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MARCELLUS SHALE

Landowners' rights being pursued: Experts urge legal help with gas contracts

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If you own the mineral rights to your land and you're in the Marcellus Shale region, companies hoping to buy those rights outright may be looking you up if they haven't already.

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Already leased those rights to another company? No problem.

Only want to sell part of your rights? That's OK too.

Companies looking to cash in on the natural gas boom have already sent offers to buy part or all of those rights to landowners in Centre County.

But experts say property owners should be extremely cautious before signing away ownership.

"We're telling people if it sounds too good to be true, it probably is," said Tim Marshall, a CPA with Urish Popeck & Co. LLC. "It's money up front, but the real money is in the royalties down the road."

There are two more shale layers below the Marcellus, and it is believed they too will be rich in natural gas, he said.

"We are getting a lot of phone calls from people who have shallow wells (stripper wells) on their property. Too many times the generation before them sold the gas rights for pennies on the dollar and all the natural gas they could use for heating," he said. "They did not know 50 years ago there would be significant amounts of other valuable gas below."

Marshall said a landowner who signs away part or all of a property's mineral rights with what's known as a hydrocarbon deed could lose royalty payments generated by the future gas development.

In Pennsylvania, landowners are entitled to a royalty payment of at least 12.5 percent — one-eighth of the production value. But that rate can be higher as part of leasing negotiations, Marshall said.

In the fall, Joe Swancer, who lives in Snow Shoe Township, got an offer in the mail to buy part or all of his mineral rights and decided it was a bad idea.

“I did get the letter, and I threw it (away) some place,” Swancer said.

He apparently wasn't alone. A letter sent by Griffith Land Services, of Houston, to another landowner offered \$2,750 a mineral acre for half the property's mineral rights.

The deed that came with the offer details what it would cover, including “the right of ingress and egress at all times for the purpose of drilling (either vertically, horizontally or directionally) including the right to conduct geophysical and other exploratory tests (including core drilling and seismic testing), exploring, operating and developing the real property interests in said lands and storing, handling, transporting and marketing the same therefrom.”

It goes on to say that the buyer will get the “granted interest in and to all bonuses, rents, royalties and other benefits which may accrue” under the terms of a lease or future leases.

A similar letter the year before from Spiro Resources Ltd., of San Antonio, only offered \$600 a net acre to buy gas and mineral rights.

Calls to the companies were not returned.

Tom Murphy, co-director of the Penn State Marcellus Center for Outreach and Research, said there has been an increase in companies scouting for landowners willing to sell their land rights or royalties.

“You could be selling your opportunity for pennies on the dollar,” Murphy said. “So, landowners have to be very careful when they're looking at those situations.”

In those cases the buyer is likely trying to purchase a percentage of the royalties. Along with losing money, the downside for the sellers, Murphy said, is that they will still have to deal with the fuss and muss of the wells being drilled on their properties, whereas the buyer won't.

Landowners looking at leasing their land for gas exploration and drilling should also get legal advice before signing anything, according to Penn State Cooperative Extension.

The State College office of Pittsburgh-based Urish Popeck has been holding informational meetings for landowners. They include advice about what to get in writing in a lease — such as letting the landowner out of the lease if the company doesn't have a producing well by the end of the lease.

“For a lot of these landowners, this is probably the biggest financial document they're ever going to sign,” Marshall said.

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