

MEMORANDUM

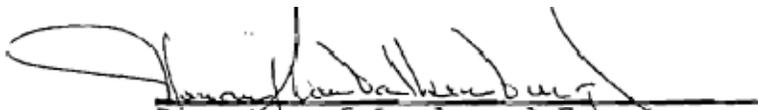
June 24, 1986

TO: Bureau/Section Chiefs
FROM: Norman J. VanValkenburgh.
SUBJECT: Memorandum of Understanding Between Mineral Resources
and Lands and Forests

Attached hereto is a copy of the final Memorandum of Understanding with the Division of Mineral Resources. Please be guided by the provisions of this memorandum in those of your programs covered therein.

Attachment

cc: G. Savas


Director of Lands and Forests

Accelerated Leasing of Onshore
State Lands

MEMORANDUM OF UNDERSTANDING WITHIN THE NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION BETWEEN THE DIVISION
OF LANDS AND FORESTS AND THE DIVISION OF MINERAL RESOURCES
REGARDING PRACTICES AND PROCEDURES FOR RENEWED COMPETITIVE OIL
AND GAS LEASING OF LANDS CONTROLLED BY THE DIVISION OF LANDS AND
FORESTS.

Procedures

Pre-Leasing Process

1 - The leasing process for oil and gas exploration is set in motion by various mechanisms such as:

A. An oil and gas exploration company submitting a written request to the Division of Mineral Resources together with the appropriate earnest money, requesting the Department put up for bid a particular parcel of State owned lands.

B. The Department, based on its technical knowledge of the oil and gas resources of an area, and acting on its own initiative, decides to lease certain Department lands for oil and gas purposes.

C. Other State agencies requesting the Department to lease lands under their jurisdiction.

2 - Upon receipt of a request to lease State lands, the Division of Mineral Resources advises the Division of Lands and Forests and requests approval to proceed.

3 - The Division of Mineral Resources, in cooperation with the Division of Lands and Forests establishes target dates for the leasing process.

4 - The Division of Lands and Forests will conduct a preliminary on-site inspection to identify special management considerations to be included in the request for conceptual approval to be prepared by the Division of Mineral Resources.

5 - Once conceptual approval is received, the Division of Lands and Forests in cooperation with the Division of Mineral Resources will conduct an intensive on-site inspection following guidelines established by the Division of Lands and Forests to define, in detail, potential environmental problems, management conflicts and public use impacts. Documentation of the on-site inspection shall be provided to Mineral Resources by the Division of Lands and Forests depicting special management conditions and terms to be included in the lease.

6 - The Division of Lands and Forests, through the Bureau of Real Property, will review acquisition records to determine the status of the mineral rights on the proposed area. The

Division of Mineral Resources shall prepare a map of the area showing all pertinent leasing data.

7 - The Division of Mineral Resources and the Division of Lands and Forests will jointly prepare the necessary documentation to comply with the provisions of the State Environmental Quality Review Act.

8 - The Division of Mineral Resources prepares the requisite leasing package to include Legal Notice to bidders, advertisement for publication in the Oil and Gas Journal, Bid Documents including both standard conditions and special conditions established by the Division of Lands and Forests and the formal lease. These documents are submitted to the Division of Lands and Forests for Central Office and Regional approval prior to establishing a bid opening date with the Office of Fiscal Management.

9 - On the appointed day and time, the Contract Unit of Fiscal Management publicly opens and reads the bids received after which they are transmitted to the Division of Mineral Resources for recommendation and consultation with the Division of Lands and Forests after which Mineral Resources submits same to Fiscal Management for appropriate action.

Lease

1 - Upon approval of the lease by all appropriate State agencies, copies of the approved lease are transmitted to the Division of Mineral Resources by Fiscal Management.

2 - The Division of Mineral Resources establishes a lease file in the Central Office for the subject lease and sends copies of the approved lease to:

- A. The Division of Land and Forests.
- B. The appropriate Regional Supervisor of Natural Resources.

3 - The regional leasing staff shall schedule a meeting with the Lessee and regional land management staff to review the conditions of the lease with particular emphasis on the special land management conditions, the various required permits and approvals needed prior to commencing drilling operations.

Inspections

1 - The Division of Lands & Forests land manager will be responsible for on-site approval of all access roads, stream crossings, well locations, disposal pits and pipeline locations as well as providing for periodic on-site inspections to ascertain compliance with environmental safeguards. Any violation of land use requirements shall be reported to the Regional Supervisor for appropriate action.

