

# Northcentral Pennsylvania Conservancy

## Can NPC Protect Lands Leased For Gas?

*The Northcentral Pennsylvania Conservancy's Board of Directors and Staff are increasingly asked, "What is NPC doing about Marcellus shale?" To help you understand the various issues NPC faces with respect to any oil and/or gas lease, or reserved right, the Spring issue of the NPC newsletter had an article by Carl Barlett (an NPC board member and retired attorney) on precedence and how a pre-existing lease impacts a conservation easement. In this newsletter, Charlie Schwarz discusses what exactly NPC is doing about "gas"?*

When NPC was established drilling for natural gas in northcentral Pennsylvania was a relatively rare and localized occurrence, and when it did take place the impact was minimal and confined to a small area. That was then, this is now – drilling for the natural gas reserves in the Marcellus shale is widespread and the impacts will not be minimal.

But some things have not changed. NPC is still protecting working farms and forests, wildlife habitat and waterways, open spaces and recreational opportunities, and scenic views – these are the conservation values of the properties we conserve. NPC's goal is, and must be, the protection of those conservation values. And that is not just our desire, it is a mandate contained in the legislation that enables NPC to protect properties from inappropriate uses and poor management.

Now that northcentral Pennsylvania is in the bull's-eye of a major natural gas boom, more than 80% of the private land in most of the counties in which NPC works has been leased for oil and gas. In one township where NPC holds conservation easements 97% of the land has been leased. So, how does NPC continue to protect land and its conservation values?

We cannot ignore the gas issue! To not deal with the realities of extraction of the natural gas reserves beneath the land means that few additional acres will be conserved. To not deal with gas pragmatically means that we will "give up" on protecting land from subdivision and development; that, in essence,

we no longer care what happens to that land.

The significant issues involved with gas exploration and extraction in our region were not anticipated by the state, local governments, businesses, realtors, landowners or land trusts. Going forward NPC will be asked to conserve properties that have pre-existing gas leases. As we've noted before, if a gas lease existed before the conservation easement the lease prevails over the easement.

Every property NPC has protected is unique, and every property we will consider protecting in the future will be different. Therefore, we will have to look at potential gas extraction on those properties on a case-by-case basis. Some landowners do not want an oil and gas lease on their land, some want a lease but do not want to see the land's surface disturbed, some want to allow a well to be drilled on

their land. But none want to see their land split up into building lots, the wildlife habitat decimated, the wetlands filled.

For properties that are to be protected by a conservation easement and which do not have an existing gas lease NPC recommends including a provision in the easement prohibiting any surface use for extraction of natural gas. That means no wellpads, access roads or pipelines could be constructed on the property. In some cases the landowner wishes to permit drilling on their property so NPC drafts an easement allowing those activities provided the company enters into a surface use

*(Continued on next page)*



*Conserving working farms and forests*

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## Can NPC Protect Lands...

(Continued from front page)

agreement protecting the conservation values of the property.

NPC's conservation easements have always permitted forest management and agricultural activities provided the conservation values of the properties are protected by the use of appropriate best management practices. Many of the impacts of extracting natural gas are comparable to the impacts of forestry and agriculture. NPC will evaluate the location and design of a road to be built to extract natural gas just as we would for a comparable road to be used to extract forest products. The roads and pipeline rights-of-way can be located, sized and constructed to minimize disturbance. The size of wellpads can be limited and they can be reclaimed and restored when the wells have been completed.

Conservation easements are permanent and perpetual. Extraction of natural gas, even though an individual well may be productive for 30-50 years, is a temporary disturbance compared to the perpetual nature of a conservation easement.

A surface use agreement is a powerful tool for landowners and land trusts to use in dealing with extraction of gas reserves. NPC has developed a comprehensive surface use agreement between the landowner, the gas company and NPC in order to protect the conservation values of a protected property on which a gas well is to be drilled. The agreement: gives NPC a great deal of control over the location of the wellpad, road and pipeline; limits the size of the wellpad and width of the road; and restricts the length of time during which drilling may occur. The agreement also requires technologies that reduce the use of drilling fluids, eliminates the construction and use of mud pits and impoundments on the property and requires restoration and revegetation of disturbed areas.

NPC's surface use agreement was developed using information from the oil and gas lease used by the Pennsylvania Department of Conservation and Natural Resources, New York State's draft environmental impact statement for development of gas reserves in the Marcellus shale, and especially the Colorado Coalition of Land Trusts' handbook *Mineral Development and Land Conservation*. Portions of Colorado are undergoing a gas

boom similar to that now occurring in northcentral Pennsylvania, and the Colorado Coalition of Land Trusts has been a leader in seeking the best ways to reduce conflicts between land conservation and mineral extraction.

For the last eighteen months an informal group of Pennsylvania land trusts, including NPC, Countryside Conservancy, Delaware Highlands Conservancy, North Branch Land Trust, and the E.L. Rose Conservancy, has been meeting to share information on dealing with gas-related issues on conserved properties and properties that may be conserved in the future.

Over the next few months NPC's staff plans to meet with a number of the gas companies that are operating in our area to discuss the interaction of conservation easements and oil and gas leases and extraction. We need to maintain communication with these new neighbors on local lands. They need to know us and what we do, and we need to know them and what they do.

To continue protecting working farms and forests, wildlife habitat, watersheds and scenic vistas, we will have to be realistic in dealing with extraction of natural gas reserves, taking advantage of the economic benefits and working to mitigate the adverse impacts. Voluntary conservation easements are, and will continue to be, a vital method of conserving the special landscapes where we live, work, and play.

