

Bill No. 8182-14

No. 05-14-OR

ORDINANCE

An Ordinance of the County of Allegheny, Commonwealth of Pennsylvania, authorizing and approving the leasing of the County's interests in the oil, natural gas and other hydrocarbons from all formations deeper than six hundred-fifty (650') feet above the Tully Formation underlying Deer Lakes Park subject to certain conditions set forth herein, including the express condition that no drilling activity to extract oil, natural gas and other hydrocarbons shall be conducted anywhere on the surface of Deer Lakes Park.

WHEREAS, the County of Allegheny, hereinafter "the County," is the owner of a tract of real property consisting of approximately 1,180 acres in Frazer and West Deer Townships real property known as Deer Lakes Park; and

WHEREAS, the County also is the owner of oil, natural gas, shale and other valuable subsurface rights at Deer Lakes Park, hereinafter collectively referred to as "the Deer Lakes Oil and Gas Rights;" and

WHEREAS, the County, through its Division of Purchasing and Supplies, issued a Request for Proposals identified as Specification No. 7154 on October 25, 2013 under which the County requested qualified and responsible parties to submit a proposal to lease the County's interest in the Deer Lakes Oil and Gas Rights without drilling anywhere on the surface of Deer Lakes Park; and

WHEREAS, Range Resources – Appalachia, LLC, hereinafter referred to as "Range," jointly submitted a proposal in response to Specification No. 7154 to lease the County's interest in the Deer Lakes Oil and Gas Rights without drilling anywhere on the surface of Deer Lakes Park, hereinafter "the Proposal;" and

WHEREAS, the County has conducted a careful and considered review of the Range Proposal; and

WHEREAS, the County, with the assistance of legal counsel who specializes in oil and gas law and has longstanding experience in the negotiation of leases of oil and mineral rights, has conducted lengthy negotiations with Range for the lease of the Deer Lakes Oil and Gas Rights in accordance with the general framework, terms, conditions and requirements set forth in Specification No. 7154; and

WHEREAS, the County has reached an agreement with Range for the lease of the Deer Lakes Oil and Gas Rights, which includes, among other things, an express condition that no drilling activity to extract oil, natural gas and other hydrocarbons shall be conducted anywhere

on the surface of Deer Lakes Park; and

WHEREAS, Article IV, Section 2 (k) of the Allegheny County Home Rule Charter vests County Council with the exclusive power to approve the leasing and the use of County-owned land, buildings and other real and personal property by enactment of an ordinance; and

WHEREAS, each member of the County Council has received the terms and conditions of the proposed agreement between the County and Range for the leasing of the Deer Lakes Oil and Gas Rights; and

WHEREAS, County Council is of the considered opinion that the public interest of the citizens of Allegheny County would be advanced by authorizing and approving the lease of the Deer Lakes Oil and Gas Rights to Range under the terms and conditions set forth in the proposed lease agreement.

The Council of the County of Allegheny hereby enacts as follows:

SECTION 1. Incorporation of the Preamble.

The provisions set forth in the preamble to this Ordinance are incorporated by reference as set forth in their entirety herein.

SECTION 2. Authorization to Lease the Deer Lakes Oil and Gas Rights.

County Council does hereby authorize the leasing of the Deer Lakes Oil and Gas Rights to Range Resources – Appalachia, LLC, subject to the following express conditions:

A. No Surface Drilling - That Range shall not conduct any drilling activity to extract oil, natural gas and other hydrocarbons anywhere on the surface of Deer Lakes Park; and

B. Compensation to County - That Range shall pay to the County the following amounts: (i) a bonus payment of Four Thousand Dollars (\$4,000.00) per net Oil and Gas acre; (ii) \$3,000,000 in five (5) equal annual payments of \$600,000 beginning on the date of the making of the bonus payment described above and continuing on each of the four (4) anniversaries thereafter with the foregoing funds to be used by the County, at its sole discretion, as a park improvement fund for parks throughout Allegheny County; and (iii) royalty payments consisting of: (a) Eighteen Percent (18%) of the net amount paid to Range for all Oil produced, saved and sold from drilling beneath Deer Lakes Park; and (b) Eighteen Percent (18%) of the net amount realized by Range for the sale and delivery of all Gas and Liquid Hydrocarbons produced with Gas saved and sold from drilling beneath Deer Lakes Park; and that Lessor's pro-rata share of post-production costs on Gas Royalty attributable to Gas production payable under this Lease shall be subject to a cap not to exceed Fourteen and Four Tenths Cents (\$.144) per MMBTU (which corresponds to a cap of Eighty Cents (\$.80) per MMBTU on the 8/8ths Gas production); and

