Tioga Farm Bureau Hosts Gas Talk

by Sue Smith-Heavenrich

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On Monday, September 15, Tioga County Farm Bureau hosted a community forum on gas leasing and drilling issues at Candor High School. The last gas meeting was in March 2007, and since then many things have changed. Most notably, the target strata: Marcellus Shale.

Ashur Terwilliger, president of Chemung County Farm Bureau, gave an update on leases, royalties, and exploration-related concerns facing communities as the gas companies prepare for large-scale horizontal drilling in the Marcellus formation. These wells are going to be much different than what we've seen in the past, and Terwilliger predicted that landowners might see signing bonuses as high as $10,000 with royalties up to 25 percent.

Holding up a printout of seismic data, Terwilliger emphasized that the geology indicates potential gas reserves. According to USGS data, at any given spot in this area we have 4 to 5 layers containing gas and a possibility of two oil-bearing strata.

The corporations want to exploit the resources here, Terwilliger told landowners, because it's cheap. He compared what energy companies paid in royalties and bonus payments in the Barnett and Fayetteville shale plays to what they're currently offering in this area: royalties up to 25 percent with leases going for $25,000/acre.

Marcellus leases in this area have reached as high as 15 percent royalties and $2,500/acre. In Pennsylvania leases have gone for $2,000 to $5,700/acre with up to 17 percent royalties. After pointing out how some folks think this is a lot of money, Terwilliger said, "The corporations are saying that they believe the Marcellus is the most attractive play due to the low royalties they can offer in the northern Appalachians."

Landmen will tell you that 12.5 percent is the standard royalty in New York, Terwilliger said. But there is no "standard royalty", he explained. Royalties, like everything else, are negotiable.

"Elected officials, bond your roads!" Terwilliger is adamant that municipalities protect their infrastructure so taxpayers aren't stuck with the repair bills. He's watched the trucks hauling water and wastewater to and from drilling sites and his own road was destroyed by the heavy traffic. It took over 6 months to get it repaired.

"These are heavy trucks hauling 80-ton loads. They're 24-wheelers, not 18-wheelers," Terwilliger said. "Those companies are going to make hundreds of millions of dollars; they can afford to fix the roads."

One thing Terwilliger emphasized was strength in numbers, and that by joining together in coalitions landowners could negotiate better terms for their leases. Also, there are some things that landowners will want to strike from leases such as storage clauses and permission to drill water wells.

“When you put together a group lease you want to protect the landowners,” Terwilliger said. At the same time, he noted that there are three things you cannot deny a company if you want gas exploration to take place: a drill site to extract the resource, a pipeline to transport the resource, and a road for access. Crafting a lease that accommodates the needs of the industry and at the same time protects the landowner takes skill, and more than once Terwilliger mentioned the wisdom of having an attorney go over the lease.

Terwilliger then opened the floor to questions. One person raised the issue of seismic testing, wondering whether collecting data about the formations beneath private property was a form of trespassing. “These companies have to start thinking of us as partners,” Terwilliger answered. “They need to share the data with the landowners.”

What if you don’t have a lease and end up in a drilling unit, another wanted to know. Terwilliger explained the options offered through compulsory integration. One strategy, he pointed out, is to become an LLC and lease your land to yourself. That way you begin receiving royalties – though at a rate lower than 12.5 percent – but by the third or fourth year you receive 100 percent royalties for your share of the well’s production. (See sidebar on Compulsory Integration)

When asked about well spacing, Terwilliger explained that with Marcellus wells we’ll see drilling units ranging from 40 acres to 160 acres to 320 acres. He noted that there needs to be regulations about unit spacing to ensure uniformity, and make sure that non-uniform units don’t “dog-leg” and exclude landowners from receiving the benefits of gas drilling.

“This is something that will affect New York State deeply,” Terwilliger said of the coming rush to exploit the Marcellus play.

SIDEBAR
295 Words

How to Make Compulsory Integration Work for You
By Sue Smith-Heavenrich

If a landowner does not sign a lease and part of his property ends up in a drilling unit, he will be notified that he has a limited amount of time to make an election of choice before a hearing of compulsory integration. There are a number of options for a landowner:

- He may elect to do nothing, in which case he will receive a royalty that reflects the lowest royalty paid to landowners in the unit, but no lower than 12.5 percent, for the resources extracted from his share of the unit. There is zero risk in this choice, but fixed gain.

- He may choose to become a participating owner. Landowners choosing this option must pay up front a portion of the investment needed for drilling a well. If you strike gas, you receive 100 percent of the royalty for your share. If you strike a dry hole, you lose your investment. This is a high risk, high gain option for those who don’t mind a gamble.

- For those preferring a “middle ground” there is the option of becoming a non-participating owner. Landowners pay nothing up front, but do pay a risk penalty that is equal to three times the cost of their share for drilling the well. This “recoupment” cost is deducted from royalties before the landowner receives anything. After that you will receive your full share of production and be treated as a participating owner.

- Form an LLC, lease your land to yourself, and begin collecting royalties (though reduced) from the first year. By year three you receive 12.5 percent and the fourth year you begin receiving your full share of production royalties.

For more information on Compulsory Integration check out the DEC website at http://www.dec.ny.gov/energy/1590.html