Memorandum

To: Pennsylvania Governor Tom Wolf and His Leadership Team

From:
10,000 Friends of Pennsylvania
Audubon Pennsylvania
Chesapeake Bay Foundation
Citizens for Pennsylvania’s Future
Clean Air Council
Clean Water Action
Conservation Voters of Pennsylvania
Foundation for Pennsylvania Watersheds
Keystone Trails Association
PennEnvironment
Pennsylvania Environmental Council
Pennsylvania Forest Coalition
Pennsylvania Growing Greener Coalition
Pennsylvania Land Trust Association
Pennsylvania Recreation & Park Society, Inc.
Sierra Club Pennsylvania Chapter
The Conservation Fund
The Nature Conservancy, Pennsylvania Chapter
Western Pennsylvania Conservancy

Date: March 2, 2015

Subject: Working Paper on the Conservation, Protection and Restoration of Pennsylvania’s Environmental Quality, Recreational Assets, and Natural Resources

The knowledge and experience that the Wolf leadership team brings to Harrisburg creates an historic opportunity to revisit and recalibrate state government’s policies and actions regarding the conservation, protection and restoration of Pennsylvania’s environmental quality, recreational assets, and natural resources and how land and resources are developed in the Commonwealth.

Following constructive dialogue, the attached working paper was assembled by the groups listed above to offer direction regarding issues of critical concern that the Administration is generally capable of addressing, or at least begin taking action, on its own. The list of issues covered and the recommendations contained within are not exhaustive,
nor does the paper necessarily capture the full range of perspectives held by individual organizations on any particular issue. Due to the breadth and complexity of topics addressed, individual organizations may not have specific positions on every issue contained in this working paper.

The organizations that worked on this paper welcome any and all opportunities to enter into dialogue with the Administration regarding the issues raised. Thank you.
Working Paper on the Conservation, Protection and Restoration of Pennsylvania's Environmental Quality, Recreational Assets, and Natural Resources

Appointments

NOTE: this section was drafted prior to the appointments of John Quigley and Cindy Dunn, both of whom exemplify the principles set forth below. Our groups thank the Governor for nominating these qualified, dedicated individuals to lead DEP and DCNR, respectively.

One of the Governor’s first and most important steps will be appointment of leadership for the Department of Environmental Protection (DEP) and Department of Conservation and Natural Resources (DCNR). As Governor Wolf has noted, these leaders will be responsible for bringing greater transparency to the natural gas development process, proactively addressing climate change, and promoting policies that are in the best interest of current and future Pennsylvanians. For this reason, it is essential that these appointees be familiar with and committed to the missions of the agencies they are entrusted to steward, and while there is no clear litmus test, qualified appointees should agree with the following:

- Resource protection and management requires proactive analysis and actions consistent with the principles of Article I, Section 27 of the Pennsylvania Constitution;
- Their agencies require robust budgets and staffing to fully carry out their respective missions; and
- Addressing the causes and impacts of climate change is a priority for the new Administration to act upon.
- Secretaries should bring to the agencies visionary leadership in natural resources, public recreation, and the environment.
- Secretaries must demonstrate an understanding that citizens and industry do not have equal resources and that therefore citizens are more dependent on agency expertise and knowledge.
- Secretaries must understand that the agencies’ credibility is enhanced through transparency in policy, decision-making, enforcement and management.

Court Appointments
In addition to appointing DEP and DCNR Secretaries, the Governor may have the opportunity to appoint individuals to fill vacancies in the Supreme Court and other courts until an election is held for these respective positions. As with the Cabinet appointees, those appointed to the courts of the Commonwealth must be clearly dedicated to upholding Article 1 Section 27, the Environmental Rights Amendment, of the Pennsylvania Constitution. Environmental protection ethics should also be reflected in leadership appointments to other agencies and commissions that have a direct connection with our communities and natural resources.
Budget & Funding

Governor Wolf has recognized the need to submit a state budget that includes additional funding for the Department of Environmental Protection so that it is sufficiently staffed and able to provide oversight of regulated industries. In addition to the staffing needs of DEP, the following are key elements of a state fiscal policy that will ensure environmental and economic sustainability:

