

Blue Ridge Environmental Defense League

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The Honorable Pat McCrory
Office of the Governor
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Dear Governor McCrory:

I write on behalf of the statewide Blue Ridge Environmental Defense League to request you meet with us on an urgent matter facing the people of North Carolina. As you know, hydraulic fracturing is an issue of great concern to many. The matters at hand are twin property rights issues: forced pooling and severed estates.

First, forced pooling occurs when a private individual or homeowner is forced into a commercial oil or gas production unit. This is a scheme used by oil and gas development companies to take natural resources from landowners without their consent. By allowing forced pooling, the State is aiding and abetting the oil and gas industry in a violation of individual rights. The right of the people to own and be secure in the use of their land is a bulwark of our society. So long as the owner does not damage or pollute the property of his or her neighbors, this right is and should be inviolate. The principle *cuius est solum* dates back centuries and remains part of common and civil law today.¹

However, there are currently no protections for landowners in place. In fact, on August 28, 2013, the Compulsory Pooling Study Group of the North Carolina Mining and Energy Commission voted to allow gas companies to force people into selling the gas under their land. The state's consenting to and assisting in this abuse of property rights is unconscionable. Further, it will allow corporate interests to enrich themselves and impoverish the people of North Carolina.

¹ *Cuius est solum, eius est usque ad coelom et ad inferos*: For whoever owns the soil, it is theirs up to the sky and down to the depths. The term was coined in the 13th Century.

Although the Compulsory Pooling Study Group of the Mining and Energy Commission has completed its report and made its recommendations, it is unclear where you stand. This leaves *every single person in North Carolina* exposed and unprotected from liability, predation, and trespass.

Second, an additional concern is residents who live on or own severed property, also known as split estates. As you know, last year the NC Department of Justice required the nation's largest homebuilder to disclose that, unknown to home buyers, mineral rights under hundreds of homes in North Carolina had been severed and retained by the company.² The mineral rights were subsequently returned to the residents, but only after months of uncertainty. Thousands of acres of such property have been identified in Lee County alone. There are housing developments in Moore, Chatham and Harnett counties, the Triangle, the Triad, and the Charlotte-Mecklenburg areas that may have severed properties, which could add thousands more acres, and people, to the list. There has been little discussion of protecting these landowners, who are particularly vulnerable.

In light of the fact that state officials lack legal authority to force a company to return severed property to its rightful owners, what assurance can you give that such practices are not continuing all over North Carolina? Plainly stated, this is theft. Will you take action to protect the property rights of citizens of this state?

In conclusion, the Blue Ridge Environmental Defense League is working with landowners in the identified shale basins, as well as those in unexplored areas. Personal and property rights must be protected. We hereby request that you meet with us and members of these communities and hear our concerns.

Respectfully,



Louis A. Zeller
Executive Director

² Letter from North Carolina Department of Justice to D.R. Horton, April 12, 2012