

# Bureau of Recreation and Conservation (BRC)

## Advisory on Oil and Natural Gas Drilling

### Who should read this advisory?

This advisory is of importance to local government officials, park and recreation professionals, conservation organizations and others who manage public park, trail or open space areas and who may be considering oil and natural gas exploration. Pay particular attention to this advisory if the property was acquired, developed or donated in conjunction with funding received from the PA Department of Conservation and Natural Resources (DCNR), Bureau of Recreation and Conservation (BRC) or its predecessor-PA Department of Community Affairs.

### Past and current public grant funding sources:

- **P-70** (Project 70 Land Acquisition and Borrowing Act) - Act 1964-8
- **P-500** (Project 500 The Land and Water Conservation and Reclamation Act) - Act 1968-443
- **LWCF** (Land and Water Conservation Fund) - Federal funds to PA through the National Park Service
- **RIRA** (Recreational Improvement and Rehabilitation Act) - Act 1984-106
- **Key 93** (Keystone Recreation, Park and Conservation Fund Act) - Act 1993-50
- **PRT** (PA Recreation Trails Program) - Federal Highway Administration funds to PA
- **GGI** (Environmental Stewardship and Watershed Protection Act) - Act 1999-68
- **GGII** (Growing Greener Bond Fund) - Act 2005-45

### Contact

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### Background

Many county, local governments and non-profit organizations throughout the Commonwealth are being asked to allow drilling for oil and/or natural gas in the Marcellus Shale formation underneath their lands. These lands include public parks, trails and land set aside for open space protection. Frequently these lands were acquired or developed with public grant funds which limit what can be done with the land. It is important to fully understand the requirements or restrictions that exist on the property prior to entering into an agreement or lease.

Knowing what you can or cannot do in regards to oil and/or natural gas drilling before you sign a lease will save you time and money in the future.

### What is a lease?

A mineral lease is a contractual agreement between the owner of a mineral tract (the lessor), who grants the right to develop deposits of the mineral, to a producer (the lessee). Oil and natural gas can be sold or leased separately to different parties. Different deposits of the same minerals in different formations can also be leased or sold separately. Usually, a lessee will reserve the right to sell or reassign a mineral lease to another party. A lease is usually secured by annual rental payments, or a royalty on production paid to the lessor.

If a lease is created we advise that you model them on the Bureau of Forestry's lease. You can find their standard lease at the following website:

<http://www.dcnr.state.pa.us/forestry/gaslease.aspx>

### Please be advised

Please contact BRC immediately if you are approached regarding an opportunity to drill for oil and/or natural gas; or if active drilling is currently taking place and you have just determine that BRC grant funds were used to **acquire or develop** your park, trail or open space area, or if **donated** land was used as match.

- A. If you own the park, trail or open space area in fee simple, and received **BRC funds to acquire** the property or have used **donated** land as match, please review a copy of the most recent deed(s) for the property. Deed restrictions associated with many of the grant programs should be listed there.
- B. Additionally, please determine, via a review of your deed with your Solicitor or Attorney, if your mineral rights have been severed from the property.
- C. Even if your deeds do not have restrictions in them, it's likely that limitations still apply if you own, lease and/or have an easement on the park, trail or open space area that has been **developed with BRC grant funds**.
- D. If you have a conservation or trail easement on the park, trail or open space area, review the document for any reference to a grant program. Also, review the current property owner's deed for the underlying fee interest for any reference to the sub-surface mineral rights/ oil and/or natural gas rights.

### Information BRC will ask for

Preliminary information you will be asked to provide on the land when you contact BRC includes:

- A letter describing the request
- Any BRC Grant Contract Numbers, if available
- A map of the area
- Your deed(s) on the property
- Any lease and/or easements on the property