- Maintain funding for existing programs such as the Keystone Recreation, Park and Conservation Fund, the Growing Greener Environmental Stewardship Fund, the Marcellus Shale Legacy Fund, the Heritage Areas Program, and the Agricultural Conservation Easement Purchase Program;
- Identify opportunities to increase funding for restoration, conservation, recreation, preservation, and environmental programs and projects across the Commonwealth. Several possible sources are the Conservation Trust Fund, Severance Tax on Natural Gas, Water Usage Fee, Plastic Bag Tax, etc.;
- Begin the process of rolling back DCNR’s dependency on Oil & Gas Lease Fund revenues for operating costs and restore the traditional dedication of Oil & Gas Lease Fund monies to conservation, recreation, and flood control;
- DCNR should allocate Keystone Fund and Environmental Stewardship Fund monies intended for internal agency use judiciously, applying these funds to direct project work rather than for uses that typically would be considered agency operations;
- Increase DEP operating funding and internal capacity to levels that will enable the agency to fully carry out its mission;
- Seek a dedicated source to maintain and increase funding for the Heritage Areas Program;
- Increase penalties assessed against operators that violate laws or the terms of their permits;
- Fully fund the Commonwealth’s share of the Delaware River Basin Commission (DRBC), the Susquehanna River Basin Commission (SRBC), the Interstate Commission on the Potomac River Basin, the Great Lakes Commission, and the Ohio River Valley Sanitary Commission. An immediate action would be to pay Pennsylvania’s fair share of the Delaware River Basin Commission which is 25%;
- Explore and address the funding and capacity needs of the Fish & Boat Commission and Game Commission. For example, non-game species programs and invasive species management are currently under-funded; and
- Oppose riders in the fiscal code.


Energy and Climate

As candidate Wolf recognized, Pennsylvania faces both opportunity and challenge in addressing climate change, but it must act. Past policy efforts for advancing low impact energy investment, generation, and conservation (including the 2004 Alternative Energy Portfolio Standards (AEPS), Act 129 of 2008, and the Alternative Energy Investment Act of 2006) have clearly demonstrated that reducing greenhouse gas emissions in the Commonwealth can also promote job creation and economic growth.

Robust and Thoughtful Planning for Climate Change
Candidate Wolf stated that he plans to make climate change a priority and supports meaningful emissions reduction targets for greenhouse gases. It is critical for the Governor to fully support targeted reductions of carbon dioxide emissions in compliance with the EPA Clean Power Rule, and to defend against proposed rollbacks of this important plan at the State or federal level. To meaningfully address climate change in Pennsylvania will require an inter-agency commitment and the attention of the entire administration. Currently, just two people in DEP’s Bureau of Air Quality work on climate change. This vital work needs to be bolstered and elevated in profile. DEP’s climate work must be closely coordinated with the staff of the PUC, which has jurisdiction over natural gas pipelines and rules that impact solar installation.

Reducing greenhouse gas emissions will be an integral aspect of the new energy plan, and both existing state requirements and forthcoming federal requirements underscore the need for the Commonwealth to make a concerted effort to redouble its climate planning efforts.

The EPA is scheduled to announce its final rule for the Clean Power Plan in mid-summer 2015. The Clean Power Plan will help cut carbon pollution 30 percent nationwide from 2005 levels, and gives Pennsylvania and other states significant flexibility in how these reductions will be achieved. To ensure compliance with the EPA rule and achieve carbon emissions reductions that will benefit the Commonwealth:

- DEP should begin working on compliance options immediately, and assume that the plan as proposed will be upheld. Legislative and regulatory changes to implement Pennsylvania’s plan, such as extending and strengthening the Act 129 requirements, will need to be identified and emphasized;
- The Wolf administration should also investigate regional compliance options such as RGGI or partnerships with states in the PJM territory as a means to reduce costs, but with sensitivity to the impact such trading schemes can have on specific communities. Furthermore, DEP’s plan should maximize
opportunities to implement energy efficiency measures in all sectors of society including low income ratepayers;

