

TOP STORIES IN New York



1 of 12
Retail Rush Downtown



2 of 12
Good for Interns--- and for Business

3 of 12
A Tax Break's Cost, Benefits Are Weighed

Charges V

NY REGION | May 28, 2012, 9:37 p.m. ET

Drilling Ban Hits Leases

Article

Comments (10)

MORE IN NEW YORK »



By JOSEPH DE AVILA

BINGHAMTON, N.Y.—For years, thousands of people in the rolling hills surrounding this city signed leases to permit natural-gas drilling on their property, thinking it was an easy way to earn a few hundred dollars a year.

Now, hundreds are suing to get out of those leases, contending the contracts' time limits have expired and are undervalued. But gas drilling companies are making a novel argument to keep the property owners locked in: New York's four-year-old ban on gas drilling using high-volume hydraulic fracturing is akin, legally, to an act of God or natural disaster that automatically extends the leases.

The battle has angered residents who say the companies—including Chesapeake Energy Corp. and Inflection Energy—are exploiting the state's halt on high-volume hydraulic fracturing to avoid negotiating new leases that pay higher rates like those seen in other states, such as Pennsylvania.

Drawing Lines | The debate over 'fracking'

Landowners in four Southern Tier counties are fighting natural-gas companies in court over the extension of leases on their property.



Enlarge Image

"All I want is a letter from Chesapeake saying they recognize that the lease is expired," said Alex Muehl, who signed a five-year lease with Chesapeake in 2004 that paid \$5 an acre and a 12% royalty if gas production started on his 100-acre property in Port Crane, N.Y.

Drilling never happened on Mr. Muehl's land, but he received a letter from Chesapeake in 2009 saying the lease was still in effect.

The drilling companies said New York's decision in 2008 to halt permits for high-volume fracking operations put them in a bind along with the land owners. Higher

rates, they said, are unlikely given that natural-gas prices are currently low and a state decision on fracking remains uncertain.

In This Article

ORGANIZATIONS

[Chesapeake Energy Corp](#)

SUBJECTS

[Corporate Crime/Legal/Judicial](#) [Corporate/Industrial News](#)
[Content Types](#) [Factiva Filters](#)
[FC&E Executive News Filter](#) [FC&E Industry News Filter](#)

INDUSTRIES

[Energy](#) [Crude Oil/Natural Gas](#)

More like this

FROM [TIMES HERALD-RECORD](#)

[Upstate New York landowners allowed to renegotiate gas-drilling leases with Chesapeake](#)

FROM [THE WALL STREET JOURNAL](#)

[New Fracking Deal Unlocks Some Leases](#)

FROM [EXAMINER](#)

[Marcellus shale gas leases greatly improved in New York State](#)

FROM [ITHACA JOURNAL](#)

[DEC, major gas company locked in land battle](#)

FROM [THE JOURNAL NEWS \(WHITE PLAINS, NY\)](#)

[A.G. Schneiderman reaches deal in Chesapeake gas-lease dispute](#)

"What is keeping landowners from getting 'fair value' is not that they are locked into old leases but that no one is interested in leasing in New York given low gas prices and an indefinite drilling moratorium in place," said Matt Sheppard, a spokesman for Chesapeake in a statement. "That may change when the moratorium is lifted, but only if drilling in New York is viewed by investors and operators as being economically feasible, especially in comparison to other oil and gas fields."

The cases of about 200 landowners suing Chesapeake could be decided as early as this year in federal court. Their attorneys said that next month they would ask Judge David Hurd to rule in their favor before any trial.

"If Chesapeake loses this, it's jeopardizing thousands of acres of holdings in New York," said Cynthia Manchester, an attorney representing landowners in that case.

The dispute's roots go back more than a decade, when energy firms swarmed New York's Southern Tier to exploit the Marcellus Shale, a gas-rich rock formation several thousand feet underground that also stretches under parts of Ohio, Pennsylvania and West Virginia.

High-volume fracking has been used to reach the shale's gas in states such as Pennsylvania, a technique that combines high-pressure water and materials like sand and chemicals to break open cracks in the rock. A method called horizontal drilling along with fracking is used to extract the gas.

Accidents involving fracking in Pennsylvania sparked opposition in New York, which has been conducting an environmental review of the technique for four years. The state Department of Environmental Conservation is reviewing nearly 80,000 public comments for drilling rules that it has proposed. The state said it won't approve any permits until its review is over.

That action provides the basis for gas companies' legal claim that the leases are still in effect. The environmental review is a "force majeure" action, a French term for something that can't be reasonably anticipated or controlled. A force majeure clause "has always been used for natural disasters or acts of God," said Stephen Saunders, an energy and environmental law attorney who isn't affiliated with the lawsuits in New York.

The gas companies wouldn't discuss their legal strategies.

Mark Sexton, chief executive of Inflection, said New York's halt on fracking has "triggered this very frustrating series of events for both landowners and producers."

"Both sides are just looking for clarity on this issue," Mr. Sexton said. "We certainly share the landowners' frustrations."

The dispute over the leases has left homeowners in a legal limbo, attorneys said. "These people in large part cannot refinance their homes if they want to, they cannot sell their homes, and they cannot sign a new gas lease and they cannot prohibit gas drilling if they so choose," said Robert Jones, an attorney who represents plaintiffs in lawsuits against Chesapeake and Inflection. "It's really a landowners' rights issue."

Ken Sauve, 50 years old, owns a 151-acre plot of land in Lisle, N.Y., that has been under lease to Chesapeake since 2000. He is in favor of fracking but wants it done on his terms.

"It's a typical scenario," he said. "A big company forcing landowners that don't have money to fight against them."

Mr. Sauve has immersed himself in the world of fracking, meeting with government officials, geologists and company engineers. He said he would consider signing a new lease—he contends the original agreement expired in 2010—if a gas company offered a new and more favorable contract. "I'm tired of listening to everybody talking about the landowners like all they want to do is cash in. That's not the case," he said. "We want to

Video >



The "Other" Games In London
4:22



Losing Weight the 'Off-Label' Way
4:07



Alleged Colorado Shooter Is Charged
4:09

Job Opportunities

FROM **FINS**

- Sharp Senior Accountant for cool downtown NYC company - Robert Half Finance & Accounting
- Advisory Financial Services Regulatory - Sr. Associate - PricewaterhouseCoopers LLP
- Global Consultant Relations Analyst - BlackRock Inc.
- Business Development Manager Cleaning and Breakroom Solutions - Office Depot

MORE JOBS AND CAREER NEWS

[Finance Jobs](#) | [Technology Jobs](#) | [Sales & Marketing Jobs](#)

[FINS for Employers & Recruiters »](#)

POST A JOB

More in New York

[The Rise of Israeli Baseball Starts in N.Y.](#)

[Retail Rush Downtown](#)

[A Tax Break's Cost, Benefits Are Weighed](#)

[Charges Weighed in Kidnap](#)

[Six Injured by Gunman in Brooklyn](#)

Most Popular in WSJ >

[Read](#) | [Emailed](#) | [Video](#) | [Commented](#)

1. [Why Capitalism Has an Image Problem](#)
2. [Iran Warns Arab States Over Syria](#)
3. [Opinion: Andrew Klavan: Batman Battles the Politics of Resentment](#)
4. [Charges Weighed in Kidnap](#)
5. [Opinion: Campbell Brown: Teachers Unions Go to Bat for Sexual Predators](#)

Most Read Articles Feed

protect" the land.

Write to Joseph De Avila at joseph.deavila@wsj.com