

Blue Ridge Environmental Defense League

www.BREDL.org PO Box 88 Glendale Springs, North Carolina 28629 BREDL@skybest.com (336) 982-2691

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The Fracking Lease Risk Fact Sheet



Thinking about leasing your land's mineral rights for fracking? Think Again...

Lack of Landowner Legal Protection – Many states have no legal protection for landowners leasing their land to oil and gas companies for fracking.

Home/Property Value can drop substantially ó There are examples where property values have dropped by 85%! That can also affect your surrounding neighbor's property values. If

there is water, air, and/or soil contamination on your property who would want to buy it? óThe CEO and president of the credit union is quoted as saying that if an owner allows a rig on his land, 'I have to say to your neighbors,' sorry, but your property has been devalued.ó (<http://usfinancepost.com/mortgages-and-hydraulic-fracture-16235.html#EUUMeg1XIMIfJUB.99>)

Major Financial Liability / You Can Be Personally Sued ó Many fracking leasing contracts have substantial lack of financial protection for landowners, you are susceptible to multiple lawsuits. For example, if there are accidents, contamination spills, etc. on your property you can be sued by those involved in accidents even if they work for the fracking operator. You are also at great risk to be sued by your neighbor if the fracking company leasing your land contaminates your neighbor's water wells, land, and air. You may also be sued for medical expenses and pain and suffering if neighbor can prove that the fracking operations on your property caused his/her sickness.

Large Legal Fees – Predatory mineral rights leasing is very common – You are taking a VERY great financial risk if you sign a lease agreement without hiring an attorney who is knowledgeable about fracking lease agreements. If the fracking operator or if you violate the terms of the leasing contract you will need knowledgeable attorneys to fight for you. Also if you get sued by your neighbor, you will also need an attorney. This can get VERY EXPENSIVE.

Breach of Mortgage Terms with Lender - Most lenders/banks must follow the guidelines established by the major federal loan guarantors (Fannie Mae, Freddie Mac, Farmer Mac, FHA, etc...) and prohibit specific fracking activities on the mortgaged property. For example, the following is a statement from NC State Employee Credit Union:

óThe standard Fannie Mae/Freddie Mac Deed of Trust document recorded for most real estate liens prohibits the homeowner from selling or transferring any part of the property during the term of the loan without obtaining prior written approval from an official of the financial institution holding the mortgage. This includes the oil, gas and minerals found on the property. Any property financed with a State EmployeesøCredit Union mortgage falls under the aforementioned restriction. Approval of exceptions from State EmployeesøCredit Union would not be granted due to heightened risk concerns associated with extraction of these natural resources, including hydraulic fracturing technology (otherwise known as fracking or horizontal drilling). Specific, specialty real estate lending laws for North Carolina dealing with these types of transactions should

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be considered. Any questions relative to this position should be directed to SECU Loan Administration at 1-800-438-1105.

Breach of Title Insurance - Title insurance often contains the restrictions that fracking operations by nature violate. For example, some title insurance does not allow structures to exceed 35 feet high or to be used for any commercial purpose of any kind. If title insurance is violated, it would make it difficult to get title insurance and thus difficult to get a mortgage or refinance.

House/Land/Farmers Insurance does not cover the “Fracking Liability” ó Since the fracking operators on your property are engaged in a commercial enterprise, they are NOT considered your guests. Your land/home insurance will NOT cover your financial liability if a fracking worker gets hurt on your property. You can get personally sued. Also they are not your employees so you are NOT covered by farm insurance.

Royalty Payment “Legal” Robbery (Common) ó Federal law requires that fracking operators give landowners a minimum of 12.5% in royalties of natural gas extracted from your land. BUT, they are legally able to subtract operational cost, fees and other expenses from your royalty payments. For example your monthly royalty check can go from \$1000 to \$70 to \$0. You really don't have a reliable way to personally monitor how much gas is being extracted from your land and sold. You just have to trust them. Instead of selling the gas, they can use it for themselves to run equipment, etc. No sale, no royalties for you. To keep royalties low, fracking operators have been known to set up another company or limited partnership to which it sells the natural gas extracted from your land at reduced prices. Then the company they set up sells the gas at full value in the marketplace. Royalty payments are usually based on the initial transaction. You will NOT get royalties from the second full value sale. There are cases where companies barter for services off the books to hide the full value of gas extracted from your land.

Low lease payments per acre ó There are many cases where landowners are receiving as low as \$3 per acre each month. In 2014 many residents in Durham County, NC have been offered only \$40 per acre.

Cost for baseline soil and water testing ó In order to have any legal proof that the fracking operators contaminated your water or soil, you will need to pay for baseline analysis of your water and soil before you sign a lease agreement.

Land will become an Industrial Zone ó Your landscape will drastically change. Roads, compressor stations, fracking towers, storage tanks, chemical waste ponds, flaring, heavy semi-truck traffic, diesel and chemical smells will be part of your landscape.

Denies Right to Opt Out ó Most lease agreements do not have protections for the landowner to opt out a signed agreement. You can be stuck for many years.

Lies of Promised Wealth ó Signing a lease agreement is no guarantee of wealth. Many who have signed leases with fracking operators have been promised riches for many years to come only to find out that it was a lie. For example, struggling farmer in Pennsylvania with 360 acres sold his farm equipment and livestock expecting to retire and live off the lease payments and royalties that the fracking operators pay him. He was promised great wealth only to find out his big \$8,506 check from the fracking operators dwindled down to \$1,690 per month (<http://ecowatch.com/2013/08/14/fracking-industry-avoids-royalties-landowners/>). <http://chej.org/2013/02/sad-story-lives-ruined-by-lies-and-mistruths/>).