



Gas Rights and Right-of-Way Leasing Pointers for Forest Owners

New technologies and markets have created opportunities for forest owners to lease natural gas formations deep below the surface of their properties. These formations, known as “plays”, show tremendous potential to benefit forest owners and their 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 forest if not carefully contemplated and executed. The following is a list of recommendations for leasing gas rights and associated right-of-ways on forest land.

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 forest land 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 forest land are usually placed in the lease addendum. A list of special considerations for forest land can be found on the reverse side.
3. **Utilize a Consulting Forester.** The cost of these professional services can be factored into the lease compensation. For a relatively small fee, a Forester will represent your interests throughout the gas development process, overseeing numerous technical tasks that most forest owners lack expertise in. Contact your local DEC office or CCE Association for a list of Foresters in your area.
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 lease terms that would not otherwise be made available to individuals. Contact your county Farm Bureau (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 Forest Land

- 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 should be appraised exclusively by your Forester, 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 the NYS 480-A Forest Tax Law, conversion penalties should be paid by lease holder. If you are contemplating enrollment in 480-A, will you still qualify if additional forest land is cleared? (> 50 contiguous acres)
- 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, delays in completion, erosion damage, spills, etc? You should require a performance bond and your Forester should be the final authority on compliance.
- Location of all drilling sites, roads, pipelines and temporary structures should be approved by you or your Forester 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.
- Are there unique wildlife habitats or sensitive areas on your property? If so, 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?
- What measures will be taken to reduce the establishment of invasive plant species near disturbed areas, such as planting tree screens along cleared edges?
- If noise will be a concern, exclude the right to maintain a permanent compressor station 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.
- 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.

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