

December 6, 2008

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KEEPING COSTS DOWN

Due to the costs of regular mailings and our limited funds, we can only mail Newsletters every six weeks. However, those members who have included their email address on membership application will receive the Newsletter and regular Bulletins as events unfold.

Gas Drilling Update

So What's Up? By Richard Downey

December 2008-

Well, Halloween has gone. The extension date (11/7) has gone. I guess we're in for a quiet season. No more active recruiting of our land for a while. If you hear otherwise, please let the Association know.

October was quite intense. September's sign-on bonus of \$100 per acre was upped tenfold to a rental agreement of \$100 per acre per year for ten years. By the last week of October there were six landmen putting on a full court press, visiting houses, making the multiple phone calls, calling out-of-towners, sending letters, and adding addendums to the lease. The most effective tactic was the threat of an October 31st deadline. After that, the deal was off the table. There was even an ad to that effect in the paper. However, the ad left room to maneuver and they did. They upped the time period to November 7th.

Meanwhile, your Association hasn't just been sitting around doing nothing. As you may know, their deadline threat energized us. Using the small business owner's motto - JUST DO IT

WE'RE DOING IT.

- > Formed the Steering Committee.
- > Retained our gas lease attorney.
- > Sent out a news bulletin with a home made member-

ship application, only to learn a few days later that our attorney had an official application. That meant we had to do another mailing. The post office loves us. Sorry about that. The only valid application is the one with the disclaimer at the top.

> Completed the Steering Committee's Confidentiality paperwork.

> Receiving and recording daily the official applications that come in the mail.

> Starting to map out land owned by Association members AS WELL AS those who signed with Lenape.

> Contacted other Associations in Worcester And Maryland. We still stay in touch with the Central New York Coalition. Also, we are solidifying our internal structure with the folks in Unadilla.

> *UNFORTUNATELY* - Some of you are not receiving our updates via email. Please be patient with us while we resolve the glitch.

> Continuing to attend DEC and SRBC hearings and, when appropriate, sharing our learnings. We also have to start talking w/our town/village

> Currently, our expenses have reached \$1300 + Fortunately, we collected \$405 at the 10/30 meeting. As of 11/30 we have \$1084.

We are now preparing for the ground game. We are ready to grind up the yardage, plot by plot. We are getting returns daily and setting up our map. We will be working with Unadilla. By the December meeting we will have a good idea of where we stand. IF you have not completed the OFFICIAL membership application, please do so.

THE BIG PICTURE ---

Unfortunately, we are all aware of the financial slide which has taken 9 trillion dollars out of the stock market and 4.3 trillion out of the real estate market. This is affecting everyone in one way or another, The "R" word (recession) is now common to our vocabulary. There's been a slide in energy prices. In New York the gas drillers have been pulling out since last August, mainly due to the revision of regulations, thus new permits are on hold. All these factors will influence the timing of our bid.

HOWEVER: the gas under our feet has been there for 350 million years, give or take a couple of million, and it's not going anywhere. Recent Associated Press reports state a seven fold UNDERESTIMATION of the Marcellus shale. More locally, in Cherry

So What's Up? ...continued

Valley, a half mile from the Cherry Valley Central school, there was a BOOMER. Before capping, they had to flare it for NINE days. There is something under our feet !!! Finally, in the history of gas plays, those that rush to sign on early usually regret it.

So, please be patient. The Steering Committee has recommended that we all put our trust in the Association and our attorney, Mr. Scott Kurkoski, the lead gas lease attorney of the Binghamton firm Levene Gouldin & Thompson. There are 50 lawyers in the firm, 20 of whom assist in various aspects of gas leasing. LG&T is affiliated with the Texas law firm of Jackson Walker. Peter Hosey is our attorney at that firm. Many of you heard him speak at UV when he addressed the Central NY Coalition. I think we will be well advised and well protected by Scott Kurkoski and his colleagues.

