

How drilling companies won't take no for an answer

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/ The Post-Standard Nick Riolo stands by his truck next to a drilling field behind his property in Lebanon. "There's nothing you can do to stop it," said Riolo, who was forced to have two 5-acre parcels integrated into the drilling area. He gets about \$350 a month in royalties from the gas company.

Nick Riolo didn't want gas drilling beneath his property in the Madison County town of Lebanon, but he had no choice.

Under what the law calls compulsory integration, a gas company can drill under land without permission of the owners if enough of their neighbors have already leased their property to the company.

"There's nothing you can do to stop it," said Riolo, who had about 7 acres integrated into a drilling area. "I called a lawyer and he said, 'You don't really have a choice.' "

While [compulsory integration](#) has been going on for years, it's likely to become more widespread and more controversial if New York allows a new type of drilling to begin next year in deep shale formations. Drilling in the Marcellus and other shales will encompass much larger tracts of land than previous types of drilling did because the gas is scattered throughout a rock

formation that runs from Virginia to New York. In addition, the injection of millions of gallons of chemical-laden water at high pressure to fracture underground rocks – called “hydrofracking” — has raised concerns about tainted wells and streams.

Compulsory integration “is a sleeping giant,” said Chuck Geisler, a development sociology professor at Cornell University who specializes in land use policy. “If and when New York state starts issuing permits, this is going to start showing up and it’s going to take us by surprise.”

In southern and Central New York, thousands of land owners are weighing whether to capitalize on the projected underground gold rush or fight the environmental consequences of hydrofracking. In Onondaga County alone, about 1,900 separate parcels are leased to gas drilling companies, said Lindsay Speer, a community organizer who works with Neighbors of the Onondaga Nation.

Many neighbors of those landowners have not signed leases, either holding out for a better deal or refusing to sign at all because they fear damage to the environment or their own wells. Compulsory integration would remove that choice for many landowners if enough neighboring property is already leased.

“I think it really can drive wedges between neighbors who are pro, con and undecided,” Geisler said.

Industry officials and regulators say the law actually protects landowners. Gas companies cannot drill on the land included in a drilling area without the owner’s consent. The law requires gas companies to pay royalties to owners integrated into the drilling, and gives those owners the options of simply receiving royalties or becoming partners in the drilling.

“They are basically being compensated — using a method they choose — for the oil and gas produced from beneath their lands,” said Maureen Wren, spokeswoman for the state [Department of Environmental Conservation](#).

Riolo said he receives about \$350 a month in royalties from the gas company, [Norse Energy Corp.](#)

The law also guarantees that landowners who want to sell the gas beneath their land won’t be held hostage by a minority of their neighbors, an industry official said.

“If you have a majority of landowners that want to have a well developed and you had a landowner with half an acre, that half-acre holdout could preclude the other landowners throughout the whole 640 acres from having their resources developed and gaining an economic benefit from it,” said Brad Gill, executive director of the Independent Oil and Gas Association of New York. “That would not be fair at all.”

Under existing state law, gas companies draw up a “spacing unit,” an area of up to a square mile, or 640 acres, under which they plan to extract natural gas. If the owners of at least 60 percent of that land agree to let their gas be extracted, the remaining landowners can be required to become

part of the unit.

Those landowners — referred to as “uncontrolled owners” — can choose to become a partner in the well, sharing the costs and profits, or can elect to receive simple royalty payments. Those payments would be no less than the lowest percentage paid to anyone else in that unit — typically at least 12.5 percent of the value of the gas attributed to their land.

Compulsory integration has been in place for a long time under traditional gas drilling methods, which generally drill a single, straight well that taps into a large pocket of gas underground.

The newer techniques of high-volume hydrofracking and extensive horizontal drilling in deep shale, however, are more controversial. They involve drilling thousands of feet down into shale, turning and drilling more than a mile horizontally, and injecting millions of gallons of water infused with chemicals to shatter the shale and release gas.

“It’s like the difference between a Model T and a Maserati,” said Tony Ingraffea, a Cornell University professor of civil and environmental engineering.

The state is still drafting regulations on the high-volume hydrofracking, and no permits will be issued until later this year or early 2011, the state DEC said.

Some predict that compulsory integration will come to the forefront of the hydrofracking debate once permits are issued.

“If people get angry enough once the Marcellus shale drilling starts, there will be more of an uproar,” said Jane Welsh, an attorney in Hamilton who represents clients who have been forced into drilling areas. “You’re going to be talking about a lot more land coming in via uncontrolled owners.”

Across Central New York and the Southern Tier, coalitions of homeowners have sprung up to try to negotiate the best deal with companies who want to lease land for drilling.

“One of the major reasons for forming a coalition was compulsory integration,” said Eve Ann Schwartz, a farmer in the town of Hamilton and a founder of a coalition there that represents property owners with a combined 20,000 acres. “I think it’s eminent domain in sheep’s clothing.”

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