



# EMENS & WOLPER LAW FIRM

A LEGAL PROFESSIONAL ASSOCIATION

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## *Ohio Shale & Pipeline Update April 2015*

Dear Clients, Friends and Colleagues:

The key current issues for landowners that we are seeing, which are all reported on:

- Pipeline easements not protecting the property nor providing adequate compensation to landowners - - a list of our informational pipeline meetings is on page 2;
- Landowner royalty checks showing unauthorized past production deductions;
- Are all produced natural gas liquids being reported to the Ohio Department of Natural Resources?;
- Will horizontal drilling in the Clinton create major new activity in this historically old formation?; and
- Will oil and gas drilling slow in Ohio because of lower oil and gas prices?

We look forward to hearing your comments and questions. If there is a topic you would like us to discuss in our next newsletter, please email or call us!

Sincerely,

Emens & Wolper Team  
Bea, Chris, Craig, Dick, Gail, Kelly, Michael, Sean



**\*\*\*Ohio Landowner Alert\*\*\***



**Pipeline Easements** - Many pipeline companies currently want pipeline easements and rights-of way from Ohio landowners. It is vital for landowners to know that easements usually last forever; and they should be thought of as a sale of land rather than a lease of land. The easement must contain language that will protect landowners. The “form” easements landowners initially receive from pipeline companies often lack essential landowner protections and provide insufficient compensation. Before discussing terms or compensation with pipeline company, or an agent for the pipeline company, please call a knowledgeable attorney.

**Royalty Payments** - We continue to review landowner’s royalty statements and discover companies taking unwarranted deductions. Before cashing a royalty check, please make sure it is accurate.



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## Emens & Wolper Upcoming Presentations

### On Pipelines

**Thursday, April 16, 2015**  
Wauseon High School Auditorium  
840 Parkview St.  
Wauseon, OH 43567  
(Fulton County)

**Friday and Saturday,  
April 17-18, 2015  
(Individual landowner  
meetings)**  
Sauder Village Inn  
22611 OH-2  
Archbold, OH 43502  
(Fulton County)

**Tuesday, April 21, 2015**  
Woodmore High School  
633 Fremont St.  
Elmore, OH 43416  
(Sandusky County)

**Wednesday, April 22, 2015**  
Greenwich - South Central High  
School Cafeteria  
3305 Greenwich Angling Rd.  
Greenwich, OH 44837  
(Huron County)

**Tuesday, April 28, 2015**  
Fremont Ross High School  
1100 North St.  
Fremont, Ohio 43420  
(Sandusky County)

**Thursday, April 30**  
McCormick MS Auditorium  
201 S. Main St.  
Wellington, Ohio 44090  
(Lorain County)

## EXPLORATION AND DEVELOPMENT UPDATE

**4Q14 Production:** According to the Ohio Department of Natural Resources, the fourth quarter of 2014 saw an increase in natural gas production. Production from 779 horizontal Utica Shale wells jumped 18.1 percent. Natural gas production increased 25.6 percent. That's a 200 percent increase in oil production and 300 percent increase in natural gas production since 2012-2013. For more information, see <http://www.jdsupra.com/legalnews/the-shale-play-today-march-2015-11029/> and <http://oilandgas.ohiodnr.gov/production>. We question whether all of the NGL's (natural gas liquids) that are being produced are actually being reported since ODNR only requires that oil and gas be reported.

According to ODNR's records the top ten oil 4Q14 wells in production are:

<u>Most Productive Oil Wells</u>	<u>Company</u>	<u>Well Name</u>	<u>County</u>	<u>Township</u>	<u>Amount of 4Q14 Production in barrels</u>	<u>Days of Production</u>
1	American Energy	Shugert Daddy 3H	Guernsey	Wills	56496	92
2	American Energy	Shugert Daddy 1H	Guernsey	Wills	55234	92
3	American Energy	Shugert Daddy 5H	Guernsey	Wills	51968	87
4	Chesapeake	Smeltz	Carroll	Lee	28106	92
5	American Energy	Jones	Harrison	Nottingham	27136	92
6	Chesapeake	GF Farms	Carroll	Center	26689	89
7	Antero	Vorhies	Noble	Seneca	25638	92
8	RE Gas	Jenkins	Carroll	Washington	25188	92
9	Chesapeake	Dodson 6H	Harrison	Stock	25145	91
10	Chesapeake	Dodson 8H	Harrison	Stock	23556	91

