

***In an email from John Childs, attorney with the PEDF, here are the updates for legal arguments in behalf of environmental issues concerning the Pine Creek Valley.***

***January 30, 2021***

Mary,

Good to hear from you. We do appreciate the continuing support of the PCPA!

Last year the work for PEDF was intense, but not conclusive. I wish we could have a full half hour or so to meet at the Forestry Office to fully discuss.

We have four (4) cases in court that were very active in 2020.

In the Supreme Court, against the Governor and the General Assembly, the case on whether the bonus and rental payments from the oil and gas leases are part of the public trust along with the royalties that the Supreme Court decided in 2017. The bonus and rental payments have been and will continue to be significant. The 2010 payments of \$383,000,000 were all bonus payments. That case was fully briefed and argued before the Supreme Court as September 2020. We are waiting for a decision.

Also, in the Supreme Court we have appealed the Commonwealth Court decision to approve the 2017-2018 and the 2018-2019 Appropriations Acts, transferring @ \$100,000,000 from the Oil and Gas Lease Fund, along with the 2017 Fiscal Code which repealed the 1955 Oil and Gas Lease Fund Act, which gave DCNE complete control over the oil and gas lease moneys to be used exclusively on project which benefit the State Forest and Parks. Instead, the General Assembly now has complete control of the fund, and can appropriate the lease fund money pretty much as they want. We are currently writing our brief to the Supreme Court as to why these actions violate Article I Section 27. It is due the 22nd of February.

In the Commonwealth Court in 2020 we filed a new case, this time directly against DCNR and Secretary Dunn. We are challenging the 2016 State Forest Resource Management Plan, which makes continuing leasing our State Forest for oil and gas extraction for the specific purpose to raise revenue for the economic benefit of the Commonwealth, i.e. to save the General Assembly from having to raise taxes such as the severance tax on the oil and gas industry.

Additionally, we filed a separate challenge against the continuing appropriations from the oil and gas revenue to pay for DCNR's operations in 2019-2020. At the request of the Governor and the Commonwealth that case has been stayed pending the cases in the Supreme Court.

We are confident of a good opinion from the Supreme Court this year!

Let me know if you have any questions.

John

**Addendum:**

*Sent: Mon, Feb 1, 2021 8:50 am*

*Subject: RE: PEDF summary*

John,

When do you expect the result of those actions to possibly be concluded?

Paul

***Reply to Paul Hoffmaster, past president of the PCPA.***

Paul,

This year should bring closure to many of the issues dealing with the revenue from the oil and gas leases.

The bonus and rental payments have been fully briefed and argued since September. There are many important issues that will be decided. The court usually takes 6 months or more to write the opinion. So Springtime would be reasonable.

But the case I am now writing the brief on in the Supreme Court on the 2017/2018, 2018-2019 appropriations is somewhat interrelated, and the court may wait until that case is fully briefed and argued. That would make it a massive opinion, so I don't know. It will not be argued until at least the Summer or Fall. So, if they combine the two it will not be decided until the winter or next Spring. I hope they will issue the bonus opinion first!

The DCNR raised preliminary objections to the case to the 2016 State Forest Management case. It was also argued last September.

The Commonwealth Court should have decided that issue quickly, but they have not. They could be waiting for the Supreme Court on the bonus issues. So, I can't say when. We will appeal the decision if the Commonwealth Court denies us.

But if we get the green light to proceed with the case against DCNR that will take up to a year to bring to a decision. It will then be appealed to the Supreme Court.

Not real clear answers to your questions, I know. the best I can do for now.

John