



EMENS & WOLPER LAW FIRM

A LEGAL PROFESSIONAL ASSOCIATION

One Easton Oval, Ste. 550, Columbus, Ohio 43219
(614) 414-0888
emenswolperlaw.com

Dick Emens-demens@emenswolperlaw.com
Bea Wolper-bwolper@emenswolperlaw.com
Sean Jacobs-sjacobs@emenswolperlaw.com
Kelly Jasin-kjasin@emenswolperlaw.com

Craig Wilson-cwilson@emenswolperlaw.com
Chris Hodakievic-chodakievic@emenswolperlaw.com
Gail Tibbals-gtibbals@emenswolperlaw.com



Ohio Utica/Point Pleasant Shale Update March 2014

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Landowner Alert

Because we are very concerned about landowner's selling their minerals, being approached for pipeline easements, and county property tax increases, we will be holding landowner educational meetings in the following counties: Jefferson, Belmont, and Guernsey counties. For more information about the location, date, and time of each of these meetings, please see page 2 of this newsletter.

Companies Expected to Spend Billions More in Oil and Gas Exploration and Development in 2014!

Dear Clients, Friends and Colleagues:

Ohio's Utica/Point Pleasant Shale play has solidified its position as one of the rising shale plays in the country as evidenced by the billions of dollars companies have spent and plan to spend here in Ohio. We anticipate for at least the next five years eastern Ohio landowners will continue to be contacted about pipeline easements, access roads, well pad sites, etc. Two recent issues eastern Ohio landowners are facing are the prospect of selling their mineral rights for substantial sums of money and having their property taxes increase. Both are very important issues for landowners.

One of the main questions we get asked by landowners is how much will I get from this oil and gas boom. We wouldn't be lawyers if we did not say it's complicated. While there is no certain answer to this question at this time, we include in this edition of our newsletter an article summarizing the reported production of oil and gas from Ohio's Utica/Point Pleasant wells in 3rd Quarter of 2013. Additionally, we also include a summary table of the reported *initial* production from a number of Utica wells drilled by county of Ohio.

We continue to enjoy working with landowners facing oil and gas and other related issues. We look forward to hearing your comments and questions. If there is a topic you would like us to discuss in our next newsletter, please email or call us!

Sincerely,
Emens & Wolper Team
Bea, Chris, Craig, Dick, Erica, Gail,
Justin, Kelly, Sean



Emens & Wolper Upcoming Presentations and Events

March 17, 2014 - Noon
Kiwanis Club
The Athletic Club of Columbus
136 E Broad St
Columbus, OH 43215
Topic: Oil and gas (shale) industry

March 19, 2014 7:00 p.m.
Jefferson County Meeting
Wintersville Fire Station
286 Luray Drive
Wintersville, OH 43953

April 1, 2014 - 5 - 8 p.m.
Emens & Wolper 5th Anniversary
Party
1 Easton Oval, Suite 550
Columbus, Ohio

April 2, 2014 6:00 pm
Belmont County Meeting
James Carnes Center
45300 Roscoe Road
St. Clairsville, Ohio 43950

April 10, 2014 6:30 pm
Guernsey County Meeting
The Pritchard Laughlin Civic Center
7033 Glenn Highway
Cambridge, Ohio 43725

April 24, 2014 6:30
Morgan County Utica Group
Meeting
Masonic Lodge,
275 S. 8th St.,
McConnelsville, OH

June 12, 2014 - 10-11:15 am
HalfMoon Seminars/CLE
Ohio Oil and Gas Conservation Law
Worthington, Ohio

*****Ohio Landowner Alert*****

Mineral Selling - We are assisting a number of landowners who are contemplating whether or not sell their mineral rights. Our firm has written an article, which can be found on our website (emenswolperlaw.com), describing the major questions a landowner should consider before selling their minerals. We caution landowners who are considering selling their mineral rights.

Mineral Taxation - We are assisting a number of landowners who have seen their property taxes dramatically increase due to the oil and gas activities. Landowners should know they do have options available and may not have to pay the increase in property taxes. Landowners should consider talking to someone knowledgeable in this area.