- The plan should promote the development and appropriate siting of renewable energy sources such as solar and wind, and incentivize development of renewable energy on brownfields, abandoned mine lands, and other already industrialized lands;

- In addition, DEP is required to produce the next action plan under the Pennsylvania Climate Change Act by October and the next impacts assessment report by April. These requirements, along with improvements in how Pennsylvania conducts its inventory of greenhouse gases, represent a significant opportunity for the Wolf administration to make climate change a priority for state government, and educate and engage stakeholders and citizens alike;

- These efforts also should strive to reinvigorate the Climate Change Advisory Committee under the DEP, and seek better coordination between the DEP, PUC, and other state entities to inform and improve decision-making with respect to climate and energy choices; and

- The climate action plan should include recommendations for climate adaptation--applying proven conservation methods and testing new approaches to make our communities and the natural systems we all rely on more resilient to climate change.

Energy Plan

Given the extraordinary environmental and economic significance tied to energy generation and use, the Administration should develop a comprehensive plan to position Pennsylvania as a global leader in the transition to a new, low carbon energy economy. Such a process should engage all Pennsylvanians in an open and thoughtful dialogue about opportunities to improve the ways in which our State produces, distributes, and manages its energy resources. A coordinated and thorough energy plan should guide Pennsylvania to a future that achieves cleaner production and more efficient use of power, while ensuring energy reliability, affordability, and security.

We submit that such a plan can invigorate Pennsylvania’s environment and economy by integrating efforts to reduce greenhouse gas emissions, encourage technological innovation, encourage healthier and more livable communities, and promote sensitive and sustainable siting of energy infrastructure.

This plan should seek to:

- Account for environmental impacts of energy development in our state, and suggest concrete policy strategies for avoiding or mitigating those impacts – particularly where no management
strategies currently exist. For example, the proliferation of natural gas infrastructure throughout the Commonwealth has occurred without adequate planning, environmental assessment, and monitoring;

- Advance new goals for renewable and distributed energy production within our state by updating the AEPS, and through innovative financing or tax incentives for deployment of renewables and distributed generation;
- Increase support for demand-response strategies and energy efficiency efforts via Act 129 of 2008 and through innovative financing or tax incentives. It is important that DEP work with the PA PUC to ensure that DEP’s goals of expanding renewable energy are not thwarted by PUC rulemaking;
- Determine how Pennsylvania can truly establish itself as a global center for innovative technologies and businesses associated with renewable energy—for example, by deploying cutting edge energy storage technologies; and
- Appoint members of the Uniform Construction Code and Advisory Council who will ensure that updated building codes are adopted in a timely way.

Natural Gas
Pennsylvania also needs to more aggressively advance regulation of natural gas development in Pennsylvania. Candidate Wolf recognized the need for regulations on natural gas operations that will protect our environment and keep residents healthy and safe. The majority of environmental protections required by the Oil and Gas Act amendments in 2012 are still mired in rulemaking and have not yet been put into practice. It is essential that the DEP review public comments to Chapter 78, improve the proposed regulations, and move to finalize these proposed regulations as soon as possible. In doing do, DEP should review Maryland’s recently-adopted approach to regulating shale gas development and explore potential opportunities to strengthen the draft rulemaking through incorporation of provisions from Maryland’s program, such as regional comprehensive planning for infrastructure development.

The state must also regulate methane emissions from natural gas extraction, processing and transportation. Given the size of the natural gas industry in Pennsylvania, the urgency of the need to reduce greenhouse gases, and the public health benefits from regulating methane, it is imperative that the state acts quickly. Recognizing Pennsylvania’s leading role in natural gas production, the Commonwealth should adopt the most protective natural gas methane regulations in the country.
Further, other adverse public health impacts from natural gas development must be examined. Pennsylvania’s new Secretary of DEP and Secretary of Health should work with the Wolf administration to conduct a comprehensive and transparent public health assessment and make appropriate recommendations that will best protect the residents of the Commonwealth.

