

How recent oil and gas discoveries will impact Ohio businesses and landowners

Jeff Huntsberger interviewed by Smart Business Magazine

It was announced recently that the Utica Shale formation in Ohio is not only a source of natural gas, but oil as well. New technological advancements — especially in horizontal drilling techniques and the hydraulic fracturing of the shale (“fracking”) — along with the fact that the oil appears to be of high quality, is bringing drilling to Ohio a lot faster than originally thought.

“Drilling has been taking place in the Marcellus Shale in Pennsylvania and West Virginia for a while now,” says Jeffrey R. Huntsberger, a member of the Business Department and the Real Estate Practice Group at McDonald Hopkins LLC. “Geologists knew there was natural gas in Ohio’s Marcellus formations, but figured Ohio wouldn’t be as rich a source as Pennsylvania. All of that has changed now with the discoveries in the deeper Utica Shale formation. For example, the CEO of Chesapeake Energy Corp. recently said that his company expects to invest \$10 billion per year in Ohio for the next couple of decades.”

Smart Business asked Huntsberger what Utica Shale drilling means for Ohio.

Why does the Utica Shale hold so much promise for Ohio?

The Utica Shale formation appears to hold significant amounts of ‘wet’ gas and oil. The wet gas has elements in it that are sought after by gas companies, including propane, ethane, butane, and other large molecule hydrocarbons and, in addition, there’s oil, which appears to be of high quality. Companies like Chesapeake Energy and others are excited about the wet gas and oil in Ohio.

How will drilling impact Ohio businesses?

Drilling in the Utica Shale is a game changing industrial event taking place right in our own back yard. Drilling is already taking place in southeastern and mideastern Ohio counties and promises to spread northward through the entire eastern part of Ohio. Manufacturers of tubular steel, pumps, valves, and fittings are already seeing substantial demand for their products as a result of drilling. If everything works out, we’ll have a cheap source of energy on our doorstep, which will give us an advantage in manufacturing. In addition, the byproducts of oil can be used for hundreds of industrial applications, and having a source of those byproducts right here in Ohio will be beneficial for a variety of industries. In the long-term, the drilling should stir growth.

What are the potential environmental impacts?

The major issue is water. Rural areas rely on well water (drawn from about 50 to 250 ft. deep). The shale layers are found at 5,000 feet and deeper below the surface but, in order to get there, the wells must be drilled through the water table. If the well is not drilled and cased properly, there’s a good chance that someone’s well water will be contaminated.

Fracking itself requires up to three million gallons of water per well. The crew has to drill down vertically several thousand feet and then sideways for as much as a mile. The fracking fluid, which is then inserted into the well and forced into the shale layers, is 98 percent water and sand with the remaining two percent made up of ‘nasty stuff’ — chemicals intended to help ease the hydrocarbons out of the shale. Huge pressure is created to break the shale, release the gas, and bring it back up. What comes up is contaminated with the chemicals as well as other environmentally damaging materials from the ground, such as heavy metals, which must be dealt with properly.

What kind of regulatory oversight is in place?

Almost all regulation in Ohio is through the Ohio Department of Natural Resources (ODNR). A number of years ago, the legislature took away the rights of local communities to regulate drilling. A new law (Senate Bill 165), enacted about a year ago, adds to the ODNR's power to regulate the industry. Included in the many new provisions are restrictions on how close companies can drill to occupied dwellings and property lines; increased liability insurance required for drillers; tighter construction standards; and the requirement that fracking must not be done in a manner that creates any danger to the water or the environment.

At the federal level, the U.S. EPA is looking into the fracking process and studying the potential impact on the environment. The EPA expects that it will be well into 2012 before any preliminary comments are made, and then another two years for any regulations to be put in place. As a side note, as of September 30th, Ohio House Bill 133 authorized drilling in Ohio's state parks.

How can landowners maximize their benefits if approached about leasing rights?

Some of the simple things you can negotiate with the companies leasing your land include the size and timing of the bonus payment; the amount of the royalty (the standard is usually around 12.5 percent of what gets produced from the well; however, this can often be negotiated to 15 or 18 percent, or even higher); and the time period for the company to hold the lease until drilling takes place. More complex negotiations involve placing restrictions on unitization (the right of the lessee to combine your property with that of other land owner lessors); prohibiting the storage of gas or the permanent disposal of toxic liquids on the property; obtaining mutual agreement on the placement of roads, wells and pipelines; and having the ground water tested before and after drilling.

Educate yourself through easily accessible materials such as those found on the Ohio Department of Natural Resources' website. Hire an attorney who really knows this area. Don't be quick to sign a standard lease presented to you, because these companies will negotiate.

JEFFREY R. HUNTSBERGER is a member of the Business Department and Real Estate Practice Group at McDonald Hopkins LLC. He focuses on real estate, business counseling and energy. Reach him at (216) 348-5405 or jhuntsberger@mcdonaldhopkins.com.

<http://www.sbnonline.com/2011/10/how-recent-oil-and-gas-discoveries-will-impact-ohio-businesses-and-landowners/?full=1>