The top ten gas wells in production are:

<u>Most Productive Gas Wells</u>	<u>Company</u>	<u>Well Name</u>	<u>County</u>	<u>Township</u>	<u>Amount of 4Q14 Production in MCF</u>	<u>Days of Production</u>
1	Eclipse	Shroyer	Monroe	Salem	1895281	92
2	Eclipse	Shroyer	Monroe	Salem	1833001	92
3	Rice	Blue Thunder	Belmont	Smith	1446714	92
4	Rice	Blue Thunder	Belmont	Smith	1445821	92
5	Antero	McDougal	Monroe	Seneca	1383860	85
6	Rice	Bigfoot	Belmont	Smith	1325905	92
7	Antero	McDougal	Monroe	Seneca	1293468	85
8	Antero	Gary	Monroe	Seneca	975488	92
9	Gulfport	Wesley	Belmont	Somerset	919065	90
10	Gulfport	Shroyer	Monroe	Salem	917128	92



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## ***Landowner Groups and Other Ohio Counties Where Emens & Wolper has Assisted Landowners:***

Black River Landowners Association-- Lorain County

Central Ohio Landowners Association--Richland & Ashland counties.

Coshocton County Landowners Group-- Coshocton & Northeastern Muskingum counties.

Jefferson County Landowners Group--Jefferson County.

Mohican Basin Landowners Group--Ashland, Wayne, & Holmes counties.

Muskingum Hills Landowners Southeastern Muskingum County.

Perry County Landowners -- Perry County.

Resources Land Group-- Licking and Southeastern Knox County.

Smith Goshen Group-- Belmont County.

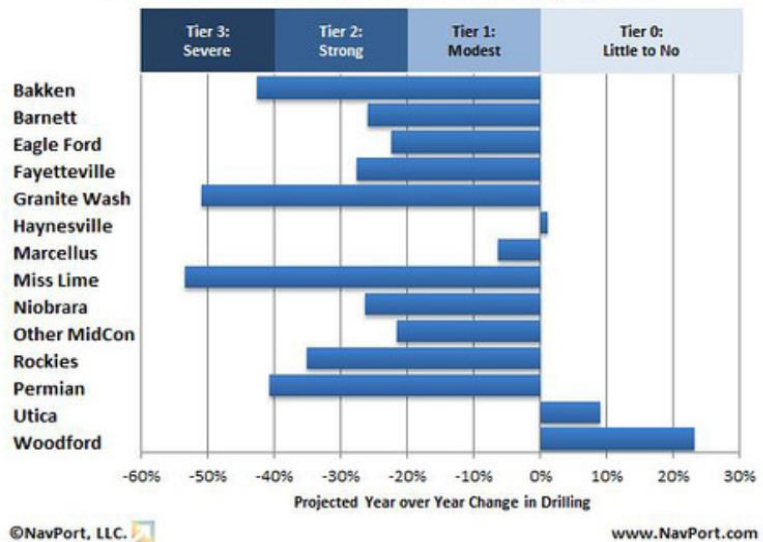
Ashland, Ashtabula, Athens, Carroll, Columbiana, Crawford, Defiance, Delaware, Fayette, Franklin, Fulton, Geauga, Guernsey, Hardin, Harrison, Henry, Highland, Hocking, Holmes, Mahoning, Marion, Meigs, Monroe, Noble, Pickaway, Portage, Ross, Stark, Summit, Trumbull, Tuscarawas, Union, Washington, Wayne , Wood and others.