**Air and Water Quality**

Natural gas development is not the only threat to Pennsylvania’s environment. DEP has failed to solve chronic problems with existing facilities, large and small. For example, too many large facilities in Pennsylvania have a long history of being in non-compliance with their permits. In some instances, these facilities account for the majority of negative impacts on local air quality and water quality. DEP must recognize that such chronic non-compliance harms public health and undermines the Department’s credibility with the citizens of Pennsylvania.

Pennsylvania DEP must do a better job of monitoring the cumulative impacts of smaller individual sources of pollution that collectively may be having a major air quality and water quality impact. A perfect example is the impact of many natural gas wells, compressor stations and pipelines in one community. Other issues that must be a priority for the new Administration include: diesel emissions in cities and air toxics from sources near residential areas. A strong regulatory program is needed to curb emissions from idling at major transportation hubs and construction sites in urban settings, as well as air toxics from area sources that are located in residential areas.

Candidate Wolf expressed his interest in safeguarding the state’s water resources and addressing legacy environmental problems such as Abandoned Mine Drainage. He was critical of the General Assembly’s efforts to weaken stream buffer requirements and also identified the need for coal mining companies to be held accountable for environmental damage resulting from their operations. Some steps Governor Wolf can take to protect the Commonwealth's waters are:

- Utilize existing authority to the maximum extent to protect riparian buffers in special protection waters, and enhance funding to increase the planting of buffers;
- Commit to reduce the Susquehanna River’s contribution to Chesapeake Bay degradation; fully fund work to meet sediment, nitrogen, and phosphorus total maximum daily load (TMDL) limits already approved by EPA and the Chesapeake Bay Agreement;
- Consider and address the enormous problem that Pennsylvania is still plagued with 250,000 acres of abandoned mine land and
5,000 miles of streams polluted by acid mine drainage (AMD) from old coal mines. Experience has shown that early collaboration with statewide environmental groups --- the AML Campaign --- is crucial to ensure congressional reauthorization in 2021 of the abandoned mine land fee, which makes up the Abandoned Mine Land Fund under the Surface Mining Control and Reclamation Act (SMCRA). In the meantime, it is important that the state uses the full 30 percent set aside from the fund for on-the-ground projects to clean up streams polluted by AMD. It is essential that DEP’s nationally award winning Bureau of Abandoned Mine Reclamation be provided with the funds and flexibility needed to complete AMD projects to clean up the waters of the Commonwealth;

- Revisit decisions on impaired waters in the Commonwealth during the triennial review of water quality standards;
- Support a water well construction standards program;
- Integrate green/natural infrastructure into DEP regulatory requirements, as well as state-level investments in conservation, drinking water protection, flood mitigation, and stormwater management;
- Build, support, and strengthen interstate river basin management organizations and utilize Pennsylvania’s seat on these commissions to protect our water resources for drinking as well as aquatic resources;
- Make a concerted effort to reduce pollution from stormwater by rolling out an improved stormwater MS4 permit system, promoting the development of stormwater authorities and enforcing regulations currently in place;
- Assist local governments to encourage and help them establish nutrient management plans, stormwater ordinances, and other stream buffer projects which would protect and enhance water quality;
- Conduct a cumulative review of water quality impacts from pipeline construction and develop best practices to address the findings;
- Reinvigorate and implement recommendations in the State Water Plan; and
- Review and align DEP programs and regulations to EPA’s new Coal Ash Rule.

