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2015 Shaping Up to Be a Crossroads for Royalty Owners

Are you Taking the Wheel or Just Going for a Ride?
By: Trevor Walczak, VP, NARO-PA

For those of us who follow politics like most people follow their favorite sports teams, nothing can be more exciting than election season and the start of a new legislative session with party platforms lined up across the political gridiron awaiting the starting whistle.

Energy issues have been at the top of the

legislative agenda, which puts royalty owner concerns directly in the political crossfire. Much to the surprise of Harrisburg's power structure, our concerns as royalty owners don't fit squarely into a single political camp. 2014 proved to be a breakout year

for NARO-PA, after we hit the political scene with a bang in the summer of 2013. We discovered quickly bringing a royalty owners perspective to Harrisburg was not only a full time job, but critical in this time of modernization of Pennsylvania's oil and gas law.

The Unfinished Business of 2014

NARO-PA's most significant accomplishment of 2014 was in its defensive maneuvers. HB 1684, a bill whose intent was to ensure Pennsylvania royalty owners would never receive less than a 12.5% royalty, came under significant attack by powerful opponents even as support grew for it on both sides of the

political aisle. NARO-PA and our allies in Harrisburg were instrumental in helping to move a favorable bill through the House Environmental Resources and Energy Committee with bipartisan support.

Once the bill reached the full House for consideration, numerous attempts were made to undermine the guaranteed minimum royalty. NARO-PA pulled its support of the bill after amendments, which would have memorialized post production cost deductions being passed onto royalty owners resulting in them being paid less than 12.5%, were forced

through against the will of our allies in the House. The compromised bill failed without the support of NARO-PA.

As support for NARO-PA's "**12.5% means 12.5%**" version increased throughout the latter half 2014, the opposition was forced to block a "clean" bill's reemergence to the floor of the House for a vote, despite broad bipartisan support.

NARO-PA's foiling of the hijacking attempt of HB 1684 was the single most significant event in the modern evolution of Pennsylvania's gas law.



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If NARO-PA leadership had not been in the House chamber during the floor vote on HB 1684, by statute, Pennsylvania mineral owners could now have post production costs deducted from their royalties and the guaranteed minimum royalty of 12.5% would be meaningless.

Our Legislative Success

The two most notable pieces of legislation that NARO-PA helped to support through passage were HB 402 and HB 2278, which became Act 152, and Act 173 respectively, when they were signed into law by Governor Corbett.

HB 402 required operators of oil and gas wells to record surrender documents from oil and gas leases within 30 days of their termination, expiration, or cancellation. This will provide for clear title searches in the future for mineral owners looking to lease their minerals again or clarity for lending institutions who desire to know if there is an active lease on properties they are considering lending on.

HB 2278 would require operators of unconventional gas wells to file monthly production reports to DEP, rather than the semi-annual current requirement. This would help lease holders access timelier reports which would assist in allowing them to evaluate production reports against their royalty check stubs.

Both bills were drafted and sponsored by Representative Tina Pickett (R-110), who has been a great friend to Pennsylvania royalty owners.

So what does 2015 hold for NARO-PA and PA royalty owners?

The election of York County businessman and Democrat Tom Wolf in November of 2014 ended the Republicans control of the Governorship, but they were successful in improving on their majorities in the State Senate and State House, which lays the foundation for a contentious budget battle. Much of the new Governor's support came from those who saw revenue from a potential severance tax as a way to plug massive holes in a bloated budget.

It is Irresponsible for Harrisburg to be looking at ways to be paid from the Marcellus when they haven't ensured that royalty owners are being paid properly first.

The genius of our American system of government is that it thrives on the competition of ideas. When the majority party strays from the will of the people, another challenger emerges to change the power structure or draw the ruling party back towards a direction which benefits the greatest majority. While the Republicans were generally regarded as being advocates of natural gas development, important issues to royalty owners, like clarifying the guaranteed minimum royalty, were left incomplete, and NARO-PA hopes the shift in balance of power helps to shed some light on issues facing Pennsylvania's royalty owners eventually resulting in post production costs not being passed onto royalty owners.