Lease Amendments - We continue to assist landowners who are being contacted by oil and gas companies to amend their oil and gas lease. Currently, some oil and gas companies are contacting landowners and asking them to “ratify” the oil and gas lease. Landowners should think of “ratification” as the oil and gas company asking the landowner to confirm the lease is still valid. We believe one reason an oil and gas company may be asking for this “ratification” is because of recent lawsuits declaring their lease to be invalid. Landowners should think of this as an opportunity to re-negotiate their lease.

Exploration and Development Update

How Much are Utica/Point Pleasant Shale Wells Really Producing? In the 3rd Quarter of 2013, the Ohio Department of Natural Resources reported that there were 248 Utica/Point Pleasant Shale wells with reported production of oil or gas in Ohio. On average, each of these wells produced 135,616 thousand cubic feet of gas and 5,384 barrels of oil in the 3rd Quarter. On average, these 248 wells were in production 63 days out of the 90 day quarter, or about 2/3rds of the time. Assuming each thousand cubic feet of gas was sold for \$4 and each barrel of oil was sold for \$90, on average Ohio’s Utica/Point Pleasant Shale wells produced a gross amount of approximately \$16,301.96 per day.

Gulfport’s Stutzman #1-14H Well in Somerset Township, Belmont County had the most reported production -- 1,249,739 thousand cubic feet of gas and 22 barrels of oil in 89 days of production. Based on our assumptions above, the Stutzman well is producing a gross amount of approximately \$56,190.56 per day. See <http://oilandgas.ohiodnr.gov/production> for ODNR’s full report.

American Energy Acquires Another 130,000 Acres in Ohio: Recently, Aubrey McClendon acquired 130,000 acres in eastern Ohio from Hess Corporation, XTO Energy (Exxon Mobil), and Paloma Partners, LLC for \$924 million. It is reported this acreage is located in southern Jefferson, Belmont, eastern Guernsey, Harrison, Monroe and Noble counties. McClendon nearly doubled its acreage position in Ohio with this acquisition. McClendon plans to drill 1,600 wells on this acreage over the next decade. For more information, see <http://www.theintelligencer.net/page/content.detail/id/595475/American-Energy-Buys-130-000-Acres.html?nav=515>.



Landowner Groups and Other Ohio Counties Where Emens & Wolper Assists Landowners:

Black River Landowners Association-- Lorain County

Central Ohio Landowners Association—Richland & Ashland counties.

Coshocton County Landowners Group-- Coshocton & Northeastern Muskingum counties.

Jefferson County Landowners Group—Jefferson County.

Mohican Basin Landowners Group--Ashland, Wayne, & Holmes counties.

Muskingum Hills Landowners Southeastern Muskingum County.

Perry County Landowners Group-- Perry County.

Resources Land Group-- Licking and Southeastern Knox County.

Smith Goshen Group-- Belmont County.

Ashland, Ashtabula, Athens, Carroll, Columbiana, Delaware, Fayette, Franklin, Geauga, Guernsey, Hardin, Harrison, Highland, Hocking, Holmes, Mahoning, Marion, Meigs, Monroe, Noble, Pickaway, Portage, Ross, Stark, Summit, Trumbull, Tuscarawas, Union, Washington, Wayne and others.

Companies Expected to Spend Billions in Development Plans in Ohio in 2014: Hess Corporation reported it plans to spend \$550 million to drill 35 wells in Ohio in 2014. Hess plans to develop the Utica's wet gas area. Gulfport recently acquired 22,000 acres increasing its holdings to 137,000 gross acres in Ohio. Antero plans to spend \$650 million in the Utica play in 2014 where it plans to operate 4 drilling rigs and complete 41 wells. Chesapeake Energy plans to drill its "core wet gas" acreage in Columbiana, Carroll, Harrison and Jefferson counties. Chesapeake plans to maintain seven to nine drilling rigs in these four Ohio counties, which is a reduction in drilling rigs. Rex Energy plans drill 11 wells, frac 17 wells and place 11 wells into production in the Utica in 2014. For more information see <http://www.salemnews.net/page/content.detail/id/570772/-Wet-gas-window--to-remain-active-in--14.html?nav=5007>; <http://www.bizjournals.com/columbus/news/2014/01/30/antero-plans-650m-in-utica-spending.html>; <http://www.ohio.com/blogs/drilling/ohio-utica-shale-1.291290/gulfport-energy-adds-to-land-holdings-in-eastern-ohio-1.465828>; <http://www.bizjournals.com/columbus/news/2014/01/27/hess-corp-to-boost-spending-in-utica.html>; and <http://www.cantonrep.com/article/20140220/BUSINESS/140229936/10511/SPECIAL>.