## Help NPC Map Its Future

Keep an eye out for NPC's 2010 Year End Appeal!! This Year End request for a donation has been a tradition at NPC for nearly all 20 years of our existence. It's a great way for you to get one more tax deductible gift in before the end of the year, and for NPC to generate income to help cover the costs of working on new projects, reviewing requests for permitted activities, and sending out information to interested landowners.



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## **NPC Paddles with Canoe Susquehanna and Warrior Run Community Corporation on a Sunny October Sunday**

Back in the Spring when NPC was looking at dates for a paddle trip, it was with concern and some trepidation October 10 was selected. As you know, Pennsylvania's Octobers can be sunny, warm, and wonderful, or cold, windy and not great river weather.

October 10, 2010 turned out to be the sunny, warm, and wonderful kind. Over 30 people paddled from Montgomery to Watsonstown. Rain earlier in the week helped reduce the amount of paddling, but still allowed some of the remains of the ordinance dam at Allenwood to be visible.

Students from Lycoming College brought along kick nets, and provided an overview of the water quality assessment work

going on. The students demonstrated the kick netting on White Deer Hole Creek due to high water levels in the River. The paddle up White Deer Hole Creek, although chillier, was just as enjoyable as the River.

If you missed this year's trip, don't worry, there will be opportunities in 2011. Keep an eye out for information in NPC's newsletters.



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## **Regional Dinners Held In Mansfield and Mill Hall**

NPC continues the tradition of holding regional dinners to update our Tioga and Clinton County members. This year the Tioga County Dinner was held at Lamb's Creek Food and Spirits in Mansfield. Dr. Paul Wendel from Mansfield University was the guest speaker and discussed a cross-campus effort underway. Professors from various disciplines are working together to design, and then implement, a water quality sampling program to monitor for changes in water quality that may be resulting from Marcellus shale activities.

At the Clinton County Dinner in Mill Hall, Lock Haven University geology professor Dr. Mohammed Khalequzzaman (or, as his student's call him, Dr. K) and retired geology professor Dr. John Way explained their on-going research in the Beech Creek watershed. Working with the Centre County Conservation District,

student interns, the Beech Creek Watershed Association and the Pennsylvania Senior Environmental Corps, the geologists are sampling at twelve points throughout the watershed to monitor how, if at all, the watershed changes as a result of the recent Marcellus shale drilling activity.

From their research and work on abandoned mine drainage (AMD), they already have extensive data and information about the watershed and the various AMD treatment systems at work. This continued sampling will provide a continuation to that work, and also help monitor the watershed's health as another extractive industry works there.

These dinners conclude NPC's membership events for 2010. (where did it go?) The winter 2011 newsletter will have information about upcoming spring events. We hope to see you in 2011!

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## Northcentral Pennsylvania Conservancy

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## Trout Run Stream Restoration Project a Partnership

Pennsylvania has several streams named Trout Run. One of them is a tributary to Pine Creek that enters the Creek from the west side, at the south end of Cammal. A road parallels the stream, running from Route 44 down to Pine Creek. The road was the grade for the Cammal and Black Forest Rail Road during the lumbering era, and was then improved during the 1930s by the Civilian Conservation Corps boys assigned to Cammal.

Over the years, the stream has pushed against the road and there's been erosion. In some places, the stream was starting to undercut the road. The Bureau of Forestry (BOF) has gated a section of the road because of the erosion issues, and is looking for options to help stabilize the road, while also improving the aquatic habitat.

The Pennsylvania Fish and Boat Commission (PFBC) had visited the project site with the Bureau of Forestry and Lycoming County Watershed Specialist in 2008 and designed a project along a 2-mile section of the stream. The design called for thirty-one structures along the two-mile stretch.

The Bureau of Forestry's maintenance budget did not have the funds necessary to purchase the materials needed for the project, so the design and permits sat for about a year. Anadarko Petroleum Corporation had heard about NPC's partnerships to undertake stream restoration work and was interested in helping. Anadarko was looking for an opportunity to financially contribute, and to provide man-power.

In addition to providing \$10,000 to purchase



materials and rent the excavator (the one the Bureau owns does not have a long enough reach), Anadarko's staff provided nearly 100 hours of volunteer time toward the project. Staff from their Houston offices as well as Williamsport based staff, swung sledgehammers, nailed down geo-fabric, and "shingled" rocks.

The Bureau of Forestry district provided foresters and equipment operators to assist with the project, and their Pennsylvania Youth Conservation Corps crew helped for a good deal of the project. Interns from Lycoming College's Clean Water Institute helped with construction, and assisted the PFBC with an electro-shocking demonstration.

PFBC and the BOF will monitor the site to see how the stream reacts to the devices. More work may be scheduled in a couple of years, but for now, things will be allowed to settle and adjust.

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# MEMBERSHIP ACTIVITY • May 1, 2010 to October 31, 2010

## CORPORATE MEMBERS

Many thanks to our corporate members for their support of NPC's mission. Please take note of those businesses which have shown they care about the future of our communities with their corporate memberships and show YOUR support to them.

### Bald Eagle (\$2,000+)

PPL Corporation

### American Kestrel (\$500- \$749)

Glenn O. Hawbaker Inc.

JBH3 Architects

Jersey Shore State Bank

Lycoming Co. Conservation District

### Small Business (\$100- \$499)

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Clinton Co. Economic Partnership

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PMF Industries Inc.

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