessee"

WITNESSETH, that for and in consideration of one dollar and other good and valuable consideration in hand paid by Lessee, the receipt whereof is hereby acknowledged, and the further consideration of the agreement hereinafter contained, Lessor and Lessee agree as follows:

1. Lessor hereby leases exclusively to Lessee all the oil and gas and their constituents, whether hydrocarbon or non-hydrocarbon, underlying the Leasehold, together with such exclusive rights as may be necessary or convenient for Lessee, at its election, to explore for, develop, produce, measure, and market production from the Leasehold, using methods and techniques which are not restricted to current technology, including the exclusive right to conduct geophysical and other exploratory tests; to drill, maintain, operate, cease to operate, plug, abandon, and remove wells; to use or install roads, electric power and telephone facilities, and to construct pipelines with appurtenant facilities, including data acquisition, compression and collection facilities for use in the production and transportation of oil, gas or their constituents, and such right shall survive the term of this Lease for so long thereafter as required by Lessee, acting reasonably; to use oil, gas, and non-domestic water sources, free of cost, to store gas of any kind underground, regardless of the source thereof, including the injecting of gas therein and removing the same therefrom; to protect stored gas; and to operate, maintain, repair, and remove material and equipment.
2. The lands governed by this Lease are located, all or in part, in the Town of Erin in the County of Chemung, in the State of New York, and are bounded substantially formerly or currently as follows:
 - On the North by lands of State Highway 223
 - On the East by lands of _____ (42-1-10.1)
 - On the South by lands of _____ (53-1-2.2)
 - On the West by lands of Erin, New York (42-1-10.2)Tax ID# 42-1-10.3
Deed or other instrument by which the Lessor acquired title _____
- and described for the purposes of this Lease as containing 4.92 acres, whether actually more or less, and including all contiguous or appurtenant, submerged or riparian lands owned by Lessor (herein collectively described as the "Leasehold").
3. This Lease shall remain in force for a primary term of Five (5) years from April 2, 2004, and for as long thereafter as: (i) operations are conducted on the Leasehold or on any lands pooled, unitized or combined therewith in search of or in relation to the drilling or production of oil, gas, or their constituents, or any acts incidental thereto; (ii) a well capable of production is located on the Leasehold, or on any lands pooled, unitized or combined therewith; (iii) extended by provision herein; (iv) prescribed payments as set forth in this Lease are made; or (v) the Leasehold is used for the underground storage of gas, or for the protection of stored gas. If, after the expiry of the primary term, the lease producing well on the Leasehold or on any lands pooled, unitized or combined therewith is plugged and abandoned, the Leasehold will remain under lease for an additional period of one year from the date of plugging and abandonment, and shall continue thereafter if any of the

Addendums - Access

- You can exclude surface rights (no activity) on your property while still leasing your subsurface (gas) rights, but this may decrease the value of the lease. This may not be an option for coalition leases
- Do not allow access on your property for any activities without first receiving a copy of an executed lease. Even seemingly harmless activities like seismic work can become a nuisance and liability if not controlled through a sound lease
- You should require the lease holder to construct at least one permanent crossing in a designated location if you expect to cross the pipeline with heavy equipment, such as a future timber sale or pond excavation
- How will trespass, especially on right-of-ways be controlled?

Addendums - Taxes

- **If currently enrolled in the NYS 480-A Forest Tax Law or Ag Assessment Program, conversion penalties should be paid by lease holder.**
- **If you are contemplating enrollment in 480-A, will you still qualify if additional forest land is cleared? (> 50 contiguous acres)**
- **Would loss of productive acreage affect your eligibility for the Ag Assessment Program?**
- **Ad valorem assessment to be 100% assigned to lease holder?**

Addendums - Appraisals

- **Permanent and temporary right-of-ways should be clearly marked before executing lease agreement so that the exact extent of impact is known**
- **Loss of existing timber or crops should be appraised exclusively by your Consultant, and not left open to contention by the lease holder**
- **Cleared timber should be harvested by conventional logging methods (not pushed out by heavy equipment) and left neatly piled in designated areas if to be later sold or utilized by the owner. Otherwise, the timber should be chipped or hauled away. Burying the debris will cause unnecessary soil disturbance**

Addendums - Compliance

- **What penalties and provisions are there for non-compliance, such as:**
 - failure to revegetate temporary worksites
 - damage to unmarked trees or infrastructure like drain tile
 - delays in completion
 - erosion damage
 - spills (etc)

You should require a performance bond and your Consultant should be the final authority on compliance.

Addendums - Other

- **Will you be allowed to use new access roads created on your property**
- **Where will the water come from for the drilling, and will you be compensated for it?**
- **How will the drilling fluids be stored and disposed of?**
- **Location of all drilling sites, roads, pipelines and temporary structures should be approved by you or your Consultant to minimize surface, visual and noise impacts**
- **Can measures be taken to minimize the establishment of invasive species along cleared areas, such as planting conifer screens?**

Where to Learn More...

<http://gasleasing.cce.cornell.edu>

www.dec.ny.gov/energy/1532.html



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