A few words about our attorneys. Scott represents eight landowner groups in New York holding over 200,000 acres. Peter Hosey, a partner in Jackson Walker, the firm that developed many of the fundamental concepts of modern oil and gas law, has three decades of practice in oil and gas lease law, working for operators and landowners. This gives him a unique perspective that will prove valuable to our Association. With local experience and knowledge and Peter Hosey's expertise, the playing field will be

leveled. Most New Yorkers have never seen a gas lease and those that have rarely read them thoroughly. In the past there was no need since drilling rarely occurred. This is not now the case.

The lawyer's fee is a one-time pure contingency of \$20 per acre with a \$200 minimum. The lawyers get no money until the Association is satisfied and accepts a suitable bid from a drilling company.

Scott reviewed the present regulatory climate in NYS. The DEC is holding an environmental review with no horizontal drilling likely until (best estimate) the summer of 2009. Bids will also be affected by the economy and gas prices. In reviewing Lenape Energy's latest offer of \$100 per acre for 10 years, he commented that 10 years is a long lease. He favors 5 year primary term leases and further noted that the real money is in the royalty. Lenape pays the minimum royalty allowed by law. Scott noted that leases are negotiated instruments and predicted that Lenape will be back. At this point of the presentation, Scott outlined compulsory integration. For a concise recap see the NYS DEC's website or Group Resources section of our website.

WHAT'S IN A GOOD LEASE ---

A lease is a conveyance of your mineral rights, in this case, the rights to your gas. The idea is to convey that

right as long as the gas company is pursuing gas. You don't want them to sit on a well. You want them to drill, produce gas, and pay royalties or move on.

Scott presented the parameters of a good lease. The following elements must be considered.:

- the primary term - 5 years.
- royalties - Beware! - tricky language can involve the landowner in production costs. You also have to understand the difference between the well head price and point of sale price when negotiating.
- expenses should be limited and clarified in the lease.
- water rights should be clearly spelled out in the lease.
- any costs for environmental damage must be covered by the gas drilling company. The lease must cover indemnification for claims and any defense of those claims. This is covered by additional insurance paid by the drilling company.
- shut in royalty must have term limits.
- no storage, no compressors, no injection of waste, no pipelines from outside your units without payment to the landowner.
- operations must be carefully defined.
- assignment with landowner consent must be considered.
- surface use, while broadly defined, must be a two way deal. The gas drilling companies need reasonable parame-

ters to operate. Strive for mutual agreement. The development plan is important.

- spud fee must be mutually beneficial.
- all damages must be fully compensated. Gas companies must pay all insurance costs.
- auditing rights by the Association will keep everybody honest.
- tax considerations.



IN NUMBERS AND ACREAGE THERE IS STRENGTH

NOTE: ONLY MEMBERS of the Association who have submitted the OFFICIAL membership application will be invited to review the proposed lease with our attorney. If you have put off sending your application, PLEASE do so as soon as possible. When the lease is ready you will be notified of the date, time, and place of this SPECIAL meeting.

Steering Committee ~ Progress Report (The Lease Review Process)

The Steering Committee of the Unatego Area Landowners Association met on Nov. 24. The Committee spent 3 hours reviewing the lease presented to us by our lawyer, Scott Kurkoski, of Levene, Gouldin & Thompson. Using Scott's outline of a comprehensive lease (the outline presented at the Association's meeting on Nov. 13), The Committee created a punch list. They found all elements of a comprehensive lease included in the lease. For future reference we noted the elements by section, article, and subdivision. Sections, concepts, phrases, and words that were unclear were also noted for further research and/or referral to our lawyer.

On Dec. 1 the Steering Committee reconvened to review the Surface Use Agreement section article by article.

When the Steering Committee completes its review, they will meet with Mr. Kurkoski to clarify questions, listen to his perspective, and exchange viewpoints. As you are well aware, the holidays are here and we (lawyers included) have to put first things first and fulfill family obligations. We expect our meeting with Mr. Kurkoski will take place some time in January 2009.