2015 will be a year where we need to dig in and grow our grassroots efforts needed to pass legislation which defines that "the guaranteed minimum royalty of 12.5% means 12.5% to the royalty owner." We are gaining allies in every corner of the state, due to the hard work NARO-PA is doing in Harrisburg.

Our current effort centers on gathering co-sponsors for the reintroduction of a Guaranteed Minimum Royalty bill, which picks up where HB 1684 left off last session. This new bill will be assigned a number once it is

Continued to page 3

introduced by its primary sponsors, Rep. Garth Everett, Rep. Sandra Major, Rep. Tina Pickett and Rep. Matt Baker.

Our fantastic four Representatives of Everett, Pickett, Major, and Baker, have been dedicated royalty owner advocates in the House, and have gained a notable reinforcement of Rep. Karen Boback, who represents parts of Wyoming County, the 6th ranked gas producing county in Pennsylvania. We welcome the strengthened ranks we are gaining in both parties, as indicated in the co-sponsorship report for the guaranteed minimum royalty bill.

Since it's formulation in 2010, NARO-PA has been on the front lines of the energy policy debate in Harrisburg representing solely and without compromise, our position as royalty owners. As a member you are helping us to carry on this mission.

Without a strong presence on behalf of royalty owners working the hallways of the capital, Pennsylvania's energy future will be shaped by the Marcellus Shale Coalition, Penn Future, and the downstate population centers. Will you be satisfied with that result?

Town Hall Meeting May 6, 2015 Washington County

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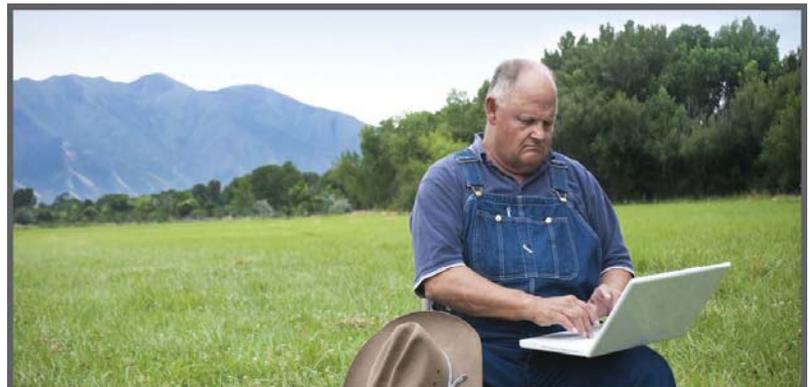
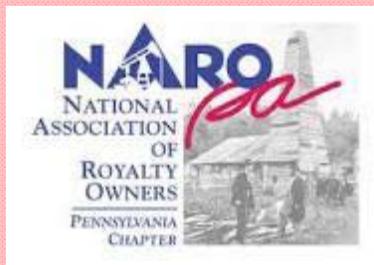
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COMPARISON OF BASIC TERMS OF ORIGINAL PROPOSED DEMCHAK PARTNERS CLASS ACTION SETTLEMENT AGREEMENT AND OF AMENDED CLASS ACTION SETTLEMENT AGREEMENT

*Submitted by: Taunya Knolles Rosenbloom, Esq,
Knolles Rosenbloom Law Office
www.marcellusroyaltyaction.com*

	<u>Original</u>	<u>Amended</u>
Initial Settlement Payment - Percentage of PPC paid through Cutoff Date	55% of PPC*	55% of PPC
Cutoff Date for Initial Settlement Payment	Sept. 1, 2013	June 1, 2014
Transition Settlement Payment – Percentage of PPC paid from Cutoff Date through Effective Date	27.5% of PPC	34% of PPC
Future Royalty Calculation Method - Cap on PPC after Effective date	72.5% of PPC	66% of PPC
Legal Fees	1/3 of Settlement Funds Plus 1/3 of future economic benefits (by automatic offset from future royalty payments to class members for up to three years after Effective Date)	Same

