Senate Environmental Resources and Energy Committee

Senator Mary Jo White

Chairman

Patrick Henderson, Executive Director

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Linda Steiner, Chair
Governor's Advisory Council on Hunting, Fishing & Conservation
P.O. Box 8767
Harrisburg, PA 17105-8797

Dear Ms. Steiner:

Thank you for sharing with me a copy of the Council's letter to Governor Rendell expressing its support for a severance tax on the extraction of Marcellus Shale natural gas. While I appreciate the prerogative of the Council to take a position on the Governor's severance tax proposal, it is important to emphasize a few key points in response to the Council's rationale for such a tax.

First and foremost, I believe any comparisons between today's natural gas operations and past, unregulated timber and mining practices are irrelevant and inappropriate. This rationale suggests that operators within the Commonwealth in some manner intend and seek to repeat the practices of past industries, or that environmental regulators would permit this to occur. The data and records of the Department of Environmental Protection (DEP) demonstrate, however, that the oil and gas industry is one of the most compliant industries we have in the Commonwealth. This is due both to a concerted effort among industry to police itself and be good stewards of the state's resources, and a professional inspection, enforcement and compliance assistance effort by staff of DEP, the conservation districts and other agencies.

In short, I do not believe it is appropriate for the Commonwealth to levy a severance tax under the premise that natural gas operators are going to degrade our land and water resources, and therefore should pay a tax to have the government clean up their mess. It is imperative to note that natural gas operators are subject to numerous federal and state laws, including the federal Clean Water Act, the Clean Streams Law, the Oil and Gas Act, the Solid Waste Management Act, the Air Pollution Control Act, the Water Resources Planning Act, erosion and sediment control regulations and others. These laws contain significant penalties for violators and vest considerable authority within DEP to ensure that Pennsylvania's natural resources are protected.

The concern over ensuring that our regulatory agencies – especially DEP – have adequate staff and resources to handle the scope and volume of work associated with natural gas drilling is commendable. However, I again do not believe there is a direct connection between this need and the desire to impose a severance tax. The costs to regulate and police the natural gas industry should be borne through permit fees paid by the industry. This is exactly what is occurring. Last year, with bipartisan support, DEP increased its permit fees through regulation to better reflect the costs to the agency to process, inspect and enforce oil and gas laws. An average Marcellus Shale permit went from \$100 to approximately \$2,600. This year, Governor Rendell reports that industry estimates applying for over 5,200 permits (note that perhaps only one-third of these permitted wells will be drilled) – generating nearly \$13.5 million in revenue – up sharply from the approximately \$800,000 in permit fee revenue and an \$8 million total oil and gas budget prior to the fee increase. Last year, DEP hired 37 additional staff with this revenue, and just yesterday (Jan. 28) DEP announced another 68 staff will be hired. At a January 27, 2010 public hearing of my committee on Marcellus Shale wastewater issues, DEP staff stated that they believe they do have sufficient staff and resources available to properly regulate this industry.

While the General Assembly and Governor debate the merits of a severance tax, we should be cognizant of the tremendous economic benefit that the Marcellus Shale play is already having in Pennsylvania. Landowners are receiving signing bonuses and royalty payments, and local businesses are being patronized. There is a misperception that because Pennsylvania does not levy a "severance" tax per se, that this industry is not contributing to the tax base. In reality, existing income (personal and corporate), sales, local earned income, fuel, property and other taxes are generating hundreds of millions of dollars for state and local governments each year. An economic impact study conducted by Penn State University puts the tax revenue impact at \$396 million in 2009 and over \$850 million in 2010. While I appreciate Council noting that even Texas and Alaska have a severance tax, it is also worth noting that neither imposes a state personal income tax. Texas imposes a net severance tax of approximately 1.5% for the first ten years of a well's production (in effect, half of our 3.07% personal income tax). New York, which also has significant Marcellus Shale gas deposits beneath it, to my knowledge also does not impose a severance tax.

I am not unilaterally opposed to a severance tax at the appropriate time, provided it is at a reasonable rate and imposed at a time that does not discourage businesses from investing their capital in the Commonwealth. I am not convinced that we have yet reached that point, but the issue will certainly be debated in the months to come. I agree with Governor Rendell's desire, should a severance tax be enacted in the future, to dedicate this revenue to the General Fund so that it can be appropriated annually by the General Assembly to meet the state's funding priorities. But I believe that we have a permit fee structure in place to provide DEP the resources it needs, and that our laws, properly enforced, will protect against any repeat of the environmental degradation of the past.

Thank you again for sharing with me the Council's perspective on this important issue.

Sincerely,

Mary Jo White

Mary Jo White, Chairman
Senate Environmental Resources
& Energy Committee

cc: Governor Rendell
DEP Secretary Hanger
Governor's Advisory Council for Hunting, Fishing & Conservation