

New York State Attorney General Eric T. Schneiderman

Dear New Yorker,

Due to major advances in technologies and other factors, interest in developing New York's oil and gas resources has increased significantly in recent years.

While developing these resources is controversial, with stakeholders on all sides of the issue, we can all agree that New Yorkers deserve to have the facts.

For landowners, this means having the facts if you're considering leasing your property for gas and oil development. This may be especially important in light of periodic complaints about oil and gas companies or their agents using misleading and fraudulent tactics in an effort to obtain leases.

This brochure lays out the facts about oil and gas leases and about your rights in the event you're approached to lease your property for gas and oil development.

If you have questions, or would like to report improper leasing conduct, please contact any of my offices listed in this brochure or call my Hotline at 800-771-7755.

Sincerely,



Eric T. Schneiderman



OFFICE OF THE NEW YORK STATE ATTORNEY GENERAL

www.ag.ny.gov

HOTLINE 1-800-771-7755

Executive Offices

The Capitol, Albany, NY 12224

518-474-7330

120 Broadway, New York, NY 10271

212-416-8250

Considering a Lease? Consider These First:

Consult an attorney. Before you sign a lease, review each term and condition with your attorney. Remember, the lease may affect your ability to sell, refinance, mortgage or insure your property.

Ask questions, get the answers in writing. Make sure you understand all terms and conditions in the lease and that all promises made by a landman are in writing, in the lease.

Negotiate. There is no such thing as a "standard lease." You should negotiate to get the terms that work for you.

Join with your neighbors and shop around. Consider negotiating your lease with a group of neighbors or interested parties, and be sure to talk with more than one gas and oil company to get the best terms.

Get copies of all signed leases. Be sure to obtain a copy of both the lease you sign and the lease signed by both you and the gas and oil company to ensure they are correct.

You have the right to cancel. You have 3 business days after signing the lease to cancel, but you must comply strictly with all requirements. Consult your attorney to be sure.

Attorney General's Regional Offices

BINGHAMTON
(607) 721-8771

SYRACUSE
(315) 448-4800

BUFFALO
(716) 853-8400

UTICA
(315) 793-2225

POUGHKEEPSIE
(845) 485-3900

WATERTOWN
(315) 785-2444

ROCHESTER
(585) 546-7430

Other Resources

NYS Department of Environmental Conservation

www.dec.ny.gov

Bureau of Oil & Gas Permitting and Management

(518) 402-8056

Cornell Cooperative Extension

Energy and Climate Change

www.cce.cornell.edu



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OIL & GAS LEASES LANDOWNERS' RIGHTS

Oil and Gas Leases: What you need to know

The lease is a written, legally-binding agreement in which the landowner (the “lessor”) grants to a business (the “lessee”) the right to extract oil and natural gas from beneath the landowner’s property.

Like other types of leases, the rights and obligations of both parties are detailed in the lease. In most cases, landowners are bound to those terms and conditions for the duration of the lease. In addition, the lessee will record either the lease or a memorandum of lease at the local county clerk’s office. If the owner sells the property, the buyer will have to accept that lease along with it.

In other words, the terms in the lease are connected to your land. The lease may affect your current mortgage, or your ability to sell, refinance, mortgage or insure your property. For this reason, and because oil and gas leases are complex, the Attorney General strongly recommends you contact an attorney before signing a lease.

Know Some Key Terms

Landmen - Most landowners who have entered into a lease are first approached by a representative of a gas and oil company, investor or investor group who works to secure leases on as large an area as possible. These representatives are commonly called “landmen.”

Spacing Unit - An area allotted to a well by the New York State Department of Environmental Conservation.

Leasing Clause - This clause describes what rights the landowner is granting the lessee, including the right to conduct exploratory tests, use or install roads on a landowner’s property, and drill a well using both conventional techniques and hydraulic fracturing.

Leasing Term - The leasing term usually consists of a primary term and a secondary term. Generally, the primary term is explicitly stated in years. The secondary term, however, can extend the lease indefinitely if gas production is ongoing or if specific events occur, such as continued rental payments.

Bonus Payment - The bonus payment is the amount of money landowners receive as consideration for signing the lease. It may be a fixed amount or it may be a dollar-per-acre amount.

Royalty Payment - A royalty is the landowner’s share of the proceeds from the sale of any resources extracted. The clause determines the percentage of proceeds a landowner will receive and what deductions, if any, will be made.

Dealing with Landmen

Landowners have sometimes complained of landmen using high pressure sales tactics to get landowners to sign a lease. These include pitting neighbor against neighbor, or using arguments or tactics that may not be accurate. Here are some examples of claims to watch out for.

1. “Your property will [or won’t] be in the spacing unit.”

Although a landman can tell you whether a gas and oil company has proposed a spacing unit containing or excluding your property, the New York State Department of Environmental Conservation makes this determination.

2. “This is the standard lease, and it’s not negotiable.”

There is no such thing as a standard lease in this business. All lease terms — except for those required by law — are negotiable.

3. “All your neighbors have signed a lease. You’re holding things up.”

A single property could hold up drilling in a proposed spacing unit only if it comprises more than 40% of the unit, or the well-bore must cross the property.

4. “Don’t you want to receive \$\$\$\$ every month?”

Although the landman can use examples to show how the royalties will be calculated, it is impossible to give a reliable estimate of how much money you will actually receive.

5. “If you don’t sign, we’ll take the gas without paying you.”

State law does not allow this to happen. Every landowner located within a spacing unit will receive a proportional share of the royalties generated within that unit.

What to look for in the Lease

Leases may grant oil and gas companies many rights beyond extracting oil and gas. Before deciding whether to sign a lease, landowners should consider what types of uses are right for their properties.

Lease Duration

Landowners should be aware of conditions that extend the duration of the lease beyond its primary term. Before signing, understand how the lease will operate, including whether extensions of the primary term may be brought on by unforeseen delays in drilling (in legal terms, “force majeure”), and the circumstances under which the lease will trigger a secondary term.

Royalties

Landowners should understand exactly how their royalties will be determined, including how they will be calculated and how to independently verify that you are receiving the correct amount.

Disputes

Consider how a dispute between the lessor and lessee would be resolved. Leases frequently contain a provision requiring arbitration, typically involving a panel of three arbitrators. Each party pays the fee for an arbitrator and they split the fee for the third arbitrator. This can result in a significant outlay of money in order to have your grievance heard.

Protecting Your Property and Quality of Life

A gas or oil well can result in a number of disturbances, including creating access roads, drilling and staging areas, and pipelines and compressor stations. Landowners should consider whether these and other related activities are right for their property and quality of life.

For instance, landowners may limit activities to only certain portions of the property or allow them with restrictions. Landowners should ensure that any concerns related to a gas and oil company’s use of their property — and subsequent restoration of the property once drilling has ceased — are specifically addressed in writing in the lease.

If Your Lease Has Expired

If your lease has expired, the lessee is required by law to provide -- within 30 days -- documentation that your lease has been cancelled. You also should consult with your attorney on steps you can take to cancel an expired lease.