

## **Drilling Gas and Oil Wells** **Environmental Management Considerations**

Recent state legislation has largely exempted the oil and gas industry from local regulations. Communities across Northeast Ohio are concerned about new oil and gas projects in their community on both public and private lands, and the environmental impacts of such operations. Additionally, many communities are now considering oil and gas development on their publicly owned property. This handout outlines steps communities can take to address drilling on both public and private property.

### **Local Government Administrative Policies Outlining Procedures for Responding to Permit Applications on Private Property and Leasing Public Property**

Communities considering oil and gas well leases on their public property may wish to adopt an administrative policy detailing the procedures for selecting the property, environmental and public safety reviews, bidding processes, and lease development. This policy should indicate the staff and departments in the community that will be involved in the leasing process.

Communities can also influence drilling activities on private property by responding to permit notifications from the Ohio Department of Natural Resources, Division of Mineral Resources Management (ODNR) and by participating in the pre-permit meetings, which are held on site before any operations are started.

### **Considerations for addressing oil and gas development on private property**

The Lake County Soil and Water Conservation District (Lake SWCD) and the Chagrin River Watershed Partners, Inc. (CRWP) suggest including the following provision in this local policy to address leasing oil and gas development on private property:

- **Responding to Notices:** A community can influence oil and gas well development within its boundaries on private property by participating in ODNR's permitting process. The Division of Mineral Resources Management has a program to notify communities when an oil and gas well pre-permit application has been filed in their boundaries. By responding to the permit notification a community can participate in the negotiation of permit conditions for that site.

A local government's administrative policy should specify that the zoning inspector, community engineer, or other staff will receive and respond in writing to permit notices from ODNR. This staff will participate in pre-construction and subsequent meetings between the permit applicant and ODNR concerning the site and the permit conditions. This staff person may also request third parties, such as Lake SWCD or CRWP, to assist with these meetings.

**To register for notification contact Patty Nickalus of ODNR Division of Mineral Resources Management at 614-265-6939.**

Also respond to the contact for the oil and gas company listed in the notice as well as your local ODNR inspector to let them know that your community wishes to participate in the pre-permit meetings and site visits.

In Lake, Geauga, and Cuyahoga counties, the inspector contact is:

Mr. Norbert Lowder

Mineral Resource Inspector 2

Div of Mineral Resources Northern Region

3575 Forest Lake Drive, Suite 150

Uniontown OH 44685

Cell# 330-310-2245

Office# 330-896-0616

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**Administrative considerations for leasing oil and gas rights on public property**

Lake SWCD and CRWP suggest including the following in a local policy to address leasing oil and gas rights on public property:

- **Preliminary Environmental Review:** Project site (well site) should be subject to a preliminary environmental review. This review is similar to a typical construction project and should include a general review of natural resources and site-specific recommendations for consideration when drafting bids and lease agreements. These recommendations may include noting the presence of headwater streams, wetlands, or floodplains as well as suggested locations for well heads, tank batteries, access roads, and transmission lines. Relevant community regulations, such as hillside/slope regulations and stream and wetland setbacks, should be noted.
- **Engineering Specifications:** The community engineer should provide access road design specifications as well as approve any drainage infrastructure associated with the gas well site. These specifications should be incorporated into the bid and lease documents.
- **Inspection Mechanism:** Your community should designate the zoning inspector, city engineer, or other staff to inspect well sites annually for operational and safety concerns. This inspection includes the condition of the site, roads, fences, gates, and notes of potential safety concerns.

**Lease Considerations for oil and gas rights on Public Property**

In addition to establishing an administrative policy for lease activities on public property and responding to notices of activities on private property, **Lake SWCD and CRWP offer the following comments on specific provisions to include in a community's lease for oil and gas well drilling on public property.**

Entering into a lease agreement is a voluntary action agreed to by both parties. As the landowner, the community is in control of the resources and has considerable

bargaining power. Recent changes in state regulations have not limited this power. Lease language can include special terms, conditions, procedures, provisions for environmental management, and other conditions. Language in the lease can stipulate that the oil and gas company will comply with the same regulations that apply to other land development projects in your boundaries. Once this language is in the lease, it becomes a contract that can be enforced locally. Additionally, many of these conditions can be incorporated into the Oil and Gas Permit for the site issued by ODNR. This adds additional layers of protection for the community. **Lake SWCD and CRWP recommend the following items be addressed in a community oil and gas lease for drilling on public property:**

- **Local Regulations:** The lease should include language requiring the leaseholder to abide by local erosion and sediment control, floodplain, riparian and wetland setback, stormwater management, noise control, and other relevant local codes. It is important to insert a copy of these regulations in the oil and gas lease agreement as well as the bid specifications. Most oil and gas companies will agree to such language as long as the expectations are reasonable and clear.
- **Specific Site Conditions and Restrictions:** Oil and gas leases should indicate:
  - Site ingress and egress locations.
  - Access road construction standards and placement.
  - Removal of topsoil from roadbed and proper storage for this topsoil.
  - Location and management of brine pits
  - Road gate specification and style.
  - Culvert sizes and type, if culverts are necessary.
  - Vegetative screening including type, species, location, and number.
  - Facility fencing including standard, style, and location.
  - Transmission line and storage tank placement.
  - Electric line placement. Will this line be buried? If overhead, how high?
  - The use of an electric pumping unit. Gas fired pumps are available but are noisy.
  - Inspection methods. Well sites are inspected 3 to 4 times a week by the owner. Communities should stipulate if they do not want vehicles driven to the well site or if they want to control the time and days of these inspections. This is particularly important if the well site is on recreational land that may be heavily used on weekends or evenings.
  - Keys to all road and fence gates should be kept at the fire department or the lease should require a firebox on site for these keys.

- **Public Safety and Long Term Maintenance:** The lease should include language addressing public safety and long term maintenance such as:
  - Access road maintenance: These roads will deteriorate. It is important that access roads be maintained so public safety vehicles can reach the site. Clauses that require this maintenance can include provisions such as.
    - ✓ Erosion rills and gullies and tire ruts deeper than 4 inches shall be immediately repaired or at the direction of the community.
    - ✓ Roadside drainage, including culverts, shall be maintained, cleaned, and repaired when 1/3 capacity is lost or at the direction of the community.
    - ✓ Roads shall be gravel top dressed at the direction of the community.
  - Fencing and gate maintenance: For public safety and aesthetics stipulate when fences and gates are to be repaired or replaced. The following conditions are recommended:
    - ✓ Fences and gates are to be kept in good working order. Insert community fence regulations if applicable.
    - ✓ Gaps in fencing or ground clearance shall be repaired.
- **Site Restoration:** The lease should also include standards for site reclamation after the well is installed and after it is plugged.
- **Well Productivity and Plugging:** Require that wells stay commercially and economically productive. Near the end of a well's life, oil and gas companies may operate the well only one day per year to meet ODNR requirements for active wells so that they do not have to cap the well and reclaim the site. Require that the Lessee provide an annual financial statement indicating production and net operating expenses. The lease should stipulate that the lease becomes null and void if the well is not economically productive in any 2 consecutive years. When the lease is voided, the driller can then be ordered by the ODNR to plug the well and reclaim the site.

**For Additional Information, please contact**

Dan Donaldson, District Administrator, Lake SWCD, 440-350-2030

Kyle Dreyfuss-Wells, Director, CRWP, 440-975-3870

and/or

The ODNR Division of Mineral Resource Management website at:

<http://www.dnr.state.oh.us/mineral/oil/index.html>