## EXPLORATION AND DEVELOPMENT UPDATE, CNT'D

**Potential Clinton Formation Horizontal Drilling:** Several companies are experimenting with drilling horizontally in the Clinton Sandstone formation. For decades, operators have drilled vertically into the Clinton formation. Mark Lytle, CEO emeritus of Wooster-based Buckeye Oil Producing Co. says horizontal Clinton wells are three times more costly than comparable vertical-only wells, but the horizontal wells are seven to eight times more productive. Greg Mason of the Newark-based Energy Cooperative said the new horizontal drilling was 10 times more expensive than vertical wells, but the production results were 20 times greater than a vertical well. Enervest Energy Ltd. has drilled 10 initial wells and indicated that the results looked promising, but the company has released little information about its exploration. The new horizontal wells cost from \$1 million to \$3 million per well, far less than the bigger Utica shale wells that cost from \$6 million to \$10 million per well. For more information, see <http://www.ohio.com/blogs/drilling/ohio-utica-shale-1.291290/drillers-tap-into-clinton-berea-sandstones-with-horizontal-wells-1.574418>.

**Will Drilling Slow?** With the significant decline in oil and gas commodity prices, we are seeing many of the oil and gas companies slowing their drilling activities, cutting their capital expenditure budgets, and slowing completion times. We expect many of the companies will continue to drill and develop acreage so leases do not expire, but they will drill less wells off each pad. NavPort, a company that collates oil-well and rig data using regulatory reports, expects most shale basins in the United States to see huge declines in well completion this year primarily due to price of oil and gas commodities. The chart below shows the expected decline in 2015 well completions in the 14 U.S. shale formations with the most production. As you can see, even though many of the shale basins will likely be impacted, NavPort estimates the well completion rates will not be dramatically reduced in the Utica Shale. NavPort set tiers for the expected production cuts, with Tier 0 being little to no cuts, Tier 1 being modest cuts ranging up to 20%, Tier 2 being strong cuts ranging up to 40%, and Tier 3 being well-completion reductions of more than 40%. For more information, see <http://www.ohio.com/blogs/drilling/ohio-utica-shale-1.291290/falling-prices-will-have-little-impact-on-utica-shale-navport-says-1.576185>.

2015 Well Completion Reduction Severity by Basin







## Emens & Wolper Law Firm Legal Services

Our law firm provides numerous legal services related to natural resources including the following:

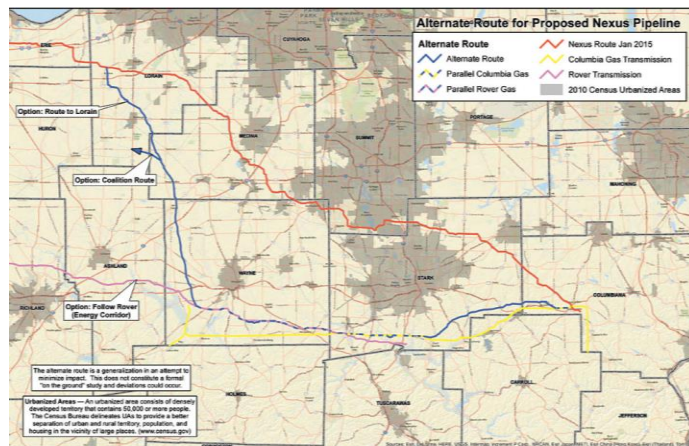
- We review, analyze and negotiate NEW and OLD oil and gas leases and mineral deeds;
- We review royalty payments and division orders;
- We review, analyze and negotiate pipeline easements;
- We analyze mineral abandonment claims and claims regarding expired leases;
- We represent landowners in ODNR mandatory unitization proceedings who are being forced unitized;
- We review, analyze and negotiate water, sand, timber, gravel, and coal rights agreements;
- We review, analyze, negotiate sale of minerals and royalties; and
- We assist with litigation on all these matters.

Our law firm also provides services regarding estate planning, succession planning for family businesses, and purchases and sale of businesses.



