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FEB 09 REC'D

Mr. Roger Conner
West Michigan Environmental Action Council
822 Cherry, S.E.
Grand Rapids, Michigan 49506

Dear Roger:

Some time ago, I suggested to you in conversation that the controversy over oil and gas development in the Pigeon River Country State Forest (PRCSF) ought to be of major concern to the West Michigan Environmental Action Council. I continue to be of that view; indeed, I have put a good deal of my own time into a study of the matter, and expect to spend quite a bit more. I am persuaded that the issue is not only important in itself, but that it also represents a major precedent-setting event in the administration of some of our important environmental laws and in the directions Michigan's DNR is going. It thus ought to be of primary concern to every environmentally active citizen and group--and especially the WMEAC which stands so much at the center of the Michigan environmental movement.

Let me explain, as succinctly as the issues allow, why I think the Pigeon River matter is so important:

I.

This is the first major test of our state requirement for Environmental Impact Statements. The DNR's Statement is fundamentally insufficient. If we do not challenge this sloppy, incomplete and misleading statement, we can expect a standard of shoddy work to become firmly embedded in state practice. The ramifications would be felt on every future environmental decision.

II.

The fundamental question in the Pigeon River dispute is whether any Michigan land is to be immune from industrial development. DNR has in effect characterized the Pigeon River question as asking whether we are to take a 'pure preservationist' stance as to our state lands, and permit no oil to be produced from them. Almost exactly the opposite question is actually before us. Nearly one million (!) acres of state-owned land is now under oil lease. So far as I know, there is no controversy over allowing development for oil and gas on the vast bulk of that land. The only land in controversy is about 25,000 acres in the PRCSF, something like 2% of the total under state lease. So the real question is whether it is reasonable to ask the DNR to withhold some two percent of its land from commitment to hydrocarbon development. To put the issue in the setting of Michigan's lands as a whole, both public and private, is to make the DNR position even more breathtaking. For somewhere between 8 and 10 million acres of land in Michigan are now under oil lease--approximately 1/4 of all the land mass of the State. To suggest that the PRCSF ought to be withheld for other public purposes is hardly to suggest that Michigan will not do its full share in supplying the nation's energy needs.

III.

Perhaps most important of all is the land itself. The PRCSF consists of nearly 150 square miles of state recreational and wildlife habitat land; only 10% consists of private inholdings. In this day, and in this part of the nation, such huge contiguous tracts of high quality land are rare indeed. One need only look at the patchwork of ownership on the Manistee National Forest to see what typical public land in Michigan is like. It would seem a high priority of a sensitive DNR to protect such resources from industrialization. Yet the DNR has not even begun to exhaust the means available to it to prevent the commitment of the PRCSF to oil and gas development.

IV.

The following are some of the omissions in the DNR's impact statement:

1. It never considers the use of eminent domain power to acquire leases from the oil companies. That is certainly an alternative that must be considered under the established guidelines for impact statements. Yet there is not even an estimate of cost.
2. While there has been much talk about using oil royalty money from the PRCSF to buy new recreational land, there is no consideration given to using royalty money from non Pigeon River oil revenues to the State for the purpose of buying back oil company leases in the PRCSF. This is another example of the DNR's failure to mention any commitment of other State land to oil development in its environmental impact statement.
3. There is no explanation or discussion of why the DNR is going forward with a plan to develop the PRCSF for oil and gas while it has pending in the courts a case that would give it the legal power to prohibit drilling in the PRCSF without expending a penny of State money. One alternative would be a short term lease extension until the controversy ends. Inexplicably, to allow drilling now is in essence to give away the very right the DNR is in the midst of fighting for in the courts.
4. The impact statement says drilling will only be allowed in one part of the PRCSF. Yet the DNR now admits it has no legal authority to implement such a restriction. The impact statement neither discusses this issue, nor considers alternatives (purchase or condemnation) to make practicable its own plan for the PRCSF.
5. To put each of these four items in a broader context, the DNR has never considered the alternatives that would free it to develop a PRCSF policy liberated from the pressures of powerful oil company legal claims. The unstated assumption of the impact statement is that these legal claims are irrelevant to its decision to allow development. But even a five minute conversation with any DNR staff member will make clear that quite the opposite is the case; oil company legal claims, and threats of litigation, are the tail that is wagging the DNR dog.
6. Since the DNR in essence contemplates 'selling' a part of our natural resource heritage for cash, one would expect some effort to compare the quantum and nature of the benefits from the cash royalties being anticipated as against the total value of the losses expected to be incurred by the oil activity. But no such estimates appear in the impact statement; there is

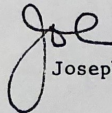
an unexamined and untested assumption that the dollars coming into the State treasury from royalties will exceed the losses from displacement of public uses of the area. No such assumption ought to be made.

V.

These are only a few of many issues that can be raised. They make clear, I hope, the legal vulnerability of the impact statement, and also the sloppiness with which DNR has gone about the very important task of managing our precious land resources.

It is essential to keep in mind that this is no minor development. It is an industrial venture involving much more than a billion dollars, and it involves tens of thousands of acres of the State's prized recreational and wildlife habitat land. And it is by no means the last big mineral extraction decision to be made by DNR. Our forest and park lands are not securely protected by our statutes. They are vulnerable to intense developmental activities. DNR is not a strong pillar of protection; it is weak and it needs the most vigorous sort of encouragement to engage in good decision making. There will never be a better opportunity to make informed public participation a reality.

Yours,


Joseph L. Sax

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