

Gas Leasing: Key Terms and Questions

Horizontal Drilling with Hydraulic Fracturing (or *fracing*, pronounced “fracking”) — The process expected to be used in drilling the Marcellus Shale. It involves drilling down to the shale layer (3000-5000 ft. below ground) then turning and drilling horizontally to reach the natural gas trapped in the rock over a wider area. Fracing involves pumping large volumes of water (est. 1 million gallons or more per well) or other “stimulants,” typically mixed with sand and chemical lubricants, into the “well bore” to “fracture” the rock, thus releasing the embedded gas to reach the surface.

Vertical Drilling — The process typically used to reach natural gas deposits in New York State in the past. As the New York State Department of Environmental Conservation (DEC) finalizes its Supplemental Generic Environmental Impact Statement (SGEIS) for horizontal drilling, vertical drilling is allowed to go ahead and may be used to access and test the flow of gas in the Marcellus Shale in order to evaluate the geology of an area new to exploration (i.e. “exploratory wells” as opposed to “production wells”).

Spacing Unit — A geographically defined area approved for gas extraction within a DEC permit, typically via a single well-pad. It is the bounded area of land from which one producing well or a cluster of wells may be drilled to draw gas from a specific “reservoir” (i.e. a sub-surface layer like the Marcellus). Historically units were 40-60 acres; a 2008 change in NYS law allows for units of 640 acres or 1 square mile for multiple wells drilled from a single “pad”—the technique linked to horizontal drilling.

Compulsory Integration — The process prescribed under NYS Law under which an owner who has not leased his/her property may be required to participate in an approved spacing unit, in cases in which at least 60 % of the acreage within that unit has been leased from other owners. After the DEC issues a well permit, a public hearing will be held and owners of property that has not been leased are notified. They will receive a choice of three options for receiving “royalties” (proceeds) on the value of gas removed from the spacing unit, depending on the amount of risk or cost they are willing to assume up front.

Standard Gas Lease and Addendum — Gas companies and “landmen” (agents for gas companies working in the field) may present a Standard Lease containing the most common leasing terms. Changes and additional terms are negotiable and should be covered in an Addendum to the Standard Lease. Working with an experienced attorney, an owner should require extensive and specific “addenda” to add terms that pertain to his/her unique situation, as well as addressing liability issues and ensuring clean up of the well-site after drilling, or in the event of accidents.

Seismic Testing — A method of exploration for oil or gas by sending sound waves or other means of vibration into the earth, in order to read and interpret the response that is reflected or refracted by sub-surface geology. Geologists can chart the reflected sound waves to create a map of underground formations, i.e. the various layers of sub-surface rock, their depth, density and likelihood for containing natural gas.

Understanding Gas Drilling

A series of Public Forums On
Natural Gas Development in Sullivan County
Presented by the Sullivan County Legislature

Panel 1: Property & Landowner Issues

Tuesday, June 29, 2010
5:45 - 8:30 PM

Monticello High School
237 Route 42
Monticello, NY 12701

Organized by the Sullivan County Division of Planning and
Environmental Management
For More Information Call 845-807-0527 OR Email:
PLANNING@CO.SULLIVAN.NY.US



PROGRAM

5:45 — Arrival

6:00 — Welcome, Introductions and Program Format

- **David P. Fanslau**, County Manager
- **Luiz C. Aragon**, Sullivan County Commissioner of Planning and Environmental Management

6:15 — Panel Presentations:

- **Bradd Vickers** — Basics of Gas Drilling: Issues for Farmers and Large Landowners in Safeguarding Your Land
- **Chris Denton** — Real Property Issues, Compulsory Integration and Leasing Best-Practices
- **Todd Mathes** — Land Use Considerations for municipalities: State and Local Jurisdictions

7:35 — Questions from the Audience

In order to foster discussion and ensure that as many issues as possible are addressed, we request that you write your questions on the index cards available. Cards will be collected by volunteers to be asked of panelists.

