

NY Attorneys Prepare Lawsuit Against Companies Declaring Force Majeure

Landowners advised to send copies of lease to attorney

by Sue Smith-Heavenrich

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Tioga County Landowners Group attorney Chris Denton and other attorneys across the state are joining forces to start lawsuits against oil and gas companies attempting to extend NY leases beyond their expiration dates. A number of energy companies are involved, including The Chesapeake Energy Corporation, Norse Energy and Inflection Energy.

Over the past couple years, these companies have sent letters to leased landowners claiming that their leases are extended due to “force majeure”. The companies claim that the “de-facto moratorium” against hydro-fracking, referring to the Department of Environmental Conservation (DEC) review of regulations for high volume hydraulic fracturing – and now the Governor’s executive order halting such fracking until July – prohibits them from drilling. But, as Denton and others have pointed out, energy corporations may continue to drill, and indeed are continuing to drill wells, in other formations. Furthermore, the current regulations under the GEIS do not prohibit companies from exploiting Marcellus shale as vertical wells are allowed. **Therefore, the claims for force majeure have no merit.**

Chesapeake has even sent lease extension letters to landowners who signed their original leases with Central Appalachian Petroleum, some as many as 10 years ago at \$3/acre. The company claims that payment of a modest “delay rental” extends a lease indefinitely, and they can extend these leases at their will. The NY Attorney General’s Office disagrees and has been negotiating with Chesapeake for over a year, with no resolution.

At this time, Nick Schoonover, president of the Tioga County Landowners Group, is advising members who have a lease for which the primary term has expired to send a copy of their leases to Attorney Denton, 311 Lake Street, Elmira, New York, 14901. Please include your telephone number, home address, and email address (if you have one).

Schoonover warns landowners to not cash any checks received from the companies until they have talked with Attorney Denton. If you have further questions you may contact Schoonover at 607-687-2800 or 607-222-6892. For more information on leasing issues, visit the group’s website at www.tiogagaslease.org and click on “leasing” in the left-hand menu.

Landowners interested in learning what the Central NY landowners groups are up to, their attorneys are holding an informational meeting for landowners on February 16 at 6:30pm at the Tioughnioga Riverside Academy (formerly the Whitney Point Middle School), 2887 NY Route 11 in Whitney Point. The Joint Landowners website is www.jlcny.com