

COMMONWEALTH OF PENNSYLVANIA
SENATE OF PENNSYLVANIA
ENVIRONMENTAL RESOURCES AND ENERGY COMMITTEE
INFORMATIONAL BRIEFING ON NATURAL GAS LEASING
FOR STATE FOREST LANDS

Before: SENATOR MAY JO WHITE, CHAIR
SENATOR EDWIN B. ERICKSON
SENATOR MIKE BRUBAKER

Date: April 1, 2008, 10:30 a.m.

Before: Vicki L. Fox, RMR, Reporter-Notary

Place: Room EB, East Building
Main Capitol Building
Harrisburg, Pennsylvania

SPEAKERS:

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES,
BUREAU OF FORESTRY

MICHAEL DiBERARDINIS, Secretary, Pennsylvania Department
Of Conservation and Natural Resources

JAMES R. GRACE, PhD, Deputy Secretary State Parks and
Forestry

DAVID A. DEVLIN, State Forester/Director, Bureau of
Forestry

ALSO PRESENT:

Patrick Henderson, Senator M.J. White's staff

Richard Fox, Senator Musto's staff

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1 CHAIRMAN WHITE: Good morning. This is an
2 informational hearing being provided for the Senate
3 Environmental Resources and Energy Committee by the
4 Pennsylvania Department of Conservation & Natural
5 Resources.

6 I see the Secretary is here with his cohorts. The
7 subject matter, of course, is oil and gas drilling. We
8 are interested to hear your presentation. Thank you for
9 coming.

10 SECRETARY DiBERARDINIS: Thank you, Senator, and
11 good morning. With me here today on my left, your
12 right, is Dr. Jim Grace, who is the Deputy Secretary for
13 Parks and Forests, and Dan Devlin, who is the Bureau
14 Director for the State Forest.

15 Chairman White and members of the Senate
16 Environmental Resources and Energy Committee, I want to
17 thank you for your quick response to our request for
18 this informational session and for the opportunity to
19 provide an update on our position on natural gas
20 development on state forest lands in Pennsylvania.

21 Pennsylvania's state forest represents one of the
22 largest expanses of public forest land in the eastern
23 United States, making it a truly priceless public asset.
24 We enjoy forest ecosystems that provide clean water,
25 recreation opportunities, plant and animal habitat and

1 valuable products -- all critical to healthy and
2 sustainable communities.

3 In 1995, with increasing pressures on the state
4 forest of all types, DCNR's Bureau of Forestry initiated
5 a strategic planning effort to address the issue of long
6 term sustainability. The foundation of this strategic
7 plan was a commitment to manage the state forest using
8 the principles of ecosystem management.

9 Several years later, we underwent an independent
10 third party review conducted by Scientific Certification
11 Systems, based on the forest management principles
12 established by the Forest Stewardship Council. This
13 review resulted in an extensive report, and in 1998
14 certification that the state forest was well managed in
15 a way that protects its long term health.

16 Our annual recertification from this independent
17 third party continues to validate we are managing our
18 forests sustainably.

19 Based on the strategic planning process and the
20 certification, DCNR updated the State Forest Research

21 Management Plan in 2003. One of the concerns raised
22 following the release of the Plan was the proposed
23 restrictions placed on future shallow gas leases on
24 state forest lands.

25 DCNR conducted a series of public meetings around

1 the state last year to collect comments on a five-year
2 update of to Plan. Gas leasing restrictions were among
3 the many issues discussed during those meetings.

4 Since 2003, DCNR has worked with stakeholders to
5 develop a natural gas policy for the state forest that
6 first and foremost satisfies our commitment to conserve
7 the forest resource, that recognizes that competing
8 interests that use the state forests and that is
9 responsive to the Commonwealth's energy concerns.

10 During my budget hearings last month, there were
11 questions asked about natural gas development. There
12 also is an increasing interest in natural gas drilling
13 on state forest because of the demand for natural gas
14 and prices that have increased drastically over the past
15 several years.