2 - Regional Mineral Resource staff will provide periodic site inspections during drilling operations and be present during hydro fracturing operations. In addition, after producing wells are developed, Mineral Resources staff will conduct periodic inspections to verify meter readings as well as be present during meter tests.

3 - Upon completion of production, Regional Mineral Resource staff shall be present during plugging operations and the Regional Lands and Forests staff shall inspect the site for compliance with restoration requirements.

Administration

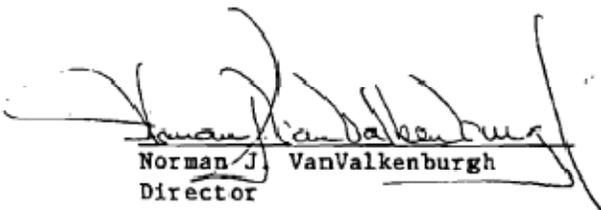
- 1 - Lessee shall submit to Central Office of Mineral Resources all requests for approvals of:
- A. Farm outs
 - B. Gas Sale Contracts
 - C. Assignments
 - D. Pooling Agreements
 - E. Spacing orders

Central Office, after review and approval of the foregoing, will notify the Division of Lands and Forests, the Regional Supervisor of Natural Resources and the Regional Minerals Program Manager.

2 - Lessee shall submit to the Regional Mineral Resource Program Manager, for approval, all drilling plans. Drilling plans will be acted on in the Region after consultation with the Regional Lands and Forests staff. Copies of all approved plans will be sent to the Central Office of the Division of Mineral Resources for information purposes.

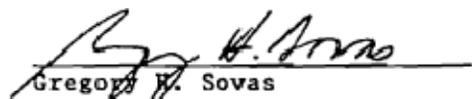
3 - All rental and royalty payments will be submitted by the Lessee to the Central Office of the Division of Mineral Resources for processing In accord with established procedures. Quarterly reports of receipts will be prepared by the Central Office of Mineral Resources and distributed to the Division of Lands and Forests for information purposes.

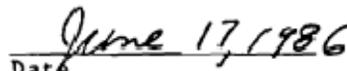
Division of Lands and Forests


Norman J. VanValkenburgh
Director
Division of Lands and Forests


June 17, 1986
Date

Division of Mineral Resources


Gregory H. Sovas
Director
Division of Mineral Resources


June 17, 1986
Date

Environmental Conservation Law

§ 23-1101. Procedure for obtaining oil and gas production lease.

1. The department may make leases on behalf of this state, upon such terms and conditions including consideration as to the department seem just and proper for:

- a. The exploration, development and production of gas in state-owned lands, except state park lands and the lands under the waters of Lake Ontario or along its shoreline; and
- b. The exploration, development and production of oil in state-owned lands, except state park lands and the lands under the waters of Lake Erie and Lake Ontario or along their shorelines.

2. All oil and gas leases shall:

- a. Be limited in duration to a period not to exceed ten years and as long thereafter as oil and gas is produced in commercially paying quantities;
- b. Provide for payment to the agency having jurisdiction over the leased lands of such consideration, royalties, rentals, bonuses and other compensation as shall, in the discretion of the department, be in the best interests of the people of the state of New York;
- c. Provide for prompt exploration followed within a reasonable time by operations for the production of oil and gas, if such be found, and shall also contain provisions for the termination of such lease by reason of the lessee's failure to so explore or operate;
- d. Be invalid unless they shall have the prior approval of such state department, division, bureau or agency thereof, or state agency having jurisdiction over the land in question; and authority to give such consent is hereby conferred upon the head of any such state department, or a division, bureau or agency thereof, or any state agency, and with respect to lands under water held by the state in its sovereign capacity, jurisdiction is deemed to be in the Commissioner of General Services; and
- e. Be inapplicable to any state park lands and to any lands the leasing of which is prohibited by the State Constitution.

3. In addition to the requirements contained in paragraphs a, c and e of subdivision two of this section, all gas leases with respect to the lands under the waters of Lake Erie shall:

- a. Provide for payment to the general fund of the state such consideration, royalties, rentals, bonuses or other compensation as shall, in the discretion of the department, be in the best interests of the people of the state of New York.
- b. Require that no well shall be permitted nearer than one-half mile from the shore, two miles from public water intake areas, and one thousand feet from any other structure or installation in or on Lake Erie.
- c. Require that the following procedures be established if there is evidence suggesting that liquid hydrocarbons may exist in a stratum penetrated by the well bore:
 - (i) Drilling or completion operations shall cease immediately.
 - (ii) The department shall be notified of the evidence indicating the presence of liquid hydrocarbons, pursuant to such notification arrangements as the department shall prescribe.
 - (iii) A formation test shall be conducted in the presence of a department representative.
 - (iv) If the formation test indicates the presence of appreciable liquid hydrocarbons, the well bore shall be permanently plugged and abandoned from total depth to the lake bottom with cement.
 - (v) If the formation test does not indicate the presence of appreciable liquid hydrocarbons, drilling may be resumed after an intermediate string of casing has been set, cemented and tested.