C. Surface Water Testing - That Range shall agree: (i) to conduct tests of the nine (9) surface water locations in Deer Lakes Park as identified in the Lease between the County and Range starting at least twelve (12) months prior to the spudding of a well or as soon as practicable in advance of Range's proposed spudding of a well if less than twelve (12) months, but in no event less than six (6) months prior to said spudding, and then every three (3) months leading up to the spudding of a well ("Control Testing"), every three (3) months during the drilling phase and then at six (6) month intervals for a period of two (2) years following the completion of the relevant well ("Subsequent Testing"); (ii) to provide the testing results to the County or its designee; and (iii) in the event that it shall be affirmatively shown from such testing that Range has materially and adversely affected the surface waters in Deer Lakes Park, to take such actions to restore the quality of the surface waters to their pre-operations Control Testing condition to the reasonable satisfaction of County and fully compensate the County for any and all damages suffered thereby; and

D. Subsurface Water Testing - That Range shall agree to conduct subsurface water testing under the following circumstances: In the event that a determination is made that the quality of public or private water supplies of landowners and water purveyors in Deer Lakes Park, on lands subject to the Lease between the County and Range or on other lands, has been degraded, it shall be presumed that Range is responsible for pollution of said water supply if the said water supply is within thirty-five hundred feet (3,500') of Range's vertical wellbore located on leases and/or lands with which the property subject to the Lease between the County and Range are unitized and such pollution occurred within twelve (12) months of the later of the completion, drilling, stimulation or alteration of the well. To rebut the presumption set forth in the preceding sentence, Range must affirmatively prove any of the following: (i) the pollution existed prior to the drilling, stimulation, or alteration activity as determined by a pre-drilling or pre-alteration survey; (ii) the relevant landowner or water purveyor refused to allow Range access to conduct a pre-drilling or pre-alteration survey; (iii) the water supply is not within thirty-five hundred feet (3,500') of the vertical wellbore; (iv) the pollution occurred more than twelve (12) months after completion of drilling or alteration activities; or (v) the pollution occurred as a result of a cause other than the drilling or alteration activity. In the event that the affected water supply is subject to the rebuttable presumption set forth above, and Range should not have rebutted the presumption as set forth above, Range shall provide a temporary water supply if the water user is without a readily available alternative source of water. The temporary water supply shall be adequate in quantity and quality for the purposes served by the supply. Range shall further take commercially reasonable actions to restore the quantity and quality of the affected water supply to as near to the condition as determined by the pre-drilling or pre-alteration survey as practicable, and fully compensate the affected landowner for damages suffered thereby. By way of clarification, the public and private water supplies subject to the rebuttable presumption set forth in this Section D shall mean only such water supplies used for domestic consumption and shall not apply to surface waters unless such surface waters are used for domestic consumption.

E. Environmental Provisions – That Range agrees to comply with the Environmental Provisions set forth in the Lease between the County and Range.

F. Safety Provisions - That Range agrees to comply with the Safety Provisions in the Lease between the County and Range.

G. Roadway Restrictions - That Range agrees to the following roadway requirements: (i) Range shall coordinate with Deer Lakes School District and Highlands School District (and any other school district which Range determines may be impacted) to minimize the potential impact on school bus traffic on school days; (ii) Range shall further obtain all necessary permits, including, but not limited to, highway occupancy permits and overload-oversize permits, as may be required by the Commonwealth, the County, and applicable local municipalities and further to obtain all necessary road bonds as may be required by the Commonwealth, the County, and applicable local municipalities, concerning the use, maintenance and repair of portions of roads utilized by Range in furtherance of its drilling operations on properties (i.e. – units) around Deer Lakes Park, including the property subject to the Lease between the County and Range; (iii) Range shall be responsible for all necessary repairs to portions of County roads utilized by Range occasioned by Range’s utilization of the same in the furtherance of its Drilling Operations on units around Deer Lakes Park (including the property subject to the Lease between the County and Range) to the County’s reasonable satisfaction; and