16 Today we are announcing a position on natural gas
17 development on state forest lands that focuses on deep
18 and medium gas for future lease sales. In certain
19 instances, limited shallow gas drilling would be allowed
20 if opportunities are found during the development of

21 deeper gas fields or on a case by case basis.

22 In keeping with our historical practice of leasing

23 for gas development, DCNR also plans to accept

24 competitive bids sometime in late summer for a lease of

25 up to 75,000 acres on state forest lands for gas

1 extraction, to respond to the increased interests in the
2 Marcellus Shale formation and the natural gas reserves
3 many believe it contains.

4 Oil and gas development on state forest lands is a
5 volatile issue with many people holding strong opinions
6 for and against it.

7 Our proposal enables DCNR to proceed cautiously.
8 It balances our legislative requirement to provide for
9 the economic use of natural resources under state
10 forests, while also sustaining the forest and its
11 ecological, recreational and cultural benefits for
12 present and future Pennsylvanians.

13 Oil and gas utilization is a part of DCNR's
14 history and will continue to be part of its future in
15 helping to provide both clean energy and economic
16 returns that are invested back into forest and
17 conservation initiatives.

18 Chairman White and members of the Committee, thank
19 you for your interest in our state forest. I will now
20 ask Deputy Secretary Jim Grace to give a more detailed

21 Power Point presentation.

22 MR. GRACE: Thank you, Mr. Secretary and thank
23 you, Senators. What I would like to do is go through a
24 brief presentation here and give you sort of a rundown
25 of where we have been, kind of where we are right now

1 and where I think we are headed.

2 Starting out with the legal mandates which
3 established the program and the legislation which
4 created DCNR, which was sort of an upshoot of the former
5 Administrative Code of 1929, it allowed the Conservation
6 and Natural Resources authorized us to lease for mining
7 or removal of valuable material. It also empowered us
8 to use the state forest for gas storage. In 1955,
9 legislation was proposed and enacted which allowed us to
10 establish the oil and gas leasing.

11 Within our mission in the Bureau of Forestry,
12 along with our activities in timber, recreation,
13 habitats, biodiversity management, it also establishes
14 the use of ecologically sensitive extraction of minerals
15 as a viable part of the state forest system.

16 This has been a major program in DCNR for
17 60 years. We have got about almost 1500 wells drilled
18 in the state forest. And over that period of time,
19 there has been revenue to the Commonwealth of about 153
20 million dollars.

21 This gives an outline of where the oil and gas
22 fields are in the Commonwealth. You will see when we
23 outline where gas and oil well activity is, a large part
24 of that oil field is pretty much in the upper
25 northwestern quadrant third of the state, which is a

1 little outside the state forest. But there has been
2 considerable gas activity within the state forest within
3 the last 60 years and little or no oil activity.

4 The mandates which control the use of the state
5 forest are several fold in the controls that we have.
6 We have legal mandates obviously. We've have a
7 strategic plan in place from 1995. The State Forest
8 Resource Plan which has other iterations over that
9 period of time.

10 Our forest certification, which we underwent in
11 1998 and have since undergone two recertifications and
12 annual audits, and then we have a series of Advisory
13 Committees, both the Department and within the Bureau of
14 Forestry, the Ecosystem Management Advisory Committee, a
15 Recreation Advisory Committee and a Silviculture
16 Advisory Committee. All of these forums sort of govern
17 how we use the state forest.

18 In dealing with oil and gas programs, it is really
19 a matter of managing impact and balancing tradeoffs. We
20 try to do this in being consistent with our ecosystem

21 principles, our forest certification, as well as
22 compatibility with the other forest uses.

23 In managing these tradeoffs and balancing them, we
24 consider esthetics and recreation, wild and natural
25 areas, forest fragmentation and its impact on habitat,

1 as well as water. And we do a substantial environmental
2 review. And we also have a very substantial lease which
3 governs how the activity will take place on state forest
4 land.