In addition to State-level policies and practices, we urge the Governor to fully support implementation of federal proposals that will restore and protect Pennsylvania’s air and water, including, but not limited to, compliance with the following proposed rules, when finalized: Waters of the United States, Cross State Air Pollution, and Ozone.
Public Lands and Resources

First, we would like to express our thanks to Governor Wolf for following through on his promise to protect state parks and forest from new gas leases with the signing of Executive Order 2015-03 on January 29, 2015. In addition, we support a return to the preservation of lands held in trust by the Commonwealth for all Pennsylvanians and encourage the Wolf Administration to:

- Affirm that the lands are held in trust for all the people of Pennsylvania and, as such, that it is the responsibility of state agencies and their staff to diligently and critically review and monitor all aspects of development activities in order to protect the public trust;
- Direct DEP to enhance its scrutiny of permit applications for activities on state lands per the public resource section of Chapter 78;
- Direct DCNR to robustly enforce protections provided by its leases and, where opportunity arises, strengthen those protections;
- Ensure transparency in the impacts of development, by requiring prompt reporting of monitoring results and the current and cumulative impacts of development on a DCNR website enhanced for easy navigation and public review;
- Continue ongoing monitoring and expand the analysis of impacts to ensure that the monitoring program includes a comprehensive examination of air quality, noise, lighting, groundwater and surface water quality and quantity, wildlife, invasive species, recreation and community impacts, loss of wild character, and scenic vistas;
- DCNR should work with other agencies and the private sector to examine and address the impacts of gas activities on the natural resources and tourism economy in conservation landscapes such as the Pennsylvania Wilds and Laurel Highlands.
- Develop a clear and timely public information process whereby the citizens have an open opportunity to review and comment on the management and proposed development of their natural and built resources;
- Pursue opportunities for the expansion of public lands, such as continuing the long-standing tradition of land acquisition of inholdings and adjacent parcels;
- Do not expand existing authority of DCNR to lease lands for additional energy development;
- Identify and implement measures to strengthen the ability of forests and other habitats to withstand stresses associated with a changing climate, such as invasive species and extreme weather events; and
- Resist efforts to weaken Pennsylvania programs that protect our most vulnerable species of wildlife, and instead look for
opportunities to improve the State’s effectiveness in halting and reversing the decline of at-risk species.

In addition to State-level policies and practices, we call on the Governor to fully support federal proposals that will restore and protect Pennsylvania’s public lands and conservation landscapes. This includes the Land and Water Conservation Fund and other similar efforts.

**Land Use and the Keystone Principles, Wildlife and Biodiversity**

State agencies should robustly support private and local government initiatives to conserve natural and open space lands, develop greenways and trails, and promote community planning and smart growth—through grant programs, departmental initiatives and interagency cooperative efforts.

Health, schools, taxes, traffic, the environment, economic growth, fairness, opportunity—many of the things we care about—are all affected by land use and development decisions. From the length of our daily commute to the parks and natural environment that we all enjoy—what, where, and how we build have major impacts on our personal lives, our communities, and the Commonwealth.

Land use is "smart" when it gives us great communities, with more choices, good return on public investment, greater opportunity across the community, a thriving natural environment, and a legacy we can be proud to leave our children and grandchildren. When communities choose smart land use strategies, they can foster design that encourages social, civic, and physical activity. And they can protect the environment while stimulating economic growth.

Protecting our existing "open space" is a primary goal of smart land use strategy. Open space refers to natural areas that provide important community space, habitat for plants and animals, and recreational opportunities, as well as farm and forest land (working lands), places of natural beauty, and critical environmental areas (e.g. wetlands). Open space preservation supports smart land use goals by bolstering local economies, preserving critical environmental areas, and improving community quality of life.

The other primary—and complementary—goal of smart land use is to ensure we guide new growth and real estate development into existing communities and redevelop previously used sites.

To accomplish these goals of smart, compact land use, the Wolf Administration should:
• Create, promote, coordinate, and enforce an “Investment Policy” for Pennsylvania by better implementing the “Keystone Principles for Growth, Investment, and Resource Conservation,” See: http://www.phmc.state.pa.us/bhp/pkp.pdf
  o Refine and revise the wording of the Principles to better target/define core criteria;
  o Create and adopt application scoring metrics that will lead to better implementation of the Principles; and
  o Convene state agencies to refresh and renew their commitment to the Principles.

