

Is the time and expense of engaging my own attorney and negotiating a written contract with the gas company really necessary?

Some say yes and some say no. If you do not choose to hire an attorney, it is essential that you educate yourself in all areas of the well-drilling procedures from a property owner's point of view. A written *Surface-Use Agreement* (or *Pipeline Right-Of-Way Agreement*) may be a good way to solidify your contract provided you haven't worded it in a way that might be to your detriment in the future. Be aware that ultimately it is up to you to protect your rights. Compensation of any kind from the companies to the surface owner varies dramatically from owner to owner depending on what the surface owner is willing to accept. What you accept depends on whether or not you know your rights and how well you negotiate. Do your homework and get whatever help you need to feel confident.

Is it true that I will be liable for each day of earnings that are lost to the gas company while I consult with my own attorney?

No! You are entitled to a reasonable amount of time to ensure the protection of your rights and interests as the surface owner.

Can the gas company locate the well anywhere on my property that they want?

The gas company is required to consult with you about the exact location of the well and access road with the surface owner, within the legal confines of the drilling window. They may tell you that if you don't agree to their desired site, they will then locate the well in an even more detrimental site to you. Don't panic, there are

some county regulations to protect your interests. You can request a county land use hearing or a site inspection meeting with the gas company, county, and yourself. However, you must make a good faith effort to negotiate an agreement.

The gas company may also say that you can't divulge to your neighbor or others the terms of compensation to which you have agreed. This is only true if you have signed a document with such a non-disclosure clause. You are not legally bound to sign this, just say no.

Take control of the negotiations!

Do not allow yourself to be intimidated by gas company representatives who are trying to get what they want. Don't sign any documents or accept any checks, money, or favors until you educate yourself sufficiently or consult your attorney. Consider getting a contract with terms suitable to you and that avails the use of all new technology. Then you can present your contract to the gas company for them to sign.

County, State, and Federal Contacts in Southwest Colorado

La Plata County:
Commissioners
970-382-6219
1060 E. 2nd Avenue, Durango, CO 81301
Local Oil & Gas Governmental Designee
Steve Clay, 970-382-6267
1060 E. 2nd Avenue, Durango, CO 81301

Archuleta County:
Commissioners
970-264-2536, Pagosa Springs, CO 81147
Local Oil & Gas Governmental Designee
Marcus Baker, 970-264-5851
PO Box 1507, Pagosa Springs, CO 81147

Colorado Oil & Gas Conservation Commission
Local Office
Mark Weems, 970-259-4587
50 Long Hollow Lane, Durango CO 81301
State Office
Complaint Line: 888-235-1101 (toll free)
General Phone: 303-894-2100
Fax: 303-894-2109, www.oil-gas.state.co.us
1120 Lincoln St., Ste 801, Denver, CO 80203

U.S. Bureau of Land Management
Helen Mary Johnson, Minerals Manager
970-247-4874, Oil & Gas Reports 970-385-1378
San Juan Public Lands Center
15 Burnett Court, Durango, CO 81301

Rights of Adjacent Property Owners

If you own property adjacent to where a gas well, pipeline, or compressor is being constructed, call your county planning department to see what your rights are. You may also want to contact the surface owner of the land in question to ask if they would be willing to include your concerns in their negotiations.

1 This brochure is for informational purposes only and should not be construed as legal advice. The San Juan Citizens Alliance urges affected landowners to contact an oil and gas attorney experienced in representing the surface owner's rights, and / or to educate themselves sufficiently about their gas drilling situation.

2 La Plata County Impact Report, Draft 2, June 2002, Working Paper 11/12/01 – "Measuring the Impact of Coalbed Methane Wells on Property Values," page 19. Prepared by BBC Research & Consulting for Greystone Environmental Consultants.

3 "Ozone and Your Health in the Four Corners." Brochure published by University of New Mexico Community Environmental Heal Program, 2003.

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So, a Coalbed Methane Company Has Notified You that a Gas Well is Coming to Your Property

A Southwest Colorado Landowner's Guide to Protecting Your Interests



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If a gas company has notified you that a coalbed methane (CBM) gas well is going to be drilled on your property, here is some basic information to help you through the maze of questions you may have. This is also to let you know that surface owners DO have some rights. If you would like more details than provided here, please contact the San Juan Citizens Alliance.¹

How will a gas well, pipeline, or compressor station, along with the corresponding truck traffic, impact my life?

