

John E. Childe  
Attorney at Law  
1847 Center Street  
Camp Hill, Pennsylvania 17011  
Phone: 305-712-0172  
E-Mail: childeje@aol.com

March 23, 2010

Edward G. Rendell, Governor,  
Commonwealth of Pennsylvania  
225 Main Capitol Building  
Harrisburg, Pennsylvania, 17120

RE Notice of Intent To Sue;  
Violation of Article I, Section 27  
Constitution of Pennsylvania;  
Continued Leasing State Forest Lands

Governor Rendell,

I represent the Pennsylvania Environmental Defense Foundation, a group founded under the laws of Pennsylvania, and formed for the protection of Pennsylvania's environment. The Foundation's members have significant interest in the protection and preservation of Pennsylvania's State Forests.

The Foundation believes and avers that your proposal to lease additional State Forest land to supplement the Budget for the Commonwealth for the year 2010 with \$180,000,000.00 is a decision that will risk the ecological integrity of our state forest system and is therefore an unlawful decision by you under Article I, Section 27 of Pennsylvania' Constitution.

Article I, Section 27 of the Constitution reads as follows:

“The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values in of the environment. Pennsylvania's public natural resources are the common property of all the people, including generations yet to come. As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people.”

This Amendment provides self-executing rights to all the people of the Commonwealth; and enumerates a duty as trustee over Pennsylvania's public lands, for

the benefit of all the people of the Commonwealth. As governor of the Commonwealth you bear the specific responsibility for insuring the rights and protection set forth in this Amendment. These rights are mandatory, not discretionary. You do not have the authority to violate them.

There is no question that the government has the authority to grant leases on state forestry lands for oil and gas exploration. However, the government is limited in that leasing by the environmental rights and public trust doctrine of Article I, Section 27, if the leasing threatens the public natural resources of Pennsylvania forests.

Numerous current and former officials who bear the responsibility of protecting and preserving Pennsylvania's state forests, as well as persons interested in protecting those forests, have spoken out recently voicing strong concerns over the impact that further leasing of our state forest lands for oil and gas exploration will have. About 692,000 acres of Pennsylvania's 2.1 million acre forest system are already under lease. Of the remainder of state forest lands available for leasing for Marcellus Shale exploration almost all are within highly sensitive areas. Continued leasing could threaten the clean air and water our forests currently provide, could threaten our native plant communities, our recreational opportunities, and in general to impinge on the ability to sustain the balance on interests in preserving the integrity of our state forests.

As you know, the purpose of the Oil and Gas Lease Fund, the legislatively created fund where money from leasing state lands for oil and gas exploration is required to be invested, is the protect and preserve the Commonwealth's State Forest System, and not to supplement the State Budget. . See "*Oil and Gas Lease Fund, Act of Dec. 15, 1955, P.L. 865, No. 256; 71 P.S. 1331.*

As you are also aware, there is no need to require additional leasing of State Forest Land. The imposition of a Severance Tax would more than make up for the proposed leasing.

For the reasons stated above, the Pennsylvania Environmental Defense Foundation hereby places you and Attorney General Tom Corbett on notice of the Intent to bring an action in Court against you, as Governor of the Commonwealth of Pennsylvania, for violation of the rights of the people and of your responsibility as trustee for the public lands of our State Forests, under Article I, Section 27 of Pennsylvania's

Constitution, should the decision to lease State Forest Land for the purpose of supplementing the State budget for the year 2010 be enacted.

The Pennsylvania Environmental Defense Foundation welcomes the opportunity to meet to discuss this Notice, and to try to preclude the necessity of filing the action. The Foundation can be reached through Ron Evans, President, 818 Spring Creek Road, Bellefonte, Pennsylvania, 16823, Phone 717-579-2263, as well as myself.

Respectfully submitted.

John E. Childe  
Attorney for Pennsylvania Environmental Defense Foundation  
1847 Center Street  
Camp Hill, Pennsylvania 17011  
Phone: 305-712-0172

c.c.

Tom Corbett, Attorney General,  
Commonwealth of Pennsylvania  
16<sup>th</sup> Floor, Strawberry Square  
Harrisburg, Pennsylvania 17120

John Hanger, Secretary,  
Pennsylvania Department of Environmental Protection  
16<sup>th</sup> Floor, Rachael Carson Building  
400 Market Street  
Harrisburg, Pennsylvania 17105

John Quigley, Acting Secretary  
Pennsylvania Department of Conservation and Natural Resources  
400 Market Street  
PO BOX 8067  
Harrisburg, Pennsylvania 17105