*PPC = Post-Production Costs
Certain Definitions/Terms:

“Post-Production Costs” means costs for gathering, compressing, transporting, or dehydrating Gas *which are incurred before the interconnect point of a Transmission Pipeline*. Post-Production Costs does not include transportation costs incurred after Gas has entered the interconnect point of a Transmission Pipeline. (§ 1.28 of proposed Class Action Settlement Agreement; (§ 1.32 of proposed Amended Class Action Agreement) (emphasis added)

“Transmission Pipeline” means a *large-diameter* natural gas transmission or transportation pipeline (*interstate or intrastate*). The term “Transmission Pipeline” does not include field facilities or field gathering pipelines or systems. An example of an interstate Transmission Pipeline is the interstate pipeline owned by Tennessee Gas Pipeline Company, and an example of an intrastate Transmission Pipeline is the intrastate pipeline owned and operated by PVR NEPA Gas Gathering, L.L.C., commonly referred to as the Wyoming Pipeline. (§ 1.45 of proposed Class Action Settlement Agreement; (§ 1.48 of proposed Amended Class Action Agreement) (emphasis added)

Continued to page 5

If Post-Production Services are provided by a third party, then the Post-Production Costs subject to deduction hereunder shall be the Post-Production Costs actually charged by the third party to Chesapeake and/or its Affiliates and paid by Chesapeake and/or its Affiliates to the third party on an arm's-length basis. If Post-Production Services are provided by Chesapeake and/or its Affiliates, then the Post-Production Costs for such services subject to deduction hereunder shall include only Chesapeake's and/or its Affiliates' actual and reasonable costs for such services.

(§ 6.2 of proposed Amended Class Action Agreement)

Settlement Class Members will continue to bear one hundred percent (100%), on a pro rata basis, of the costs actually incurred, directly or indirectly, by Chesapeake and/or its Affiliates downstream of the interconnect point with a Transmission Pipeline, including for transportation costs on the Transmission Pipeline (§ 6.3 of proposed Amended Class Action Agreement)

SOME QUESTIONS CONCERNING THE PROPOSED SETTLEMENT

1. What is the basis for Class Counsel's estimate that "Chesapeake's total payment will be in excess of \$11 million"? What portion of that amount reflects the Initial Settlement Payment vs. Transition Settlement Payment?
2. Is there any way for individual class members to estimate the amount of their likely individual recovery under the terms of the settlement?
3. What is the potential recovery if plaintiffs were to prevail on each of their claims?
4. Why is the interconnect point of an intrastate "Transmission Pipeline" defined as the point at which royalty owners remain responsible for their pro rata share of 100% of costs? Why doesn't the Settlement Agreement use the interconnect point of pipelines which are subject to FERC regulation of their rates, and terms and conditions of service, as the definitional cutoff point?
5. What constitutes a "large diameter" transmission or transportation pipeline? Note: the Wyoming pipeline is 24" in diameter, but is still deemed a "gathering" pipeline outside of the jurisdiction of FERC.
6. Do any of the pipelines that comprise part of the Chesapeake Midstream/Access Midstream pipeline system constitute "Transmission Pipelines" as defined by the Settlement Agreement?
7. What portion of the gathering and transportation fees that have been charged to royalty owners to date have been for costs incurred *after* the interconnect point of a Transmission Pipeline (and thus will *not* be recoverable or subject to future limitation under the proposed settlement)? ●

Yaw Pleased with AG Kane Questioning on Post-Production Costs

March 17, 2015

HARRISBURG – State Senator [Gene Yaw](#) (R-23) today expressed optimism following comments made by Pennsylvania Attorney General Kathleen Kane into her investigation of [natural gas](#) post-production cost deductions by Chesapeake Energy Corporation.

During questioning before the state Senate Appropriations Committee, Kane revealed that the Anti-Trust and Bureau of [Consumer Protection](#) Divisions of the Attorney General’s Office have conducted hundreds of interviews with landowners, receiving land leases and documents, since last year.