(vi) If there is any further indication of liquid hydrocarbons the procedures outlined in paragraphs one through five hereof shall be repeated.

d. Require that each lessee, or other person desiring to install a pipeline, bury the most shoreward portion of each pipeline, in accordance with rules and regulations which shall be promulgated by the department, to obviate the risk of damage from ice, wave and wind conditions.

e. Be conditioned upon the posting by the responsible parties of a liability bond or liability insurance coverage in such form as the department may by regulation require and in such amount as the department shall deem to be reasonably sufficient to correct, repair or remedy to the satisfaction of the department any environmental damage or hazardous discharge resulting from gas exploration or recovery.

f. Provide that each lessee shall be strictly liable to the state for all reasonable expenses involved in the restoration of fresh water supplies, cleanup of beaches, piers and other similar facilities, which may be required as a result of exploration, drilling or production operations, and for liability claims arising therefrom.

g. Require each lessee to immediately notify the department of any discharge of oil or other pollutant, to act expeditiously to terminate such discharge and to remove the substance discharged.

h. Provide for the use and regular inspection of modern anti-pollution devices, including blow-out preventors on every drilling rig.

i. Provide that when a well is permanently abandoned for any reason it shall be permanently plugged by filling the well bore for its total depth, with cement or other suitable material.

j. Provide that, where in the department's opinion, damage to the environment is imminent or an emergency exists, the department shall order the immediate plugging and abandonment, either temporary or permanent, of any well on lands beneath Lake Erie.

4. Any such oil, gas, or oil and gas lease or leases made and granted pursuant to this section shall be awarded to the highest responsible bidder after advertisement for sealed bids. Such advertisements for bids shall be published in the official newspaper or newspapers, if any, or otherwise in a newspaper or newspapers designated for such purpose. Such advertisement shall contain a statement of the time and place where all bids received pursuant to such notice will be publicly opened and read. All bids received shall be publicly opened and read at the time and place specified. At least thirty days shall elapse between the first publication of such advertisement and the date specified for the opening and reading of bids. Bids shall be submitted on forms provided by the department, which forms shall indicate the method or methods for computing compensation to the state for the lease and shall contain such other directions as may be appropriate to secure comparability of bids submitted for any given lease. The department, in its discretion, shall determine the highest bid after taking into consideration the anticipated compensation to be returned to the state under any such lease by way of royalty payments, delayed lease rental payments, bonuses or other compensation or consideration, or by a combination of any or all of the same. In cases where two or more responsible bidders submit identical bids, the department in its discretion, may award the lease involved to any of such bidders. The department in its discretion, may also reject any or all bids and readvertise for new bids. The department may disallow any bid if the bidder upon request fails to furnish satisfactory evidence of responsibility.

5. Notwithstanding the requirements contained in subdivision four of this section, the department may negotiate and grant an oil or gas lease on small parcels of stateowned land without public bid in order to consolidate large drilling or production units controlled by a single entity. The department shall make a determination that public bid of such property is unreasonable or impracticable and publish such determination in the state register prior to the granting of any such lease.

6. Notwithstanding subdivision four of this section, the department may negotiate and grant an oil or gas lease of lands identified in subdivision one of this section where oil and gas exploration and development rights are co-owned by the state and another owner, including the United States. The department shall publish its intention to enter into negotiations on such lease in the state register prior to the granting of any such lease.

§ 23-1103. Procedure for obtaining gas storage lease.

1. The department may make leases on behalf of this state for the storage of gas, and liquefied petroleum gas, in state owned lands upon such terms and conditions including consideration as to it shall seem just and proper.

2. All leases made pursuant to this section shall:

a. Provide for payment to the agency having jurisdiction over the leased lands of adequate and reasonable consideration;

b. Be invalid unless they shall have the prior approval of such state department, division, bureau or agency thereof, or state agency having jurisdiction over the land in question, and authority to give such consent is hereby conferred upon the head of any such state department, or a division, bureau or agency thereof, or any state agency; and with respect to lands under water held by the state in its sovereign capacity, jurisdiction is deemed to be in the Commissioner of General Services;

c. Contain such other terms and provisions as may be necessary or appropriate in order to promote the purposes of this article and the public policy of this state; and

d. Be inapplicable to any lands the leasing of which is prohibited by the State Constitution.