Speaker Bios

Bradd Vickers, President, Chenango County Farm Bureau, Norwich, NY

Since receiving a proposed lease agreement 11 years ago for the 400 acre farm he owns with his wife Rainy, Bradd Vickers has assisted the Chenango County Farm Bureau and other organizations to educate their members, the public and municipalities on options in dealing with gas companies. He has helped draft much of the language in the current NY Farm Bureau's "Mineral Rights Policy" and advises the Chenango County Natural Gas Advisory Committee. Peter Flanagan, Town of Preston Supervisor and Chairman of the committee refers to Bradd Vickers as the "Paul Revere of gas industry issues."

Mr. Vickers has consulted on and organized informational programs that address legal, geological, governmental and tax issues with respect to natural gas development. He has participated in or led meetings with U.S. Congressmen and Senators, the Governor's office, state legislators, the DEC, the PSC, local planning agencies and health departments, and attorneys, including 150 members of the Broome County Bar association, as well as the Texas Farm Bureau and Texas state legislators. Two of the 12 National Awards received by Chenango County Farm Bureau from the American Farm Bureau, an honor bestowed on only 15 County Farm Bureaus nationally each year, were for programs called "A Multi-Level Approach to Oil and Gas Leasing" and "No such Thing as a Standard Lease," both of which Mr. Vickers helped create.

Mr. Vickers' statements have been published in print media and featured on radio programs across NY State, as well as on TV programs including "Central Issues" on PBS.

Speaker Bios Continued

Christopher Denton, Esq., Denton Law Office, Elmira, New York

Attorney Chris Denton, a graduate of Dartmouth College (BA, 1972) and Syracuse University (JD, 1977 cum laude), has been studying oil and gas law for over a decade. He first glimpsed the future of his practice and that of much of Upstate New York in April 1999, when he received a phone call from a contact in the petroleum industry about something called the "Jimerson Well." He soon realized that he would not be able to practice real estate law in New York State without in-depth knowledge of natural gas drilling, leasing and pipelines.

Now 11 years later, Mr. Denton, the son of an Army colonel who taught history at West Point, is still gaining new insights on the real property and environmental issues raised by natural gas development. He has organized over one hundred forums for farmers and other landowners about the leasing process, covering how to protect their interests and what's at stake when signing a lease. Mr. Denton has also helped bring together several landowners' coalitions, each controlling as much as 50,000 acres, greatly increasing the leverage they could have as individuals in negotiating economic benefits and environmental safeguards with national and international energy companies. In his practice with property owners, Mr. Denton has formed a unique collaborative, interdisciplinary working group of professionals, including a geologist, a CPA, a pipeline specialist, an ecologist and a meter/flow specialist, so as to fully equip landowners with the highly technical expertise that is essential in negotiating gas leases.

Todd M. Mathes, Esq., Whiteman, Osterman & Hanna, LLP, Albany, NY

Todd M. Mathes is an attorney at the Albany, NY, law firm of Whiteman, Osterman & Hanna, LLP, where he concentrates in the environmental, energy and real estate development practice areas. Mr. Mathes has represented municipalities and developers with respect to the siting of major energy, commercial and residential projects, including environmental regulatory and permitting matters and related litigation. Representative projects include serving as Counsel to a municipality in permitting for a 125 megawatt wind project; serving as Counsel to a municipality in its review of an approximately 250,000 square-foot trucking distribution facility; serving as Counsel to planning boards in their review of numerous major residential subdivisions; assisting the Firm's practice groups with siting numerous, large-scale energy, commercial and resort projects; and representing citizens' groups involved with environmental regulatory proceedings.

Mr. Mathes is a member of the New York State Bar and its Environmental and Municipal Law sections. He holds a JD degree from Albany Law School at Union University, where he was Associate Editor of the *Albany Law Review*, and he received a Bachelor of Science degree, magna cum laude, from SUNY College of Environmental Science and Forestry at Syracuse. Recent publications include the oft-cited article, "Natural Gas Production and Municipal Home Rule in New York," in *New York Zoning Law and Practice Report*, (April 2010). In 2008, Mr. Mathes authored an article published in the *New York Zoning and Planning Law Report* entitled, "Wind Power Case Law Update."