5 Some of the early milestones of the program, the
6 first lease was in 1947. In 1955, the Oil and Gas Lease
7 Fund was established. And in 1956, we had the first use
8 of gas storage on the state forest.

9 In more recent times, the largest lease offering
10 we ever had was in 1982, and it was 450,000 acres. The
11 last shallow gas offering we had was in 1996, which was
12 a little over 8,000 acres. And in 2002, we had the
13 lease offering for the Trenton-Black River, which was a
14 deep gas, which we leased 51,000 acres.

15 This gives some idea of the well activity which
16 has occurred in the state forest over time. You can see
17 it has had several spikes which pretty much align when
18 energy prices went up, the activity tends to go up as
19 well.

20 Here is a slide showing the annual income. And

21 you can see since about 1980, the income has been
22 relatively stable on the state forest. It has pretty
23 much gone between four and five million dollars a year.
24 That money has gone into the Oil and Gas Lease
25 Fund, which by law is available to the Secretary of the

1 Department to be used for conservation, recreation and
2 flood control.

3 Over that time in the early days, it was used to
4 purchase land for state parks. And actually, it helped
5 build 26 of our state parks. It has been used to
6 purchase oil and gas rights on parts of the state forest
7 when we don't own them. It has been used for the
8 development of a variety of recreational products, the
9 most recent one being the Pine Creek Trail.

10 We have had heritage and botanical surveys funded
11 with this. It has also funded vehicles, computers and
12 other materials that help us manage the state forest
13 over time.

14 The current picture is that in the entire state
15 forest, the Commonwealth owns about 85 percent of the
16 oil and gas lease rights to the forest. Leaving about
17 15 percent which we don't control that activity.

18 There are currently 99 active leases leased on
19 about 270,000 acres of land. We have almost 70,000
20 acres in gas storage. We have got 650 royalty producing

21 wells bringing in a revenue of about four and a half
22 million dollars.

23 In 2002, we entered a proposal put forward to
24 lease almost half a million acres in what was then the
25 new Trenton-Black River trough which was a deep gas

1 proposal. That proposal was met with a great deal of
2 opposition, particularly by the environmental community.
3 And we went through a very extended volatile period
4 where the Department underwent a large deal of criticism
5 for entering into a proposal of that size.

6 We were asked to provide testimony to numerous
7 legislative committees at the time defending our
8 proposal. We were then asked to go out in a public
9 outreach in which we had seven -- or six public meetings
10 across the state where we took in comments and explained
11 what we were doing.

12 The end result of that activity was the lease
13 proposal was reduced from about half a million to about
14 200,000 acres. We strengthened some of the
15 environmental controls that were in the lease. And we
16 ultimately had a successful lease of that 218,000 acres,
17 which was offered. A lease was satisfied on 51,000
18 acres.

19 A big part of the discussion of the Trenton-Black
20 River, we got into the differences between shallow and

21 deep gas development. That has become a key part of our
22 decision making and a significant amount of discussion
23 over that over the last several years.

24 Essentially, deeper wells have greater well
25 spacing and have less surface disturbance. The deeper

1 the wells, the higher the gas output. The benefits of
2 having deep well exploration on state forest, if in fact
3 it can be done, is that it requires many fewer wells
4 with about the same amount of gas productivity.

5 Our major concern in the state forest is not so
6 much the gas removal as it is the surface disturbance.
7 You can see here in this slide, it shows pretty much the
8 deep well spacing, which is about one well per square
9 mile, and it has literally no impact or very, very
10 little impact on the state forest as far as surface
11 disturbance. That is a single well in a square mile.
12 And the well pad associated road with that might be a
13 total of two to three acres.

