

## Oil and Gas Attorney Offers Advice on Leases

by Sue Smith-Heavenrich

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On Tuesday, August 12, the Tioga County Landowners Group sponsored an educational session featuring information about the geology of natural gas formations in this region. They also invited Chris Denton, an attorney specializing in oil and gas law, to address the items landowners need to consider before signing a lease.

“The landmen are there to tie up your natural resources for the use of their company for as long as is legally possible,” Denton told the landowners. Many times throughout his hour-long talk Denton cautioned landowners to slow down, take stock of what they owned, and think about what they want years down the line.

“Aside from marriage, leasing your land will be one of the biggest decisions you make,” Denton said. When people talk about lease terms they mention three to five years. Those are primary terms, Denton explained. Every lease contains some sort of language that extends the life of the lease “so long as” the land is being actively explored or in production. Given the expected lifespan of Marcellus wells and the different strata that are opening up to exploration, Denton thought it likely that some sort of energy extraction could continue into the next generation - and beyond.

“What you do today will establish what goes on in the future,” Denton said. “Do not take leases lightly.” Denton detailed the organizational levels within an oil company, listing who has ownership of the various parts of exploration. A gas company, he explained, works a lot like a general contractor.

“Seismic testing? That’s outsourced to a company specializing in carrying out the different seismic activities. Landmen – those agents who obtain permission for energy exploration companies to drill - are not energy company employees but independent contractors. They won’t be around to straighten out any misunderstandings should you fail to get what you want in writing, Denton cautioned.

Exploration companies often subcontract drilling, work on building pipelines, and closing up the wells.

In light of recent lease abuse cases, Denton stressed to landowners the necessity of having a copy of the lease before they sign. In many cases the landowner does not receive a copy of the lease within a suitable time frame to cancel if he or she has second thoughts. In other cases some items intentionally left blank are filled in later by the landmen.

“Before you sign a lease you must ask yourself: for what purpose do I own this land,” Denton told the landowners. “If the lease fails to protect the purpose for which you own the land, don’t sign.”

Denton emphasized that a lease is a transfer of interest in the property, and an unwary landowner who signs a lease without a careful reading may find a noisy compressor station situated 30 feet from his back door. Drilling is a noisy business, and even if the well is on the back forty the company may build a road that passes close by your home.

“These wells take up to 3 million gallons of water, so with trucks that haul 22,000 gallons each, that’s a lot of trips across the right of way.” Denton added that many wells take up to 18 months to drill, and the work goes on 24 hours a day, seven days a week.

“Pay attention to the royalty,” Denton told the landowners. “They offer large signing bonuses to take your attention off the royalty.” Aside from the money, Denton noted that people can incorporate environmental protections in their lease language. When asked about top leases, the practice of leasing on top of an existing lease, Denton responded “Don’t do it.” Top leases are great for the gas companies, he said, but not for the landowner.

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### **Sidebar:** Before You Sign

For those landowners not in a position to join a group lease, Denton listed a number of considerations.

#### **Things to take out of your lease:**

- merger clause
- storage clause
- non-forfeiture clause
- title clause
- arbitration clause
- royalty definition that includes deductions
- assignment substitution clause
- use of resources for free

#### **Put into your lease language that covers:**

- surface disturbances
- storm water runoff
- release of pollutants from the operation
- addition of pollutants
- water usage
- toxic waste

#### **Documents landowners should expect to receive:**

seismic permit  
copy of the lease  
memorandum of lease  
pipeline easement  
utilities easement  
Right of Way  
cancellation clause

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