

Welcoming Marcellus and Utica Shale Development to Ohio

Oil and Gas Law 101

Matt Warnock

Bricker & Eckler LLP

mwarnock@bricker.com

614.227.2388

December 5, 2011



Drilling on publicly-owned lands

- The Ohio Revised Code authorizes the leasing of publicly-owned land
 - R.C. 307.11 (counties)
 - R.C. 505.11 (townships)
 - R.C. 721.03 (municipalities)
 - R.C. 3313.45 (schools)
- House Bill 133
 - Oil and Gas Leasing Commission
 - Public bidding process
 - Classification of state lands

Schools

- ORC 3313.45
 - “When, in its opinion, the school district would be benefited thereby, the board of education may make, execute, and deliver contracts or leases to mine iron ore, stone, coal, petroleum, gas, salt, and other mineral[s] upon lands owned by such school district”
 - Lease can be for more than 15 years
 - Mandatory forfeiture upon non-compliance
- ORC 3313.451
 - “The board of education of any school district may contract with a geologist experienced in making such reports for a report on the feasibility of exploring for petroleum and gas on property owned by the board”

Oil and Gas Lease

- Description of leased premises
 - Legal description vs bounded by description
 - Mother Hubbard Clause

Our Oil and Gas Lease

- **Granting Clause**

- Grants the developer certain rights

- Is it limited to oil and gas exploration, production and operations?
 - Use of water from landowner's property?
 - Gas storage?

- Identifies the minerals being leased

- Only oil and gas?
 - Deep vs. Shallow rights

Our Oil and Gas Lease

- Term Clause
 - Establishes the duration of the lease
- Primary term
 - Renewal option w/new bonus payment (?)
- Secondary term
 - Operations
 - Production in “paying quantities”

Our Oil and Gas Lease

- \$\$\$\$
 - Up-front, per acre bonus
 - Royalties (oil, natural gas, liquids)
 - Traditional (12.5%) vs. shale (more than 15%)
 - Gross royalty (no deductions) vs net royalty
 - Free gas vs. Payment in lieu of free gas

Our Oil and Gas Lease

- Unitization/pooling (combining tracts of land or leases for drilling wells)
 - Maximum size (640 acres, 1,280 acres)
- Pugh clauses
 - Horizontal
 - Vertical

Our Oil and Gas Lease

- Damages
 - Water testing
 - Pre-drilling and post-drilling
 - Independent 3rd-party
 - Indemnification
 - Environmental indemnity
 - Insurance
 - Commercial general liability insurance
 - Worker's compensation insurance
 - Automobile/umbrella insurance
 - Named as additional insured

Our Oil and Gas Lease

- Miscellaneous
 - Spud fee
 - Setbacks from residences and other structures
 - Landowner approval
 - Dispute resolution (arbitration vs. Ohio courts)
 - Assignments
 - Audits
 - Tax increases

Landowner Groups

- What are they?
- Where are they?
- What are the benefits?
 - Pooled resources
 - Maximize available information
 - Increase negotiating power
 - Obtain more landowner friendly oil and gas lease terms

Questions?

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Shale Resource Center --

<http://www.bricker.com/shale>