“I can’t comment on where it (investigation) is right now, but I can tell you that we’re almost wrapping it up,” Attorney General Kane noted. “It was a very thorough investigation. I really want to commend our office. That was a lot of interviews to do in parts of the state, it takes a while to [travel](#) to, as well.”

“I was very pleased to hear that the Attorney General’s investigation into this issue will be wrapping up soon,” Yaw said. “My office has corresponded directly with General Kane since last year and sent over 50 leases on behalf of my constituents to her office for her consideration. This is a huge issue for people I represent.”

As early as 2013, Yaw convened a [public hearing](#) of the Senate [Environmental Resources](#) and Energy Committee to further examine this issue. “During our hearing, the committee heard testimony that deductions by Chesapeake were as high as 100 percent of some royalty checks. This raises a significant consumer protection issue for hundreds of constituents in my Senate district.”

In light of the ongoing issues, Yaw also introduced a package of legislation, known as the Oil and [Gas Lease](#) Protection Package, which would seek to improve and enhance transparency in lease agreements.

Attorney General Kane’s full testimony before the Senate Appropriations Committee will be made available at www.senatorgeneyaw.com (click 2015-16 State Budget Link). ●

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State Senate Unanimously Approves Yaw Leaseholder Protection Bills

January 28, 2015

Senate Bills 147 & 148 first of three bills to pass in 2015-16 Legislative Session

HARRISBURG – Two bills protecting natural gas leaseholders across the state were unanimously approved today by the full state Senate, according to Senator Gene Yaw (R-23).

Yaw, who sponsored both legislative measures, said Senate approval of the bills was a clear sign that fair and proper treatment of landowners leased with natural gas drilling companies must remain paramount.

“These bills will give landowners more weapons to use in their arguments with the gas drilling companies that pay their royalties,” Yaw said. “We’ve tried to provide them with the tools that they can use to determine the accuracy of their royalty reports.”

As approved today, [Senate Bill 147](#) would allow a royalty interest owner the opportunity to inspect records of a gas company to verify proper payment. In addition, the legislation requires that proceeds from production of oil and gas shall be paid within 90 days of production to ensure monthly royalty payments, unless otherwise stated in the lease.

Further, [Senate Bill 148](#) would prohibit a gas company from retaliating against a royalty interest owner by terminating the lease agreement or ceasing development because a landowner questions the accuracy of the royalty payments.

Both bills now move to the House of Representatives for consideration.

For more information, visit Sen. Yaw’s website at www.SenatorGeneYaw.com, on Facebook www.facebook.com/gene.yaw.3, or on Twitter @SenatorGeneYaw. ●



NARO-PA, Fighting for Mineral Owner’s Rights in Every Corner of Pennsylvania:

PA Chapter Vice-President, Trevor Walczak, joins the leadership of the Northern Wayne Property Owners Alliance (NWPOA) to discuss the moratorium in the Delaware River Basin, the proposed severance tax and property rights with State Senator Lisa Baker and State Representative Sandra Major.

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Prod Date	Product	Interest %	Int Type	BTU	Price	Volume	Gross	Prod Tax	Other Ded	Net Amt	Volume	Gross	Prod Tax
87654-002 BIG BUTTE NO. 2						SV/County; PA WALKER				Survey/Abstract: PSI; BLK 0-			
11-2002	OIL BBLs	.00361680	ROY	.000	25.8900	3696.49	95712.51	30.04		95,682.47	13.37	346.17	.11
11-2002	OIL BBLs	.00361680	ROY	.000	25.8900	00.00	00.00	44	77	4,999.77	00000	00	10002
11-2002	GAS-MCF	.00361680	ROY	1.585	1.9500	2777.00	5400.24	406.87		4,993.37	10.04	19.53	1.47
Total Net For Property #39439-036										23.41 365.70 17.50			
87654-024 BUNKER HILL #1						SV/County; PA WALKER				Survey/Abstract: PSI; BLK 0-			
11-2002	OIL BBLs	.010393113	ROY	.000	25.8900	1268.48	32844.51	10.30		32,834.21	13.87	359.03	.11
11-2002	OIL BBLs	.010393113	ROY	.000	.0000	00.00	00.00	151085		-1,510.85	.00	.00	16.52
Total Net For Property #39430-060										13.87 359.03 16.63			
Total Net For Owner										37.28 724.73 34.13			
Net Totals By Product:													
OIL BBLs:											27.24 705.20 32.66		
GAS-MCF											10.04 19.53 1.47		