14 In the case of the shallow gas drilling, there's
15 basically 40 acre well spacing. So you have great
16 number more wells. When this is developed to its max,
17 you can see with this slide, the well pad, along with
18 the connecting roads, tend to have a significant impact
19 on the surface and sort of impact other forest uses.

20 We feel it is in our benefit in the long run to

21 develop as much deep and medium gas potential which has
22 less impact on the surface over time.

23 In 2003, we came out with a proposal for the State
24 Forest Plan at that time that we would put a ban on
25 future gas leases for shallow gas drilling. That

1 proposal in 2003 came at about the same time the energy
2 prices were starting to go up. And, again, we received
3 a great deal of criticism. We were again asked to go
4 before a number of legislative committees, and we
5 received sort of negative impact both from those who
6 wanted more gas activity in the state forest, and also
7 those who were concerned about rising energy prices and
8 thought that the Department should be more sensitive to
9 what those concerns are.

10 That same year, the General Assembly passed House
11 Resolution 394. As part of that resolution the Joint
12 Conservation Committee was tasked to study DCNR's oil
13 and gas leasing program. As part of that same
14 legislation, they also urged DCNR to postpone any ban on
15 shallow gas drilling until we received that report and
16 at least could deal with the recommendations.

17 In 2003, we also established an Energy
18 Subcommittee of our Ecosystem Management Advisory
19 Committee to evaluate shallow gas drilling. And we also
20 started meetings with a wide variety of stakeholders,

21 including industry, environmental groups and all of our
22 Advisory Committees.

23 In 2006, the recommendations from the Joint
24 Committee Report came out, and they were pretty much
25 these four. One, that DCNR should retain the proposed

1 ban on new oil and gas well sites and roads in bio
2 reserve areas, old growth areas and wild and natural
3 areas.

4 Furthermore, DCNR should adopt a policy that would
5 accommodate natural gas exploration and production in
6 all available geological horizons beneath the state
7 forest lands under certain controlled circumstances.

8 Three, that we should adopt a lease structure that
9 provides economic viability for gas production while
10 ensuring production of the state's forest reserves.

11 And four, in an effort to facilitate broad based
12 participation in the lease program, DCNR should adopt a
13 modified bonus and fee structure that reflects
14 nationwide industry norms.

15 We had again as part of our plan some public
16 meetings in 2007 where we proposed to do what the
17 Committee suggested, and proposed a policy that allowed
18 limited shallow gas drilling on a case by case basis.

19 We also during that period revised our lease. We
20 made specific and restrictive well spacing across all

21 drilling horizons to reduce surface disturbance. We
22 also provided for increased confidentiality and dispute
23 resolution for operators. And, finally, we adopted a
24 modified bonus and fee structure that reflected
25 nationwide industry norms.

1 The public input to that plan, which was carried
2 out both in writing from our website and our public
3 meetings, generally the environmental interests were
4 opposed to the plan. The industry interests were in
5 favor of the plan. And in between those extremes, we
6 had about every other possible variation of input.

7 The Department's Advisory Committee recommended
8 that we did allow new shallow gas drilling and under the
9 concern that they thought our lease controlled things to
10 the point, we could go forward with that.

11 The revised gas policy that we are proposing today
12 focuses -- continues to focus on deep and medium
13 development to minimize surface disturbance. However,
14 we will allow for limited shallow drilling if reservoirs
15 are encountered. And we will also allow for it on a
16 case by case basis in other parts of the state forest
17 where it is deemed appropriate.

18 DCNR retains the discretion to determine all areas
19 available for development. And I might add that shallow
20 gas drilling will continue on the 270,000 acres that are

21 currently leased, as well as the 300,000 acres where we
22 do not have the same control or own the mineral rights.

23 Our proposal during the next year will be to lease
24 approximately 75,000 acres of the state forest for new
25 development. This slide here shows both the locations

1 of the Trenton-Black River trough, which is the area
2 between the two black lines, and the Marcellus Shale.
3 The Marcellus Shale is the area in sort of mustard and
4 red or orange, or whatever you call that other color.