Is Ohio's Dry Gas Window Extending South? To date, most of the excitement of Ohio's dry gas window was centered on Belmont County, which boasts the two largest gas wells in Ohio to date. However, Magnum Hunter has hit its own huge gas well in southeast Monroe County (close to the West Virginia border) with its Stalder #3UH well. The Stadler well produced at a peak rate of 32,000 thousand cubic feet of gas per day and has a 5,050 foot lateral. We expect the initial production rate of the Stalder well will generate more excitement in Monroe County. For more information, see <http://www.ohio.com/blogs/drilling/ohio-utica-shale-1.291290/gastar-gulfport-get-boost-from-magnum-hunter-s-new-well-1.466615>.

Belmont County Enrichment Fund Established: The Smith Goshen Land Group and Rice Energy have established a fund through the Community Foundation for the Ohio Valley, Inc. to promote projects and programs that benefit local residents and enhance the community. Rice Energy made a \$25,000 donation to the fund. For more information, see <http://www.timesleaderonline.com/page/content.detail/id/551495/Smith-Goshen-Rice-Energy-enrichment-fund-established.html?nav=5010>.

Landowners are saying to us - - "What do you mean I'm a wealthy person? Who me? Wealthy?" I'm not wealthy. Those are people who have lots of money. Those are people who have inherited lots of money. The cash received from oil and gas doesn't make me wealthy...or does it?

When I received the lease bonus, my advisors told me to put around half away for the tax-man. I enjoyed a few extras, but I have a family and a farm and what about retirement? However, people are looking at me differently. They want contributions and want me to help with their financial problems. People believe I have much more than I do. They don't realize I had to pay approximately 40-50% to the government as ordinary income tax: federal, state, local, school. How can I protect what is left so that I can relieve some of my financial worries? How can I arrange so that the royalty income I'll be receiving will not be taxed (or at least taxed at a lower rate)? How can I have financial security? How can I provide for my family: spouse? Children? Grandchildren?

Luckily, there are answers.... Depending on the amount of the bonus you received, you may be able to structure a trust that relieves the tax burden from you and your family. You may be able to defer taxes. You may be able to limit your taxes. CLATs and CRTs may provide real help! If you have these or other questions, please contact us.



Emens & Wolper Law Firm Legal Services

Our law firm provides numerous legal services related to natural resources including the following:

- We review, analyze and negotiate NEW and OLD oil and gas leases and mineral deeds;
- We review, analyze and negotiate pipeline easements;
- We analyze mineral abandonment claims and claims regarding expired leases;
- We represent landowners in ODNR mandatory unitization proceedings who are being forced unitized;
- We review, analyze and negotiate water, sand, gravel, and coal rights agreements;
- We review, analyze, negotiate sale of minerals and royalties; and
- We assist with litigation on all these matters.

Our law firm also provides services regarding estate planning, succession planning for family businesses, and purchases and sale of businesses.



Should Landowners Sell Their Minerals? As Ohio's Utica/Point Pleasant Shale continues to be explored and developed by many large oil and gas exploration companies, eastern Ohio landowners are finding their oil and gas mineral rights to be a very valuable asset - - and many landowners are receiving offers to buy the oil and gas mineral or royalty rights in their lands for thousands of dollars per acre. We have spoken with numerous landowners who are considering selling some or all of their oil and gas mineral or royalty rights and believe landowners should consider a number of factors when making this decision including the following: What mineral rights are you selling?; What formations are you selling?; Will you be selling the entire mineral interest or a just a fractional mineral interest?; Will you be selling a mineral interest or just a royalty interest?; Will you be selling a mineral/royalty interest forever or for a specific term?; What are the potential reserves and value of the minerals being sold?; What is the difference between the amount of compensation being offered for the sale and the potential long-term value of the minerals being sold?; What are the tax consequences of the sale versus receipt of royalties?; Do you want a lump sum of money now or passive long-term income?; Will the sale affect your property taxes?; and What rights will the mineral buyer have to use the surface of the land? These are just a few questions landowners should consider in when they are thinking about selling their mineral rights.

