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Hon. Gene Yaw, Chairman  
Senate Environmental Resources and Energy Committee  
State Capitol Building, Room 262  
Harrisburg, PA 17120

**Re: Testimony of Lester L. Greevy, Jr., Esq., Chairman, Legislative  
Committee of the Pennsylvania Chapter of the National Association of  
Royalty Owners  
Senate Environmental Resources and Energy Committee  
Senate Bill 258**

Dear Mr. Chairman:

Chairman Yaw and members of the committee, I am Lester L. Greevy, Jr. I am the chairman of the legislative committee of the Pennsylvania Chapter of the National Association of Royalty Owners. Thank you for the opportunity to assist the committee in its consideration of SB 258. I have been practicing law in Lycoming County for 43 years. I have represented thousands of landowners with property in the Marcellus fairway counties.

We're here to talk about truly abandoned mineral rights, the descendant owners of which cannot be found after a lengthy, diligent, exhaustive search. These are rights that have passed down through generations without mention in any estate records and without being memorialized by any deed or other recorded document. They are truly abandoned. Their owners have allowed themselves to become irretrievably lost.

Mineral interests about which the owners do not care are a serious problem for Pennsylvania landowners. The problem is that it is legally impossible to develop many acres of valuable Marcellus oil and gas rights due to exceptions or reservations of the oil and gas rights which occurred decades—or a century—ago and have since been effectively abandoned by a previous owner.

There are at least two medicines, but no cures. The first is the Pennsylvania Dormant Oil and Gas Act, which, as one commentator has put it, ought to be called the 100% Tax Act. The Dormant Oil and Gas Act is fundamentally flawed in two ways. First, filing a petition requires that one own already own some interest in the oil and gas estate in question, and many times the entire estate has been severed from the surface. Second, the Act is a wolf in sheep's clothing: it can only benefit the Commonwealth, because if the true owners truly cannot be identified or located, all proceeds escheat to the Commonwealth.

The second medicine is an action to quiet title. A landowner who obtained a final judgment in an action to quiet title had, in years past, enjoyed some success in that many exploration and production companies had taken leases from these landowners and paid a bonus. The problem with an action to quiet title is that it isn't an action to acquire title, and the industry has stopped taking leases where title is based on an action to quiet title, and in any case, doesn't pay royalties to these landowners.

There are some concerns about improper service in actions to quiet title. These concerns are legitimate: there have been abuses of the service-by-publication rules, and there will continue to be abuses. The same can be said of service of petitions under the Dormant Oil and Gas Act. But these are distinct problems that are only tangentially related. In any case, service by publication grounded in an inadequate investigation to determine identities and whereabouts will invite a petition to strike just as certainly if SB 258 becomes law as it does now.

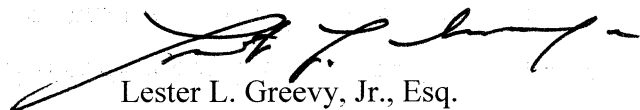
The problem we have with un-owned minerals is real. The problems with SB 258 are mostly imagined. Some have said that a landowner would be without standing to file an action to quiet title under SB 258. But an action to quiet title may be brought to determine any right, title, or interest in land. It is also extolled that the bill would operate to the detriment of all landowners because it would divest the possibility of reverter created when a landowner executes an oil and gas lease. This is contrary to the plain language of the bill: the exercise of subsurface rights is expressly defined to include production of oil and gas. The bill is also decried as an unconstitutional taking of private property, but the Supreme Courts of the United States and the states which have enacted a real dormant mineral act have consistently found to the contrary.

A real dormant mineral act is not a new idea—Pennsylvania would join at least 23 other states in enacting SB 258. The difference is that SB 258 would be less burdensome and provide more procedural protections than the laws of many other states.

Public policy favors subjecting dormant mineral interests to termination. It can be done in a way that does not violate the United States Constitution or the Constitution of the Commonwealth. With its broad exceptions, SB 258 will assure that active mineral interests are protected, but will not unduly burden marketability. The breadth of protections will ensure that the statute is fair and constitutional.

On behalf of Pennsylvania chapter of the National Association of Royalty Owners and all the Pennsylvanians affected by abandoned mineral interests, I thank you again for the opportunity to address this problem before the committee. I am at the disposal of the Chairman and the committee for answering any questions.

Very truly yours,



Lester L. Greevy, Jr., Esq.