

You've leased your land, but haven't been paid! Now what?

Years ago, Ross Perot made famous the saying, "A giant sucking sound." Well, that "giant sucking sound" you heard in September was landmen with their leases and money leaving PA! Land leasing for natural gas exploration in the Marcellus Shale areas has apparently ended. Why? That's a good question. Did they fulfill or exceed their "budget" for the year for acreage or money? Many are from the south, so are they avoiding the winter weather? Has the "credit crunch" and stock market tumble dried up their money? All of those scenarios are viable. Will they return? That's the real question. Within Penn State Extension, we've been told they will be back next spring. We'll have to wait to see.

Now, some landowners, who leased their land, have yet to be paid. In some cases, the "payment by" period has passed. Your lease will state by what date you will be paid. Some leases will give the lessee 60 to 90 days to pay. (This allows them time to complete a title search.) If you were working with someone who was going to re-lease your land, you may need to wait 4 to 6 months before getting payment. (This will be spelled out in your contract.)

So, you signed and delivered your lease agreement, haven't been paid, and the "payment by" time period has passed. What do you do? The first thing to know is not paying does not automatically void or terminate the lease. So, your land is still leased! You basically have two options. You can just ride it out and hope they pay you. Or, you can start the process to force the company to pay or cancel the lease. If you worked with an attorney during the leasing process, you will want to contact them for their advice.

Let's look at each option individually. What are the pro's and con's of ride it out and hope? The positives are limited. Most of it deals with hope! To get an accurate view, you need to know the plans of the company. Unfortunately, you won't be able to get much information to make a good decision. Will they pay once they get to your lease? Do they have the funds to pay? Are they trying to sell the lease to someone with the money to pay the lease? These are all viable questions. However, a lot of unknowns still exist. Another consideration is the lease amount? If you believe you have a "high" amount, you may want to wait it out. If you have a "low" lease amount, getting out of it will give you the option to consider other amounts at, hopefully, a later date. If you wait it out and next year landmen return, you may lose the leasing opportunity, since you don't have control of your mineral rights.

Why should you consider "starting the clock" on the lease? From a legal perspective, this makes the most sense. You entered into a contract. They haven't fulfilled their obligations, so now is the time to turn up the heat and get some action. You'll either get your money or title to your mineral rights. Your contract will state what to do. A phone call does not work! You will need to send them a letter outlining the problem and state the terms of the lease: they have 30 or 60 (typically) days to make payment or the lease is terminated. You should state that this letter "starts the clock." While you are at it, you should send it as a "registered letter," so you have proof it has been delivered and received. The positive of this approach is you are making them follow the terms of the contract. The con's are you may not get

paid, but you haven't been paid. So, did you lose anything? Just the hope of payment! If you reclaim your mineral rights, you'll be better prepared to learn from your experience the next time around.

Leasing your mineral rights can offer a financial boost. However, not receiving payment doesn't help. If you've signed and delivered your lease and haven't been paid within the designated time, you need to consider your options. Remember, your mineral rights are valuable, so controlling them is important. If you have more questions about this topic you should consult with your attorney. Penn State Extension has a web site with valuable information on natural gas leasing at www.naturalgas.extension.psu.edu.

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