

Reclaiming Your Gas Rights

Douglas Zeiders, Esquire

One of the common inquiries we receive from landowners within the Marcellus Shale region of Pennsylvania concerns the status of their gas leases. Most gas leases have a primary five year term. Many landowners, understandably, believe that they should be free to enter into a new gas lease once the primary term on their old gas lease has expired. However, gas companies, relying on the continuation clauses that are standard in gas leases, (they are typically contained within lease sections identified as "Continuing Operations" and "Shut-In Royalty") have taken the position that large numbers of leases with expired primary terms are still in effect.

Continuation clauses in a gas lease provide that the lease will continue past the expiration of the primary term if certain events occur during the primary term within the production unit in which the property is located. Those certain events usually fall into one of two categories: 1) the commencement of drilling activity, or 2) the production of gas in paying quantities or, at least, the installation of a well capable of producing gas. Particularly intriguing with regard to this situation is the status of Shell's lease holdings in Tioga County, largely due to the history of East Resources, a company Shell acquired in 2010. East Resources signed large numbers of gas leases in Tioga County in the 2005-2007 timeframe, but did not have the financial resources to actually develop the properties for gas production. When Shell acquired East Resources, the primary terms of many of those leases were about to expire. In response, Shell typically put the properties subject to those leases in production units and installed only a vertical well, which is usually not capable of producing gas, somewhere in the unit. Shell is now taking the position that those activities triggered the continuation clauses and that all of those leases are still in effect.

We believe that Shell's position is not supported by the law, particularly with regard to those gas leases with continuation clauses which require the production of gas in paying quantities or, at least, the installation of a well capable of producing gas in paying quantities. Accordingly, we believe that there are many landowners in Tioga County who currently have the right to demand a release of their current lease with Shell, which would free them to enter into a new gas lease with terms that would, undoubtedly, be more favorable than the terms of their current lease with Shell.

If you are interested in reclaiming your gas rights, you should get in touch with us as soon as possible as follows:

By Telephone: 215-661-0400 and ask for Doug Zeiders. If Mr. Zeiders is not available, ask for Mark Himsworth.

By e-mail: Contact Doug Zeiders at dzeiders@hrmml.com

By regular mail: Hamburg, Rubin, Mullin, Maxwell & Lupin, c/o Douglas I Zeiders, Esquire, P.O. Box 1479, 375 Morris Road, Lansdale, PA 19446.