## PIPELINE AND INFRASTRUCTURE UPDATE

**Nexus Potential Re-Route:** The Federal Energy Regulatory Commission (FERC) has directed Nexus to investigate an alternative pipeline route that would relocate the \$2 billion project to less populated areas. NEXUS initially proposed a 200-mile corridor of 42-inch-diameter pipe capable of transporting as much as 2 billion cubic feet of gas per day, an amount that would meet the needs of around 20,000 homes for a year. The city of Green has urged moving about 103 miles of the Nexus pipeline away from southern Summit County and northern Stark County into southern Stark and Wayne counties, then western Wayne, Medina and Lorain counties. Below is an approximate map of the proposed re-route. For more information, see <http://www.charlotteobserver.com/news/business/national-business/article16464314.html#storylink=cpy>.



**Kinder Morgan Utopia Pipelines:** The project consists of two 12" pipelines that appear to run a similar route as Rover from Harrison through Wayne Counties and then heads further north through Ashland, Huron, Seneca, Sandusky, and Lucas Counties. It would enter Henry County in the northeast corner of the county and run north through Eastern Fulton County.





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*Please visit our website for Educational Articles*

[www.emenswolperlaw.com](http://www.emenswolperlaw.com)

Selling Your Mineral Rights - -Questions You Should Consider First!  
Separating your Mineral Rights:  
Remember Real Estate Taxes  
Post-Production Costs: Protecting Landowner Rights  
Oil and Gas Leases and Pipeline Easements - -This Time It's Different  
Oil and Gas Considerations When Buying and Selling Farmland  
"Force Pooling" in Ohio: Requiring Non-Consenting Landowner's to Develop Their Oil and Gas Minerals  
"Mineral Rights ARE Different!"  
Pipeline Easements and Right of Ways: Protecting Your Rights  
Pipeline Easements: Steps to Protecting Landowner Rights  
Unusual Ohio Oil and Gas Lease Provisions  
Ohio Oil and Gas Conservation Law--The First Ten Years (1965-1975)

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**E.T. Rover Pipeline Filed with FERC:** In late February, 2015, Rover filed its formal application with the Federal Energy Regulatory Commission (FERC) to obtain its Certificate of Public Convenience and eminent domain rights. Even though the Application was filed nearly six weeks after its proposed filing date, Rover indicated it expects to receive its Certificate before the end of 2015. Rover has made offers to purchase easements to hundreds of landowners. A major issue for many landowners in the central and northwest part of Ohio is how the two Rover 42 inch pipelines will affect the landowners drain tile; Rover has published an Agricultural Impact Mitigation Plan which Rover claims will solve the drain tile and other cropland issues.

## LEGAL UPDATE

**Chesapeake vs. McClendon:** In February 2015, Chesapeake Energy filed a lawsuit against its co-founder and former CEO Aubrey McClendon in Oklahoma. Chesapeake is accusing Mr. McClendon of theft of confidential company information. Chesapeake claims Mr. McClendon "misappropriated highly sensitive trade secrets from Chesapeake," using them to help his own oil venture American Energy Partners LP. Chesapeake has accused the former senior executive of stealing maps and information about unleased shale formation acreage. For more information, see <http://www.bidnesstc.com/35025-chesapeake-energy-corporation-accuses-exceo-and-cofounder-of-stealing-trade/>.

**Home Run Rule:** The Ohio Supreme Court has decided an Ohio community cannot use its zoning laws to ban fracking because state law trumps its home rule stance in *Morrison v. Beck Energy Corp.*, Slip Opinion No. 2015-Ohio-485. In 2012, the city of Munroe Falls told Beck Energy to stop work on drilling a well as it was in violation of local zoning ordinances. The Ohio Supreme Court ruled the Ohio Department of Natural Resources regulates drilling and since it approved the well site, Beck had the right to drill its well even if it violated local zoning ordinances. For more information, see [http://www.bizjournals.com/columbus/blog/ohio-energy-inc/2015/02/ohio-supreme-court-sides-with-drillers-in-dispute.html?ana=e\\_colum\\_nrg&u=w3iD49mwbY2J5MVGyevsQESAPSV&t=1427899092&page=3](http://www.bizjournals.com/columbus/blog/ohio-energy-inc/2015/02/ohio-supreme-court-sides-with-drillers-in-dispute.html?ana=e_colum_nrg&u=w3iD49mwbY2J5MVGyevsQESAPSV&t=1427899092&page=3).