Infrastructure & Pipeline Update

Companies Are Still Waiting for Pipeline and Facilities to be Built: Chesapeake Exploration recently reported that the vast majority of its wells in the Utica Shale play have not been producing at their full capacity because of infrastructure and operational issues. Chesapeake indicated that the infrastructure delays impacted its growth in the Utica during the second half of 2013 and will continue having a smaller impact in 2014's first quarter. See <http://www.bizjournals.com/columbus/news/2014/02/26/chesapeake-exploration-says-195-utica-shale.html> for more information.

More Interstate Pipelines Coming to Ohio: Texas Eastern Transmission, a Texas company, is planning to build a 76-mile pipeline extension to help move natural gas from the Utica and Marcellus shales to the Gulf Coast. Texas Eastern plans to install a 30-inch pipe from Kensington in southern Columbiana County to an existing pipeline in Monroe County in eastern Ohio. The line will pass through Columbiana, Carroll, Jefferson, Belmont and Monroe counties in eastern Ohio. The project's estimated cost is \$468 million. For more information, please see <http://www.ohio.com/news/texas-company-plans-468-million-pipeline-to-ship-utica-shale-natural-gas-to-gulf-coast-1.467229>.

Economists Estimate Ohio Needs \$12 to \$15 Billion Per Year through 2020 For Infrastructure: At the 2014 Marcellus-Utica Midstream Conference held in Pittsburgh, economists estimated that Ohio's Utica shale will demand new pipelines, gathering lines, compressors, fractionators (cracker plants) and other systems to separate the gas in the range from \$12 billion to \$15 billion per year through 2020. However, economists were not certain whether companies would invest this much in infrastructure. For more information see <http://www.farmanddairy.com/news/shale-oil-gas-development-infrastructure-investments-way/174441.html>



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*Please visit our website for
Educational Articles*

www.emenswolperlaw.com

Selling Your Mineral Rights - -Questions
You Should Consider First!

Separating your Mineral Rights:

Remember Real Estate Taxes

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Easements - -This Time It's Different

Oil and Gas Considerations When

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"Force Pooling" in Ohio: Requiring Non-

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"Mineral Rights ARE Different!"

Pipeline Easements and Right of Ways:

Protecting Your Rights

Pipeline Easements: Steps to Protecting

Landowner Rights

Unusual Ohio Oil and Gas Lease

Provisions

Ohio Oil and Gas Conservation Law--

The First Ten Years (1965-1975)

Contact for Emens & Wolper Law Firm

Emens & Wolper Law Firm

One Easton Oval, Suite 550

Columbus, Ohio 43219

Phone: (614) 414.0888

Fax: (614) 414.0898

Chris Hodakievic, Assistant to Dick
Emens

chodakievic@emenswolperlaw.com

Infrastructure & Pipeline Update Continued

MarkWest's Operational Update: In January of 2014, MarkWest indicated it has commenced operations of its Seneca complex in Noble County, Ohio. The Seneca complex is currently comprised of two processing plants which support rich-gas Utica production from Antero, PDC Energy, Rex Energy Corporation, and others. MarkWest Utica EMG commenced operations of the jointly-owned Hopedale fractionation and marketing complex in Harrison County, Ohio. For more information see <http://online.wsj.com/article/PR-CO-20140130-916568.html>.

Oil and Gas Related Litigation Update

Home Run Rule Lawsuit: The Ohio Supreme Court heard oral arguments in *Munroe Falls v. Beck Energy* case where Beck Energy is fighting with the city of Munroe Falls over its effort to regulate Beck's drilling activities. The Ohio Supreme Court will be asked to determine whether or not Munroe Falls can regulate Beck's activity. The 9th District Court of Appeals reversed some of the trial court's decision that Munroe Falls could regulate Beck's activities.

