

Marcellus Shale Leasing: What You Should Know About Renewing Your Lease

This column is presented weekly by the Public Education sub-committee of the Clinton County Natural Gas Task Force in an effort to provide accurate, up-to-date information on activities surrounding the Marcellus Shale formation and the natural gas exploration industry. For more information on Task Force activities, visit the Task Force page on the Clinton County government website at www.clintoncountypa.com.

Believe it or not, just over five years ago the first land agents appeared in Clinton, Centre, and Lycoming Counties. These first representatives of the energy exploration and production companies had rarely been seen in our part of the country, but little did most of us know they were here to stay.

The phenomenon that drew these new guests to our doorstep was the incredible production potential of the Marcellus Shale. Early on in the leasing negotiations, few mineral owners were aware of the value of the Shale formation 8,000 feet below our feet. As a result, many mineral owners initially signed leases based on the Pennsylvania experience with low volume shallow gas and oil, instead of the higher volume and larger scale Marcellus.

Documenting this phenomenon in a recent mineral owner survey, about 70% of mineral owners were not happy with their current lease. However, of the 70% unhappy with their current lease about seven out of 10 would re-sign with the same company at better lease terms, indicating most mineral owners were unhappy with the negotiated terms of the lease, not the company they leased with.

As the leasing renewal time begins to approach, many mineral owners are asking how to negotiate better terms in their next lease. For starters, there are about nine different factors on the path to a better lease. These factors include:

- Amount of acreage
- Property physical features
- Geologic features
- Number of companies operating in an area
- Availability of natural gas infrastructure
- Proximity to market
- Requesting the addendum packet for the standard lease
- Negotiating skills of the parties
- Use of a quality oil and gas attorney skilled in natural gas leasing

The amount of acreage does make a difference in your negotiating position. If you have five mineral acres to lease compared to 500 mineral acres, the person with 500 acres will likely be in a better negotiating position. What if, like most mineral owners, you do not have a large tract of land? You still have a variety of options but you may need to do some extra work to create an acreage pool or land coalition with your friend and neighbors to increase the mineral acres available as part of the final lease. The practice of forming land coalitions has been very successful in the northern tier of Pennsylvania.

A physical feature of the property is nothing more than what might be on or near property that adds additional value. Many times companies are interested in potential fresh water sources, access to roads, well pad or water impoundment locations, or even proximity to natural gas transmission lines.

In our area there are many places where the geology does not support drilling due to faults or other phenomenon. Clearly if a fault is present the mineral value plummets and it is very unlikely drilling will occur in or near the area.

Perhaps what changes leasing negotiations the most is the presence of competition. If a mineral owner has offers from more than one company, leasing prices usually increase. In fact, in one area

of the state leasing bonus payment prices went from a few hundred dollars per acre to a few thousand dollars an acre in less than six weeks based solely on the availability of competition.

The availability of natural gas infrastructure does matter in leasing. Are there existing pipelines nearby, where are the compressor stations, how far is the potential well from an interstate transmission line? If infrastructure is in place, leasing prices may slide higher; however, if the infrastructure needs to be built, negotiating a higher lease bonus payment and royalty may be more challenging.

The Marcellus Shale play is one of the most cost effective formations to develop in the entire United States. One key reason for the cost effectiveness is the proximity of the Marcellus to major population centers. Instead of natural gas sitting in a pipeline from Texas or Louisiana for three of four days and the costs associated with long distance transportation, the energy source is already here. Everyone in the Marcellus has the advantage of proximity to the market.

Outside of property and infrastructure features there are a few additional things you can do to help create a better lease agreement. The first thing you should do is request the addendum packet to the standard lease agreement. Most companies are familiar with the normal addendums people request and have the packet available upon your request. The addendum packet might include additional environmental safeguards, well site fees, pipeline fees, equipment disposal, storage clauses, pugh clauses, no surface rights and more. Clearly, you will save yourself and your attorney a lot of time and frustration by requesting the addendum packet up-front.

Always remember your lease is a negotiation. As with any negotiation there will be highs and lows, frustration and elation, but in the end you are negotiating a business agreement. Perhaps nothing impacts the price of a lease more than the negotiating skills of the mineral owner and the land agent.

Finally, always remember the lease is a business agreement that will guide the relationship between you, the mineral owner, and the energy company for the lifetime of the lease. The lifetime of a lease might be a few years or in some cases decades. Given the importance of the lease agreement mineral owners are strongly encouraged to seek out a quality oil and gas leasing attorney to help them through the process. Some mineral owners are afraid to talk with an attorney, but the reality is a good attorney can truly be the best asset you have in creating a quality lease and creating a better relationship with your new energy exploration business partner.

For more information about natural gas leasing point your web browser to naturalgas.psu.edu and click on publications.



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