**Pipeline Property Quick-Take:** In early December 2014, Texas Eastern had its OPEN pipeline project approved by the Federal Energy Regulatory Commission (FERC). As part of this approval, Texas Eastern received the right of federal eminent domain. Just before Christmas, Texas Eastern filed a law suit against Ohio landowners that had not settled with Texas Eastern on their pipeline easement. Within a few weeks, a Federal Judge granted Texas Eastern the right of "quick-take", which means Texas Eastern had the right to enter the properties of those landowners that had not granted an easement and install the pipeline even though Texas Eastern doesn't have an easement. Unless settled, the litigation will proceed to determine landowner compensation and the terms of the easement. This is the second time in the past few years where an Ohio federal judge granted quick-take. If you are dealing with a pipeline, please make sure you have knowledgeable attorneys representing you.





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## UTICA HORIZONTAL WELL STATUS THROUGH 2/28/2015

- ★ PRODUCING (818)
- ▼ DRILLING; DRILLED (564)
- PERMITTED OR NOT DRILLED (455)

OPERATOR	LBL	PROD	PMT	DRLG	DRLD	TOT
AMERICAN ENERGY UTICA LLC	AEU	36	17	57	25	135
ANADARKO E & P ONSHORE LLC	APC	0	1	0	0	1
ANTERO RESOURCES CORPORATION	ARC	58	15	59	10	142
ARTEX OIL COMPANY	ARX	6	4	0	0	10
ATLAS NOBLE LLC	ATL	8	4	0	0	12
BEUSA ENERGY LLC	BEUS	1	0	0	0	1
BP AMERICA PRODUCTION COMPANY	BP	0	0	0	1	1
BRAMMER ENGINEERING INC	BMR	0	0	2	0	2
CHESAPEAKE EXPLORATION LLC	CHK	442	146	29	152	769
CNX GAS COMPANY LLC	CNX	26	15	3	15	59
CARRIZO (UTICA) LLC	CRZO	4	11	1	0	16
CHEVRON APPALACHIA LLC	CVX	0	3	7	0	10
DEVON ENERGY PRODUCTION CO	DEV	2	5	2	4	13
ECLIPSE RESOURCES LLP	ECL	30	31	12	36	109
EM ENERGY OHIO LLC	EME	0	6	0	0	6
ENERVEST OPERATING LLC	EOS	2	18	0	2	22
EQT PRODUCTION COMPANY	EQT	2	4	1	1	8
MOUNTAINEER KEYSTONE LLC	FRC	5	2	0	1	8
NGO DEVELOPMENT CORP	NGO	0	0	1	0	1
GULFPORT ENERGY CORPORATION	GPOR	105	59	36	13	213
HALL DRILLING LLC (OIL & GAS)	HALL	0	0	1	0	1
HILCORP ENERGY COMPANY	HCP	3	25	9	1	38
HESS OHIO DEVELOPMENTS LLC	HES	31	16	7	14	68
HG ENERGY LLC	HGE	0	4	2	1	7
HALCON OPERATING COMPANY INC	HK	2	6	0	5	13
TRIAD HUNTER LLC	MHR	7	6	5	0	18
PDC ENERGY INC	PDC	19	4	10	3	36
RICE DRILLING D LLC	RDD	7	12	8	3	30
R E GAS DEVELOPMENT LLC	REG	20	13	8	0	41
SIERRA RESOURCES LLC	SIE	2	0	0	1	3
STATOIL USA ONSHORE PROP INC	STO	0	0	0	3	3
SWEPI LP	SWE	0	0	0	1	1
XTO ENERGY INC.	XTO	5	22	2	11	40
<b>TOTALS</b>		<b>823</b>	<b>449</b>	<b>262</b>	<b>303</b>	<b>1837</b>

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