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What Can You Do to Help Promote NARO-PA & Stop the Erosion of the Guaranteed Minimum Royalty?

By: T. Walczak, Co-Chairman NARO-PA Legislative Committee

When it comes to the issue of bolstering the guaranteed minimum royalty, there is no way to replicate the genuine grassroots effort royalty owners and local government leaders across the state have demonstrated. The need to revisit the guaranteed minimum royalty was born from the *Kilmer vs. Elexeco* decision recommending the legislature is the branch of government charged with defining royalty, and has been exacerbated by the growing discontent of royalty owners over the excessive deductions of post-production costs by some operators and the difficulty in obtaining credible documentation of the deductions.

So how do we keep the wind in our sails? Here are some unique suggestions that can make a real impact:

1. Take the time to contact your neighbors about what NARO-PA has meant to you as a royalty owner. Nothing helps to grow our membership more effectively than a member sharing their experience with a friend. To sustain this fight, we need to gain members.
2. Share NARO-PA educational materials like *PennROAR* and Versant's email newsletter *News You Can Use* with prospective members to give them a flavor of who we are and our mission. We utilize the vast expertise inside our association to provide timely, accurate and trustworthy information to our membership. Guaranteed, you won't find analysis like we provide anywhere else.
3. Consider an additional donation specifically to NARO's Pennsylvania Chapter to help us with our lobbying expenses. Currently, we are spending more than we are taking into our treasury, a phenomenon that is only sustainable for so long. It is the effective work our lobbying firm, Versant Strategies, under the direction of Dr. MeeCee Baker and former PA State Rep. John Barley, that gives us the inside ability to avoid the pitfalls of Harrisburg's bureaucracy. I have no

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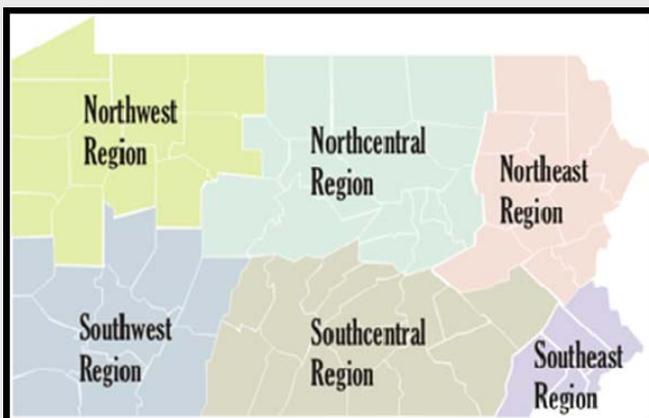
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doubt we would not be looking at such a good quality bill make it this far without them. Check them out: www.versantstrategies.net/

4. If you are a NARO-PA member, make a direct impact by donating to the Pennsylvania Royalty Owner Political Action Committee (PRO-PAC). This PAC was started in early-2014 by NARO-PA and the funds are used specifically in Pennsylvania political races in the most effective ways to support friends of royalty owner issues and lawmakers in key positions. Contact PAC chairman Jim Souto for more information: jsouto@psbanking.com
5. Bill Wilson, a Northeast Regional Board Member suggested that royalty owners should reach out to their children, who might live in other legislative districts, and encourage them to contact their House Member. Certainly, it's up to you if you want to make this year's charitable gift to them dependant upon that call! ●



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Getting More for *All* Your Natural Resources:

Don't forget about your forest's value in the quest for natural gas

By: Trevor Walczak, Forester, Walczak Lumber Co., Inc

Before the Marcellus Shale boom, Pennsylvania's forest products industry, which produces \$5.5 billion annually, was the states recognized natural resource powerhouse. While the housing bust has weakened the resource, landowners need to be reminded not to overlook its value on their way to natural gas production on their properties.