Ohio Dormant Mineral Act Suits: There are numerous lawsuits pending throughout Ohio on the issue of mineral ownership. Recently, there have been four trial court decisions related to Ohio's Dormant Mineral Act: one decision in Carroll County, two decisions in Harrison County, and one decision in Monroe County. We continue to believe lawsuits involving mineral ownership and the issues surrounding Ohio's Dormant Mineral Act are one of the most important issues Ohio landowners are facing.

Declaration of Pooling = Operations Under Lease: In *Henry v. Chesapeake*, Case No. 12-4090, January 14, 2014, the United States Court of Appeals for the Sixth Circuit held that by filing a Declaration of Pooled Unit (DPU) with the Ohio Department of Natural Resources, Chesapeake engaged in "operations" under the terms of the lease. Plaintiffs leased approximately 447 acres of land in 2006 for a five-year term. On October 14, 2011, three days before the lease was to expire, Chesapeake filed a DPU. Plaintiffs then filed a lawsuit in the Jefferson County Court of Common Pleas, seeking to have the lease declared void. Chesapeake removed the case to the United States District Court for the Southern District of Ohio, which granted summary judgment to Plaintiffs, holding the leases were void. Chesapeake appealed, and the Sixth Circuit reversed, holding that by filing the DPU, Chesapeake engaged in "operations" under the terms of the lease, thereby extending the lease term.

More Landowners Claim Gas Storage Compensation: In connection with *Wilson, et al v. Columbia Gas Transmission (CGT)* pending in Southern District Court of Ohio, more and more landowners have realized CGT has been taking their gas and/or storing gas under their property without paying adequate compensation. CGT has acknowledged this by sending letters to over 1,700 landowners who own over 2,500 parcels of property that CGT may have been taking and/or storing gas from the landowner's property. We have been contacted by numerous landowners on this situation and are trying to help them. If you have been contacted by CGT or believe CGT is storing and/or taking your gas without paying you, please contact us.



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We have reported the initial productions rates of numerous Ohio Utica/Point Pleasant Shale wells in our previous newsletters. Below is a county-by-county comparison of the Ohio Utica/Point Pleasant Shale wells reported initial production. This table represents a summary of information Mr. Marty Shumway, PE, CPG of MacKenzie Land & Exploration, Ltd. compiled from ODNR's records.

CNTY	Number of Wells	AVG OIL IP	LARGEST OIL IP	SMALLEST OIL IP	AVG GAS IP	LARGEST GAS IP	SMALLEST GAS IP
BELMONT AVERAGE	11	129.09	945.00	0.00	13347.91	28467.00	14.00
CARROLL AVERAGE	141	257.50	793.00	0.00	3925.91	9871.00	821.00
COLUMBIANA AVERAGE	10	196.90	524.00	0.00	2274.70	5245.00	0.00
COSHOCTON AVERAGE	1	38.00	38.00	38.00	0.00	0.00	0.00
GUERNSEY AVERAGE	11	508.18	999.00	248.00	1103.45	3871.00	23.00
HARRISON AVERAGE	38	546.84	1560.00	0.00	4302.11	17088.00	592.00
JEFFERSON AVERAGE	7	0.00	0.00	0.00	7802.14	11000.00	5809.00
MAHONING AVERAGE	2	37.50	37.50	37.50	568.50	568.50	568.50
MONROE AVERAGE	5	37.00	182.00	0.00	6095.60	12000.00	1361.00
MUSKINGUM AVERAGE	1	158.00	158.00	158.00	265.00	265.00	265.00
NOBLE AVERAGE	15	379.27	861.00	0.00	3642.33	9205.00	52.00
PORTAGE AVERAGE	1	170.00	170.00	170.00	946.00	946.00	946.00
STARK AVERAGE	2	327.00	327.00	327.00	809.50	809.50	809.50
TRUMBULL AVERAGE	4	190.75	572.00	23.00	1434.00	4323.00	91.00
TUSCARAWAS AVERAGE	2	213.50	213.50	213.50	100.00	100.00	100.00
WASHINGTON AVERAGE	3	196.33	256.00	150.00	1898.33	5123.00	46.00
WAYNE AVERAGE	1	1.00	1.00	1.00	150.00	150.00	150.00
TOTAL AVERAGES		199.23	449.24	80.35	2862.68	6413.65	685.18