

**CONSERVATION AND NATURAL RESOURCES ADVISORY COUNCIL**

March 25, 2009

(717) 705-0031

**MEMORANDUM OF CONCERN**

**SUBJECT:** The Use of State Forest Subsurface Oil and Gas Leasing Funds and the Development of the Marcellus Gas Shale Formation on State Forest Lands

**TO:** Governor Edward G. Rendell  
Michael DiBerardinis, DCNR Secretary  
Commonwealth of Pennsylvania Legislators

**FROM:** Clifford C. David, Jr., Chairman

**CNRAC calls for a temporary hold on any leasing of additional acreage in the state forest system for Marcellus Gas Shale leasing.**

In 1955 an act was passed by the Pennsylvania Legislature entitled the “Oil and Gas Lease Fund.”, which was appropriated to the Department of Forests and Waters, a predecessor to the Pennsylvania Department of Conservation and Natural Resources (DCNR). The legislation said:

“Section 1. All rents and royalties from oil and gas leases of any land owned by the Commonwealth, except rents and royalties received from game and fish lands, shall be placed in a special fund to be known as the “Oil and Gas Lease Fund” which fund shall be exclusively used for conservation, recreation, dams, or flood control or to match any Federal grants which may be made for any of the aforementioned purposes.

Section 2. It shall be within the discretion of the Secretary of Forests and Waters to determine the need for and the location of any project authorized by this act. The Secretary of Forests and Waters shall have the power to acquire in the name of the Commonwealth by purchase, condemnation or otherwise such lands as may be needed.

Section 3. All the moneys from time to time paid into the “Oil and Gas Lease Fund” are specifically appropriated to the Department of Forests and Waters to carry out the purposes of this act.”

Because of the extremely rare condition that Pennsylvania and DCNR finds itself in today - a large budgetary deficit in combination with a large influx of moneys generated through Marcellus Gas Shale lease sales on DCNR-managed lands – a percentage of the Fund was proposed to be used by the Governor to offset a large existing budget deficit. The Conservation and Natural Resources Advisory Council (CNRAC) had issued a Memorandum of Concern on December 10, 2008 stating their support

for a one-time allowance of a portion of the Oil and Gas Lease Fund to be used as a contribution to address this historical budgetary deficit.

However, recent legislative proposals have compelled us to re-issue a Memorandum of Concern regarding the use of Oil and Gas Lease funds.

The following appeal is being made to our state leadership:

1) **Maintain the integrity and intent of the Oil and Gas Lease Fund.**

The infrastructural and environmental needs of DCNR, and the Commonwealth, are well-documented. With future development of anticipated extensive Marcellus Gas Shale fields we fully expect that there will be: the need for development and maintenance of well pad sites; construction of new transportation routes and damage to existing transportation routes; environmental degradation from forest fragmentation and heavy water use; and expansion of pipeline infrastructure, leading to additional construction and maintenance issues. Without access to this fund money, DCNR-managed state forest lands will be damaged, affecting future use and enjoyment of these public lands.

2) **Refrain from immediate future gas lease sales on DCNR-managed lands.**

Almost 600,000 acres of state forest lands have already been leased and are available for Marcellus Gas Shale drilling. This does not include the recent 74,000 acres of land that had been leased back in August of 2008. This makes up more than  $\frac{1}{4}$  of all state forest lands that are already available for this use. And yet, as of this time, only two well sites have actually been drilled into the Marcellus Shale formation on these lands. We advise that we allow these already-leased lands to be developed first, evaluate the impacts of the development process, and allow the financial markets to improve so that future lease sales will generate the maximum amount of income for the Commonwealth before additional lands are opened up for this purpose. We believe that to lease additional substantial acreage of state forest lands at this time would be an abrogation of the public trust of these public lands, and would be a short-sighted approach to the use of the resources managed by this state agency.

3) **Prevent extensive environmental damage to DCNR's public forest system.**

Oil and Gas Lease Funds are critical to the sustainability of Pennsylvania's public forest system. Through its use, DCNR can restore environmental and infrastructural damage caused with the expansion of Marcellus Gas Shale drilling. We strongly caution that inattention to this matter presently will create future legacy environmental problems, issues that will need to be addressed for decades to come.

We thank you for your fullest consideration and prompt attention to this matter.