Here are some tips to help you get more from your forest during the gas boom:

1. Leases and pipeline agreements often can include language such as: *an appraisal shall be constructed by a qualified third party forester and Lessee shall pay Lessor the said appraised present value of such timber prior to harvesting*. This ensures you are adequately reimbursed for timber value on your property.
2. Often times, these agreements also allow for the landowners to retain these same forest products as firewood for personal use or as wood products for sale, if there is adequate volume or values. This gives the opportunity to "double-dip" on the resource.
3. If you can find a purchaser who can complete the clearing work before the pipeline crews plan to begin operations, you may receive a better price for your trees before the pipeline clearing crews handle it. Attaining a valuation of standing trees is more accurate than estimating trees in a pile.
4. Have the pipeline company install "hard crossings" at sites across the proposed pipeline where forest products from future timber sales can be moved across the right-of-way to market, in accordance with pipeline crossing safety procedure. While the revenue generated from natural gas development is lucrative, it is short term. Timber is a renewable resource and I am certain while forest management may not be on your to-do list now, you may find yourself revisiting the woods as a source of revenue in the years to come.

If you choose to reserve your wood, keep in mind:

1. When meeting with the company representatives, *before the operations begin*, clearly define:
 - a. **The size of the trees you would like to reserve.** Typically, clearing crews chip or grind all portions of the tree smaller than the main stem's diameter of 6 inches. This is not an exact measurement made on each tree as they process it, but rather an "educated guess" of diameter, so be understanding if the results are a little either side of the mark.
 - b. **The place you would like the wood stacked.** Clearly define a location which will not interfere with on-going natural gas operations, but in a place that is still easily accessible, if you have plans to later market the wood products.
2. If marketing your wood, remember, the more a buyer has to invest into accessing, sorting and moving the wood, the less you may receive for the resource. Typically, different products like pulpwood, firewood, palletwood, and sawlogs will all be mixed together in the pile, so be realistic in your expectations:
 - a. "Stumpage" refers to the value of standing timber in the forest, while a "log price" refers to the value of an individual log, at the landing, ready to load, or delivered to the sawmills yard. The difference between the stumpage and the log price is the loggers cost of getting that tree into a sellable product.
 - b. Selling all of the products together "by the load" simplifies the process of marketing your wood, but does not let you take advantage of higher priced sawlogs that may be inside the pile. It may be a viable option if there are no "grade 1 or furniture.

Continued to page 12

- c. The initial stumpage appraisal can act as a guide for estimating the value of all of the wood in the pile, but it does not account for wood that has been damaged in processing or for short-runs in volumes due to crew's excessively chipping.
- d. To best maximize their resource, landowners may chose to work closely with a sawmill, pulpmill, or logger who is willing to sort through the piles and work on a "percentage" of the value of the "log price" received on their sale to the sawmill. Pulpwood or firewood can either be sold on a "rate-per-ton" or on a price "by the load." These values will vary regionally depending on access to markets and cost of processing.
- e. As always, when working with forest products, make sure the terms of the sale are agreed to in writing, insurance for all workers on-site has been provided, and agreements have been made for timing of the operation and retirement of the site.

As the Marcellus shale boom is helping to keep farms and hunting clubs intact, it is also taking the pressure off our valuable hardwood forests to sustain property ownership. Ideally, without this pressure, landowners may become more inclined to explore sustainable forestry practices which improves forest composition, wildlife habitat and maximizes a forest's return over time.●

NARO-PA would like to thank the sponsors who made the Black Walnut Townhall Meeting a success:

