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PROTECTING YOUR PROPERTY  
AS MARCELLUS SHALE DEVELOPMENT OCCURS

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Development of the Marcellus Shale could turn out to be a true “game changer” for Pennsylvania. Early indications are that a flood of natural gas will be produced from a huge number of immensely expensive deep gas wells. Planners at the Delaware River Basin Commission estimate that as many as 10,000 wells will be drilled *each year* in the Marcellus Shale!

If you have land in the Marcellus Shale region of Pennsylvania, you may lease the right to extract gas from your property to an oil and gas producer for a bonus at signing of thousands of dollars per acre. You may also receive small annual delay rentals for several years. If a successful gas well is developed, you can expect royalty income for as long as gas is produced from your property, possibly several decades.

You may even be so fortunate as to enjoy these rewards without any permanent activity on your property. Marcellus wells are drilled vertically to the desired depth, and then proceed thousands of feet in a horizontal direction to collect gas from large areas of shale. Many wells can be drilled from a single well pad, reaching out to locations thousands of feet away on other properties.

How do you know that you are receiving a fair share of royalty income from such a well? Could your property be drained from a distance, without any payments to you and even without your knowledge?

Before a Marcellus well is drilled the Pennsylvania Department of Environmental Protection ("DEP") issues a permit. After the well is completed the well owner is obligated to report its exact dimensions and location to the DEP. Furthermore, the producer is only allowed to drill under property for which it has a gas lease signed by the property owners. Anything else is an illegal underground trespass.

Unfortunately, PaDEP does not have resources to police field drilling activities or assure that the law is always obeyed. There is no easy way to determine if a well has been drilled onto your property, unfortunately. Owners need to be alert to well drilling activity in their area, and should check the records of PaDEP available to the public from time to time. And even if it is not drilled into your property, a nearby well might drain the gas from many acres of your land.

How can you protect your interest in gas from the Marcellus Shale? The worst answer environmentally is for every owner to rush to drill his property in order to capture the gas under his land. And the cost of drilling a Marcellus well runs into millions of dollars, so this would not be a practical approach for any but the largest tracts.

The environment is better protected if the minimum number of wells needed to optimize gas production are drilled, utilizing few well pads that are carefully located and monitored for protection of the land. The best overall yield of gas and greatest economy can only be achieved if an orderly plan of development of wells is followed.

States with significant oil and gas resources therefore adopt laws authorizing "unitization," a legal process in which many adjoining properties are bought together in a single carefully designed plan of well development. The state agency in charge of unitization approves each plan and decides how to allocate the royalty income fairly among the property owners in the

unit. Producers may establish voluntary plans with the owners of affected land or, if that is not successful, the government agency can impose a unitization plan.

Pennsylvania has adopted unitization under the Oil and Gas Conservation Law of 1961. On request by a producer, DEP may impose unitization of adjoining properties to assure efficient and economical development. Wells covered by this law must be drilled within and no closer than 330 feet to the boundary line of the leased area.

But the Oil and Gas Conservation Law does not apply to wells drilled only deep enough to reach the Marcellus Shale. An owner or producer concerned about being drained from nearby property can seek a voluntary unitization program by agreement of all the owners and producers holding leases. But if all parties do not agree to a voluntary plan, an owner (or a producer holding a lease on the property) who is dissatisfied or insecure about his holding is likely to get into a costly, potentially wasteful race to drill the property.

The Pennsylvania legislature has considered and will continue to take up bills to extend coverage of the Oil and Gas Conservation Law to deep wells. Those who own land, particularly those holding parcels smaller than hundreds or thousand of acres, should urge their State legislators to fill this important gap in Pennsylvania law, since it is their best way to protect their economic interests and the land itself.

So here are our two New Years resolutions for those with property in the Marcellus Shale area: keep alert for drilling activity and the need to protect against improper drainage of your property; and urge your representatives in the Pennsylvania House and Senate to enact unitization for the Marcellus Shale.

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