Gas wells make noise during installation and to a lesser degree, for the life of the well. Unless sound-proofed, compressors make loud, nonstop noise 24 hours a day for decades.

Your drinking water is at risk. Though the industry disputes this claim, numerous home owners have found their drinking water well dried up or fouled after a gas well is drilled nearby.

Trees and/or livestock may be damaged or die due to toxic contamination caused by gas drilling and production operations.

A La Plata County study showed that a gas well will likely result in a net reduction in property value of 22%.²

The gas that the companies are after exists in underground coal deposits called coal seams. To produce the gas, water must be removed from the seam – and when this is done in a seam near the surface, methane may seep to the surface and kill vegetation and contribute to fire risk. This is why regulations ban

drilling within 1.5 miles of the Fruitland Formation Outcrop – the “hogback” north of Hwy 160.

Each gas well and compressor contributes to the already high levels of ozone in the Four Corners Area. Ozone is a known health risk.³ After the well is drilled, the gas company comes back regularly to rework the well with such procedures as cavitation, fracing, and flaring. These procedures can be loud and disruptive, can shake the ground so hard that your whole house vibrates, and can also be dangerous (i.e. can cause under- and above-ground fires). The procedure called “flaring” may cause jets of fire to shoot tens of feet into the air.

Can I refuse this gas well? Possibly. Before signing any document, consult your county planning office and the Colorado Oil & Gas Conservation Commission. Additionally, you may want to consult an attorney experienced with oil and gas issues affecting landowners (*as opposed to an attorney experienced in representing the gas companies*) and learn what your legal rights are. In Colorado, the surface owner and the mineral owner each have certain legal rights. According to a Colorado court ruling (the Magness vs. Gerrity case), in general, surface owners and mineral rights owners must accommodate each other. The final decision about a gas well on your property depends on your individual situation.

What are my options if a gas well is unavoidable? Other surface owners have negotiated the best possible deal for them-selves with the gas company. Items that can be negotiated include, but are not limited to, the following:

The specific location of the well and access road on your property.

How the access road and well pad shall be constructed and maintained, as well as size of the well pad after initial construction. Upgrading of existing roads or construction of new roads (including culverts, grates, and cattle guards) should be to industrial standards capable of handling industrial-sized traffic.

How access to the well pad will be controlled (i.e. locks on gates, etc.)

Whether weed control on the pad, pipeline, or access road will be by mechanical or chemical means and, if chemical, which chemicals. Repair or financial compensation for any damages to the quality and quantity of your drinking water well, livestock, or landscaping. Noise mitigation and use of new technologies that minimize noise, such as hospital-grade mufflers and other sound proofing measures, and using a hydraulic type pump (Dyna-Pump) instead of a beam pump.

Visual mitigation and use of new technologies, such as landscaping and using a smaller, quieter hydraulic pump instead of a beam pump.

Short-term reclamation of well pad and access road (i.e. closing of drilling pits, reseeding, removal of waste and debris, planting trees, etc. – all of which would be done within 3 months of initial construction and installation).

Timing of drilling and oil and gas operations. Restrictions on cavitation or similar procedures during the life of the gas well.

Financial compensation for use of your sur-

face (their use, your loss of use), decrease in property value, additional taxes you may be assessed for the gas well “improvements,” any increased costs you incur due to the gas well development, plus other compensation applicable to your situation.

Financial compensation for any sand or gravel on the site, with assessment and valuation by an independent geologist. (Sand and gravel generally belong to the owners of the surface rights, not the holder of sub-surface mineral rights.)

Inventories and appraisals:

Regardless of what you negotiate with the company, consider a complete inventory of your property before construction on the well begins. This might include identifying, appraising, and photographing items of value on, and adjacent to, the proposed site, such as: trees, grass, soil, springs, ponds, birds and other wildlife, rock formations, gravel, or structures. This inventory will serve as documentation in case any questions arise about whether or not the terms of your contract have been met, as well as proof as to what the site looked like prior to development.

Assessment and testing of the quality and quantity of your drinking water, if you are on a well, prior to gas well construction and then annually after construction.

In negotiations with the company, you might consider asking them to pay for these inventories and appraisals.