After the meeting with Mr. Kurkoski, the Steering Committee will schedule a General Meeting for Association members ONLY. At that meeting Mr. Kurkoski will review the lease line by line with the members. Have you sent in your membership application?

The final step in the lease development process will be the adoption of the lease by the membership. Once the Association's lease has been approved, the attorney will submit the lease for bidding.

Your Steering Committee Members

Richard Averett	Jonathan French	Fred Price
Petrea Delberta	Anna Hein	Steve Sinniger
Richard Downey	Margaret Monaco	Paul Valentino

Financial Report

A temporary checking account has been opened at NBT under the names of Downey and Hein. Once the Association's Tax ID # is received, all funds will be transferred to the Unatego Area Landowners Association with Downey and Hein as signatories. Until such time, anyone wishing to make a small contribution to cover expenses should make their payable to Richard Downey.

On behalf of the Association, I must thank all those who gave so willingly either at a meeting or via mail. You will notice that we still owe \$460.97 to cover our initial costs during the past four months. The balance in our checking account will be needed to cover the December and January Newsletters, rental fees, etc.

Many have asked, "When will the Association start collecting dues?" "How much?" Answer: Once By-laws are presented and approved by the membership, dues will be collected. How much depends upon the number of members. We expect the dues to be in the \$10 to \$15 range. We hope to hold it to \$10. It can be done if we enroll about 60 more members before the New Year. Thank you for your generosity to date. We believe every penny has been well spent. (continued on Page 4)

Name Change

Originally, our intent was to form an Association for landowners primarily in Otego. We used the Otsego Co. Real Property Tax Office Map for the Town of Otego which extended about a mile into the Otsego townships of Oneonta, Unadilla, and Butternuts.

In late September we were approached by Unadilla residents and fortunately Tom and Noel Luby volunteers to replicate our efforts in recruiting Unadilla area landowners. They are doing a great job! Thus, we became the Unatego Area Landowners Association. However, until we find a webmaster, please continue using the original <http://sites.google.com/site/otegogasleasegroup> to find the latest news.

Please be patient with us—true internet novices, if ever there were such. Dick and Anna



++NEXT MEETING ++

**TUESDAY, DECEMBER 16TH, 7 PM, UNATEGO HIGH SCHOOL
AUDITORIUM**

Financial Reportcontinued

INCOME:

As of October 30th we collected.....\$904.00
Since November 30th, the total received is.....\$1,084.00

EXPENSES PAID (mid-July thru Nov. 30, 2008).....\$878.21

Postage.....\$588.73
Rent (H.S.)..... 67.00
Tax Maps.....105.00
Travel for Testimony.....67.00
Road Sign Supplies.....20.16
Sample HDPE liner.....30.32

BALANCE IN CHECKING.....\$205.79

TOTAL UNPAID EXPENSES.....\$460.97

Paper and Ink Jet.....\$128.23
Envelopes, Paper, Toner.....325.18
Misc.....7.56

Many have asked “When will Association charge dues?” “How much?” Once By-laws are presented and approved by the membership, dues will be collected. How much depends upon the number of members. We expect the dues to be in the \$10 to \$15 range. Thank you for your generosity to date. We believe that every penny has been well spent.

Respectfully
Anna Hein

BULLETIN: A delegation of four visited an operating rig between Sherbourne and Smyrna. The drilling company is a sub-contractor for Nornew and reports doing several jobs in the area. One of them was the site we visited back in October near Oxford.

The current site is about two miles past Sherbourne off Route 80, one mile short of Smyrna. There’s a crossroad of sorts; on the left a road with a sign to a sawmill and on the right, River Road. There’s no sign to that effect. Go right on River Road, a mile or so. On the left you’ll see the rig. You can’t miss it—at least 80 feet high. Please respect all safety rules. The crew is not allowed to permit visitors closer than the tripod area. This is an opportunity to see a rig in action.