5 Both of those areas, you can see that the state
6 forest -- particularly the large block of state forest
7 -- in north central Pennsylvania is superimposed right
8 on top of both of those trends.

9 What we are proposing to go forward with this
10 year, since Trenton-Black River is a deep gas play, the
11 Marcellus is a medium glass play, we are proposing to go
12 forward with 75,000 acres which will be made up probably
13 of anywhere from 20 to 40 different tracks. It will be
14 made up within that zone in going after the medium and
15 deep gas potential in that region.

16 SENATOR BRUBAKER: The 75,000 acres is within that
17 mustard color? It is not the entire mustard color; is
18 that correct?

19 MR. GRACE: Correct. As a matter of fact, we have
20 not determined exactly where it is at this point.

21 SENATOR BRUBAKER: That would be several hundreds
22 of thousands of acres?

23 MR. GRACE: That's correct. That would be a
24 million acres. That block up there is about a million
25 acres in size.

1 CHAIRMAN WHITE: What is the total acreage of the
2 state forest?

3 MR. GRACE: The total acreage of the state forest
4 is about 2.1 million acres. I guess in summary then, we
5 feel that the gas program on DCNR land is a
6 long-standing and successful program. We have had over
7 the last five years, and before that, input from a broad
8 base of stakeholders.

9 We feel that what we have going forward in 2008 is
10 a more comprehensive lease, in which we have
11 strengthened the environmental controls. And we also
12 feel that we have been responsive to industry's business
13 needs. And we feel we are being responsive to the
14 Commonwealth's energy demands.

15 I think in the long term, the gas program has
16 provided an economic benefit. It is providing clean
17 burning fuel, the funding of conservation and recreation
18 projects while ensuring ecological integrity. We have
19 had a continuing and long history of environmentally
20 sound history of natural gas development, and we feel

21 like we will do that into the future. Thank you very
22 much.

23 CHAIRMAN WHITE: Thank you. You didn't mention
24 oil. Is there any prospect for any oil drilling?

25 MR. GRACE: There has been no oil found under the

1 state forest system. So basically if you go to that
2 early slide that I have, basically the oil fields are
3 outside the state forest.

4 THE COURT: Okay. Any questions?

5 SENATOR BRUBAKER: Thank you very much, Chairman
6 White. I do need to run. I appreciate the opportunity
7 to ask a question or two.

8 You mentioned a number of times the environmental
9 community was not supportive of you moving forward and
10 the business community was. That is my summary of your
11 explanation.

12 Did you learn anything through the environmental
13 community concerns that you are currently incorporating
14 into your current strategy?

15 MR. GRACE: I think we have learned on both sides
16 that we had something to learn. I think over that time
17 in terms of the environmental community, they asked for
18 us to be much more specific in which areas were not
19 allowed for grass drilling, the parks, the wild areas,
20 the natural areas. The lease now is much more specific

21 to that point.

22 There was some issues on buffer strips which we

23 strengthened. There were some issues in the Cherry

24 Springs area about allowing light pollution from well

25 drilling at night that we took into account.

1 So overall, I think we felt like we had some
2 pretty stringent environmental controls on our lease.
3 We have strengthened those, and I think we have a better
4 understanding of what people's concerns are.

5 SECRETARY DiBERARDINIS: On the business -- I
6 think that Jim or Dale might comment on the details. I
7 think we strengthened the lease on the business side as
8 well and moved it up as it was stated in the Power Point
9 to the national norms around the way that business is
10 conducted on that -- on the business side of the ledger.

