



# Gas Rights and Right-of-Way Leasing Considerations for Farms and Woodlands

New technologies and markets have created opportunities for landowners to lease natural gas formations deep below the surface of their properties. These formations, known as “plays”, have tremendous potential to benefit Upstate New York communities. However, the development of gas plays through seismic testing, drilling operations, access roads, pipeline construction and right-of-ways can also have enduring negative impacts on the landscape if not carefully contemplated and executed. The following is a list of points to consider when leasing gas rights and associated right-of-ways.

1. **Be patient and learn more.** Numerous factors may cause short-term swings in lease values, but neither the natural gas nor the companies interested in developing this multi-billion dollar resource are going to disappear. Leasing your gas rights or right-of-way is an important decision that will have lasting consequences on both your property and finances, so avoid hasty decisions.
2. **Start with a sound lease.** Protecting your interests will be much easier if the lease terms are crafted to avoid potential negative impacts. Terms specific to wooded and agricultural land are usually placed in the lease addendum. A list of special considerations can be found on the reverse side.
3. **Utilize an Expert Consultant.** The cost of these professional services can be factored into the lease compensation. For a relatively small fee, your own expert such as a Consulting Forester or Ag Consultant will represent your interests throughout the gas development process, overseeing numerous technical tasks that most landowners lack expertise in. Contact your local DEC office, NY Ag and Markets office, or CCE Association for a list of local qualified consultants.
4. **Consider joining a coalition.** Many counties now have landowner coalitions that facilitate the pooling of properties into units that can be competitively bid out to legitimate companies. If no coalition exists in your county, you can form your own by organizing neighbors into a contiguous block of at least 500 acres. Most coalitions do not have a fee to join, and the coalition’s consultant is normally compensated only if you choose to sign the lease agreement that he or she has negotiated with a suitable bidder. The collective bargaining power of coalitions often allows landowners to obtain compensations and protections that would not otherwise be made available to individuals. Contact your county Farm Bureau ([www.nyfb.org](http://www.nyfb.org)) or CCE Association for more information on coalitions.

*For additional information related to gas leasing, visit:*

<http://gasleasing.cce.cornell.edu>

## Considerations for Leases on Farms and Woodlands

- Permanent and temporary right-of-ways should be clearly marked before executing lease agreement so that the exact extent of impact is known.
- Loss of existing timber or crops should be appraised exclusively by your Consultant, and not left open to contention by the lease holder.
- Cleared timber should be harvested by conventional logging methods (not pushed out by heavy equipment) and left neatly piled in designated areas if to be later sold or utilized by the owner. Otherwise, the timber should be chipped or hauled away. Burying the debris will cause unnecessary soil disturbance.
- You can exclude surface rights (no activity) on your property while still leasing your subsurface (gas) rights, but this may decrease the value of the lease. This may not be an option for coalition leases.
- If currently enrolled in tax abatement programs like the 480-A Forest Tax Law or Ag Assessment Program, conversion penalties should be paid by the lease holder, and increased tax liability should be fairly compensated.
- How will temporarily impacted areas be restored? (topsoil conservation, revegetation with desirable plants, restored surface and sub-surface drainages, erosion control structures, restoration of wildlife habitat, etc.)
- What penalties and provisions are there for non-compliance, such as failure to revegetate temporary worksites, damage to unmarked trees or infrastructure, delays in completion, erosion damage, spills, etc? You should require a performance bond, with your Consultant being the final authority on compliance.
- Location of all drilling sites, roads, pipelines and temporary structures should be approved by you (or Consultant) to minimize surface, visual and noise impacts.
- What measures will be taken by the lease holder to prevent trespass problems on right-of-ways and access roads?
- Will you be allowed to use new access roads created on your property?
- You should require the lease holder to construct at least one permanent crossing in a designated location if you expect to cross the pipeline with heavy equipment, such as a future timber sale or pond excavation.
- If there are unique wildlife habitats, sensitive areas, or special resources like a sugarbush on your property, you should exclude surface rights on these areas.
- How will you be compensated if development activity conflicts with a primary ownership goal, such as hunting, farming or timber management?
- What measures will be taken to reduce the establishment of invasive plant species near disturbed areas, such as planting tree screens near cleared edges?
- If noise is a concern, exclude the right to maintain a permanent compressor station on your property. Require fair compensation for all infrastructure located and maintained on your property.
- If water for drilling will come from your property, you should be compensated for it, and limits should be set that protect the source. Drilling fluids should be stored in tanks, not lagoons, and disposed of off site. Test wells before drilling.
- Do not allow access on your property for any activities without first receiving a copy of an executed lease. Even seemingly harmless activities like seismic work can become a nuisance and liability if not controlled through a sound lease.
- Be sure that all leases include liability and environmental hold harmless clauses.

Prepared 12/15/08 by Brett Chedzoy, CCE Schuyler County (bjc226@cornell.edu), Kevin Mathers, CCE Broome County; Jim Ochterski, CCE Ontario County, and Peter Smallidge, NYS Extension Forester.