• Link land use and transportation policy and projects
  o Enforce an infrastructure policy of “Fix It First” vs. new capacity adding projects;
  o Promote project design options that utilize natural infrastructure and connect natural systems and habitats to keep lands and waters intact for wildlife and fish, improve safety, and reduce costs associated with flooding, other damage, and emergency response.
  o Provide multi-modal transportation options to make local trips—including pedestrian facilities, bike lanes, trails, and public transit—and invest in projects improving bicycling and pedestrian safety;
  o Promote increased transit usage by improving transit options and service;
  o Prioritize investments in walkable communities.

• Better enable local ballot initiatives and create local-option funding mechanisms.
  o Would enable regions/counties/citizens to authorize and fund specific local priority projects, including transit, trails, and bicycle lanes;
  o Locally funded projects should receive priority in receiving funds from the new Multi-Modal Transportation Fund, leveraging and maximizing the Fund’s impact.

• Restore community development and community revitalization program funding.
  o Community Development program funding has been decimated over the last 4 years, with many programs being cut 80% and some being eliminated or consolidated.

• Restore funding for land use planning, tied to local contractual commitment to adopt and implement plans that are developed.
  o Plans should advocate smart land use strategies—infill, brownfields, redevelopment, TOD, open space protection, mixed use, and place making development strategies.
• Promote and fund best practices in Green Infrastructure stormwater management strategies.
  o A proven effective mechanism to manage flooding and improve water quality and achieve “triple bottom line” community environmental quality benefits.

• Create a new State Office of Smart Growth to coordinate these smart land use strategies.
  o Many state agencies administer programs and make investments impacting land use, including PennDOT, PHFA, DCED, DCNR, DEP, PennVEST, Education (PlanCOM program), and others;
  o The best way to coordinate and implement these smart land use, redevelopment, and open space preservation strategies on an interagency basis is through an state Office of Smart Growth located in the Governor’s Office;
  o Governor Wolf committed to create this new office in his campaign policy plan, “A Fresh Start,” in the section titled “Revitalizing our Communities and Encouraging Smart Growth,” page 33.

• Identify and promote incentives and programs to help private forest landowners manage their lands for long-term health and sustainability.
  o 70 percent of Pennsylvania’s forests are privately held, mostly by small size owners without forest management expertise or guidance;
  o Providing access to professional guidance would maintain the health and diversity of private forests and make them less vulnerable to unsustainable harvesting practices and land use conversion.

**Conclusion and Next Steps**

We look forward to working with Governor Wolf and the members of his cabinet to support the implementation of the above recommendations. Representatives from our organizations are available to help shape and inform the environmental initiatives of this administration as we together strive to improve human health and the environment for all Pennsylvanians.

*Following constructive dialogue, our organizations achieved general agreement on the following set of recommendations. This list is not exhaustive, nor does it necessarily capture the full range of perspectives held by individual organizations on a particular issue or issues. Due to the breadth and complexity of topics addressed, some recommendations may deal with issues on which individual organizations do not have a position.*
Appendix I: Polling Data and Economic Benefit Studies


II. The Nature Conservancy, the Trust for Public Land, PennState Harrisburg: Overwhelming public support for both continuing existing dedicated state funding for conservation, as well as increasing state funding for land and water conservation, even if that meant a small increase in taxes: [http://csr.hbg.psu.edu/Portals/44/Press%20Release_TPL_Nature%20Conservancy_Spring%202014%20PSP.pdf](http://csr.hbg.psu.edu/Portals/44/Press%20Release_TPL_Nature%20Conservancy_Spring%202014%20PSP.pdf)

III. The Nature Conservancy – Voters in Appalachian shale region value local forests for a diverse variety of economic, recreational, and health reasons: [http://www.nature.org/ourinitiatives/regions/northamerica/areas/centralappalachians/appalachia-poll-memo.pdf](http://www.nature.org/ourinitiatives/regions/northamerica/areas/centralappalachians/appalachia-poll-memo.pdf)


V. Sierra Club: Strong Support for Clean Energy and the Clean Power Plan: [https://secure.sierraclub.org/site/SPageNavigator/poll_2014voter.html](https://secure.sierraclub.org/site/SPageNavigator/poll_2014voter.html)