11 I think we learned during this process that we had
12 to revise the lease in that way to reflect those
13 standards.

14 THE COURT: When you say national norms, what are
15 you talking about?

16 MR. GRACE: I think the main concern in the
17 industry, particularly when we went through the
18 Trenton-Black River, is that we had raised the minimum
19 bonus bid to \$30 from our past practice of five. They
20 indicated they thought that was too high. And in fact,

21 competition will tell you what it is going to be because

22 it will come out to where in fact it is. I think

23 some --

24 THE COURT: If you want to play games, you just

25 set your number so high that nobody will bid, and you

1 have gone through the motions.

2 MR. GRACE: And you will find out what it is worth
3 when it goes on the market. And the other thing was a
4 confidentiality statement, which we did not have.

5 I think those -- and some ability to have a
6 dispute resolution that could be done fairly quickly if
7 in fact there were problems encountered in the field.

8 THE COURT: How did you arrive at the 75,000 acre
9 number?

10 MR. GRACE: I think we felt that was a prudent way
11 to go forward. We have got nominations probably on the
12 entire state forest several fold. I think what we are
13 proposing now is to go forward.

14 We went forward with the Trenton-River proposal
15 several years ago, and it was met with a resounding push
16 back by both industry and the environmental community.
17 We think we have learned a lot. I guess we are trying
18 to learn in a cautious straightforward manner in doing
19 it on a modest scale. And as we learn, certainly we'll
20 have opportunities to do more in the future.

21 MR. DEVLIN: From a historical perspective, it is
22 about where we have been in some of our previous leases
23 over the last couple of decades. It is kind of a normal
24 pattern, if you will, right around that acreage.
25 Anywhere from 50 to a hundred thousand.

1 CHAIRMAN WHITE: Assuming this moves forward and
2 is successful, would you consider expanding it in the
3 future if you see no harmful impact, it doesn't affect
4 your certification and you're deriving revenue and the
5 state is getting much needed energy supplies?

6 SECRETARY DiBERARDINIS: I think that is in fact
7 some of the principles that we would make future
8 decisions around. I think the key to this for us, and
9 for me as Secretary, is that the certification is really
10 the standard that I think, and I think the Bureau and
11 the Department thinks, that we have to operate at that
12 level of sustainability.

13 Anything that jeopardizes that, it then becomes a
14 policy question for us. So that is the standard that I
15 am going to insist that we hold to. And I think the
16 Bureau would agree with that.

17 This step forward in the area that we are
18 generally looking at in the conditions that -- the
19 improved both business conditions, as well as the
20 environmental conditions that we have negotiated and

21 gotten input on, and been incorporated into the lease,
22 we think that it will work. We think that it will hold
23 us within that high standard and will meet the
24 environmental and ecological needs of the forest and
25 hopefully the energy needs of the state.

1 That said as we move forward, we hope that we are
2 right. And if we are right, then we would continue to
3 proceed in this way in the future.

4 CHAIRMAN WHITE: So you anticipate putting this
5 out for leases in the summer you say?

6 SECRETARY DiBERARDINIS: Yes. We think in the
7 late summer, mid to late summer.

8 CHAIRMAN WHITE: So drilling would probably not
9 commence until next year?

10 SECRETARY DiBERARDINIS: I am not sure of the
11 timetable.

12 MR. GRACE: I think if we put it out and offer the
13 proposal in the summer, probably by the time the
14 industry has evaluated that and the bids are received,
15 it will probably be fall. My guess is that activity --
16 it could theoretically start in the fall, but it is
17 probably not going to start until next Spring.

18 SENATOR WHITE: It is unfortunate we are losing a
19 year here. Any other questions? Any other comments,
20 gentlemen?

21 I appreciate your coming today. This is very
22 useful information. It is a good start. And thank you
23 very much.

24 SECRETARY DiBERARDINIS: Thank you. The.

25 (The hearing was concluded at 11:03 a.m.)

1 I hereby certify that the proceedings and
2 evidence are contained fully and accurately in the notes
3 taken by me on the within proceedings, and that this copy is
4 a correct transcript of the same.

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Vicki L. Fox, RMR
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