

# Lease Lessons Learned: Landowners Share Their Wisdom Regarding Oil & Gas Leases

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On Wednesday, July 2, more than 40 people joined a community discussion held at the Spencer Grange on the topic of oil and gas leases. Citizens Energy Alliance sponsored the open forum that focused on language landowners might want to include in a gas lease.

“When you see people who really have negotiated and changed the terms [of a lease] to what they want, you often see the companies going along,” said Rusty Keeler. Keeler, who chaired the forum, reminded the group that energy companies want to do their work. “Having a lease makes it easier for them,” he said.

Carrie Kerr and Chris Pasto, both of whom have had experience in negotiating gas leases, shared their ideas for what sorts of items landowners may want to put into a lease.

“When we signed our lease ten years ago, we attached three pages of addendums to the lease,” Kerr said. “They had no problem with signing it.” In their lease they added such things as restricting ATV access on the leased land, water quality testing, and conditions about distance from ponds and buildings for seismic testing. Kerr underscored the importance of individuals knowing what they want out of an agreement.

“You need to figure out what works for you,” Kerr said.

## Pugh clause

Both Kerr and Pasto advise landowners to include a Pugh Clause in any lease. The Pugh clause releases land that is not included in a drilling unit at the end of the primary term of the lease.

For maximum efficiency in extraction of resources, the DEC pools land into drilling units. Depending on the drilling unit boundaries, a landowner may find that only a fraction of his land is included in a drilling unit. His land remains tied up in the lease until the well finishes producing – unless he has a Pugh clause in the lease.

Pasto reported that Marcellus wells may produce as long as 40 years. “So if your lease isn’t the way you want it, you’re going to be stuck with it for a long while,” he said. He also warned landowners to pay attention to shut-in clauses and delay rental as well, noting that in a “paid-up” lease the delay rental comes to zero.

## Legal Counsel

When asked whether landowners should consult an attorney before signing a lease Kerr answered, “I wouldn’t do it without legal counsel.” She noted that a real estate lawyer will notice whether a lease has a specified endpoint and will be able to write the legal language for any addendums a landowner might want to include.

One woman related what happened when she took her lease to a lawyer. “The first paragraph gave blanket permission for the company to do whatever they wanted for however long they wanted,” she said.

Pasto noted that local lawyers are becoming more experienced in the field of oil and gas leases, and there are a few that specialize in the field.

## Pipeline Concerns

In addition to drilling wells, the energy companies will need to construct gathering pipelines. Kerr said that she and her husband specified where pipelines may and may not be built on their property.

**“We insisted that they not go through wetlands,” she said. Just as important as defining where pipelines may be built is requiring the energy company to restore your land to “Ag and Market standards”. Pasto added that farmers may specify depth of pipeline to account for plowing. The standards are available online at <http://www.agmkt.state.ny.us/AP/agservices/WEBAPConstrGuides.pdf>.**

**A number of other concerns were brought up including a “hold harmless” clause, water issues, royalties, and the signing bonus. Even though Fortuna has told landowners in this area that they will offer \$2000/acre, people mentioned that they’d been offered anything from \$150 - 250 as recent as two weeks ago.**

**The Citizens Energy Alliance plans to hold more community forums on other topics related to oil and gas leases. To join the “Gas Talk” e-mail discussion group, send a blank e-mail to [citizensenergyalliance-subscribe@yahoogroups.com](mailto:citizensenergyalliance-subscribe@yahoogroups.com). For more information call 607-589-7887.**

*See related article, “Local Landowners Don’t Want to Trade Water for Gas”, page 1.*