§ 9-0507. Leasing of oil and gas rights on reforestation areas.

Notwithstanding any provisions of Article VII of the Public Lands Law to the contrary, the department, with the approval of the state geologist, may, in any lands acquired by the state in accordance with section 9-0501, enter into leases for the purpose of aiding in discovering and removing any oil or gas upon such lands or storage of gas or oil thereon, under such terms as may be prescribed by the department, and upon such conditions that the exercise of such leasehold rights shall not interfere with the operation of such reforestation areas for the purposes for which they were acquired and as defined in Section 3 of article XIV of the Constitution. Any lease made and entered into pursuant to this section shall be recorded in the Office of General Services.

Public Service Law

§ 121-a. Procedures with respect to certain fuel gas transmission lines.

1. All persons who intend to construct fuel gas transmission lines as described in this section shall file with the commission for its approval the standards and practices which will be applied to environmental management and construction of all such lines or shall file a certified statement agreeing to construct such lines in accordance with standards and practices on file and approved by the commission.

2. A notice of intention to construct a fuel gas transmission line as described in subdivision two of section one hundred twenty, which extends a distance of less than five miles and which is six inches or less in nominal diameter, shall be filed with the commission and shall contain:

(a) the date on or about which the applicant intends to begin construction of the line;

(b) a brief statement describing and locating the line;

(c) an indication of the approved environmental management and construction standards and practices that will be followed in an effort to minimize or avoid adverse environmental impacts to the maximum extent practicable.

A copy of such notice shall be served on each municipality in which any portion of such line is to be located and proof of service shall accompany the notice filed with the commission.

3. An application to construct a fuel gas transmission line as described in subdivision two of section one hundred twenty, which extends a distance of less than ten miles, other than a line described in subdivision two of this section, shall be filed with the commission and shall contain:

(a) the information required by paragraphs (a), (b), (d) and (f) of subdivision one of section one hundred twenty-two;

(b) the description of the ecosystem, land use, visual and cultural resources which would be affected by the line; and

(c) an indication of the approved environmental management and construction standards and practices that will be followed in an effort to minimize or avoid adverse environmental impacts to the maximum extent practicable.

A copy of such application shall be served on: (i) the department of environmental conservation; (ii) the department of agriculture and markets; and (iii) each municipality in which any portion of such line is to be located; and proof of service shall accompany the application filed with the commission. The commission shall serve a copy of such application on such other person or entities as the commission may deem appropriate. Such action shall be deemed compliance with the applicable provisions of section one hundred twenty-two of this article. The applicant, the commission and those served shall constitute the parties notwithstanding the provisions of section one hundred twenty-four.

4. If the notice or the application filed pursuant to subdivisions two or three of this section respectively does not comply with the requirements of such subdivision, the commission or its designee shall, promptly, but in no event more than fourteen days from the date on which it receives the notice or application, advise the person in writing of noncompliance and how to comply.

5. Any person may file comments on an application with the commission. The record of the certification proceeding under subdivision seven may be limited to the application, any comments filed by the parties and any report prepared by the staff of the department of public service, whether or not it acts as a party.

6. Upon receipt of a notice with respect to a fuel gas transmission line that complies with subdivision two of this section, the commission shall, within thirty days or less, determine whether there is a substantial public interest requiring that the facility be reviewed in accordance with the provisions of subdivision seven of this section. If the commission determines that such review is not required it shall issue a certificate authorizing such construction. Failure to act within such thirty day period shall constitute a certificate for the purpose of this article. If the commission determines that such review is required, the commission shall serve a copy of the notice which shall constitute the application, on such person or entities as the commission may deem appropriate and which shall be deemed compliance with the applicable provisions of section one hundred twenty-two of this article. The applicant and such persons or entities shall constitute the parties, the provisions of section one hundred twenty-four notwithstanding.

7. The commission shall render a decision upon the record within sixty days from the date on which it receives an application complying with subdivision three or within sixty days from the date on which it receives a notice complying with subdivision two on which it has made a determination that review under this subdivision is in the public interest. Where the commission has required a hearing it may extend the time required to render a decision. In rendering its decision on a notice filed pursuant to subdivision two and reviewed under this subdivision, the commission is required to find and determine only that the construction of a fuel gas transmission line will minimize or avoid adverse environmental impacts to the maximum extent practicable. In rendering its decision on an application filed pursuant to subdivision three, the commission shall make only the determinations required by paragraphs (a), (b), (e), (f) and (g) of subdivision one of section one hundred twenty-six.