H. Noise Reduction - That Range agrees to minimize, to the extent practicable, the noise resulting from drilling operations around and including Deer Lakes Park by adhering to the specific noise standards set forth in the Lease between Range and the County; and

I. Lighting Restrictions - That Range agrees to undertake the following measures to reduce night lighting pollution affecting Deer Lakes Park,: (i) using drilling rigs equipped with fully shielded lighting consistent with Occupational Safety and Health Administration (“OSHA”) regulations; (ii) prohibiting any person from shining any lights located on a well site directly on public streets or buildings located in Deer Lakes Park; (iii) directing well site lighting downward and shielded to both prevent direct illumination of and minimize glare on streets and buildings within two hundred feet (200’); and (iv) coordinating as necessary with authorized representatives of the Amateur Astronomers Association of Pittsburgh (the “AAAP”) to endeavor to minimize the impact of lighting on star parties conducted by the AAAP at the Nicholas E. Wagman Observatory located in Deer Lakes Park.

SECTION 3. Authorization to Effectuate Lease.

The appropriate County officers and officials, including but not limited to the County Manager and the County Solicitor, are authorized to take any and all such actions deemed necessary to carry out the leasing of the Deer Lakes Oil and Gas Rights to Range Resources – Appalachia, LLC.

SECTION 4. Severability. If any provision of this Ordinance shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of this Ordinance, which shall be in full force and effect.

SECTION 5. Repealer. Any Resolution or Ordinance or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Resolution.

SUMMARY PAGE

An Ordinance of the County of Allegheny, Commonwealth of Pennsylvania, authorizing and approving the County's lease of its interests in the oil, natural gas and other hydrocarbons from all formations deeper than the base of the Elk Formation underlying Deer Lakes Park on the condition that drilling activity to extract oil, natural gas and other hydrocarbons shall not be conducted anywhere on the surface of Deer Lakes Park.

Insert date

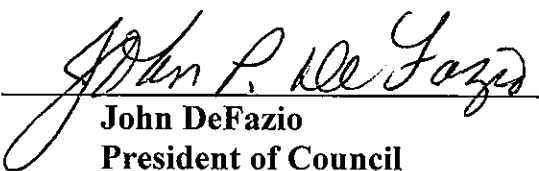
On September 27, 2013, the County, through its Division of Purchasing and Supplies, issued a Request for Proposals identified as Specification No. 7154 under which the County requested qualified and responsible parties to submit a proposal to lease the County's interest in the oil, natural gas, shale and other valuable subsurface rights at Deer Lakes Park (the Deer Lakes Oil and Gas Rights) without conducting any drilling operations anywhere on the surface of the Park. Range Resources – Appalachia, LLC, (Range) and Huntley & Huntley Energy Exploration, LLC, jointly submitted a proposal in response to Specification No. 7154 to lease the County's interest in the Deer Lakes Oil and Gas Rights without drilling anywhere on the surface of Deer Lakes Park, hereinafter "the Proposal." The County has reviewed the Proposal and, after lengthy negotiations, has reached a tentative agreement for the lease of the Deer Lakes Oil and Gas Rights, which includes, among other things, an express condition that no drilling activity to extract oil, natural gas and other hydrocarbons shall be conducted anywhere on the surface of Deer Lakes Park.


Article IV, Section 2 (k) of the Allegheny County Home Rule Charter vests County Council with the exclusive power to approve the lease and the use of County-owned land, buildings and other real and personal property by enactment of an ordinance

This proposed amended ordinance authorizes the leasing of the Deer Lakes Oil and Gas Rights to Range Resources – Appalachia, LLC only. The ordinance authorizes the leasing of the Deer Lakes Oil and Gas Rights subject to certain conditions set forth in the text of the Ordinance, including the express condition that no drilling activity to extract oil, natural gas and other hydrocarbons shall be conducted anywhere on the surface of Deer Lakes Park. The proposed amended ordinance further authorizes appropriate County officers and officials, including but not limited to the County Manager and the County Solicitor, to take any and all such actions deemed necessary to carry out the leasing of the Deer Lakes Oil and Gas Rights to Range Resources – Appalachia, LLC.

Enacted in Council, this 7th day of May, 2014.

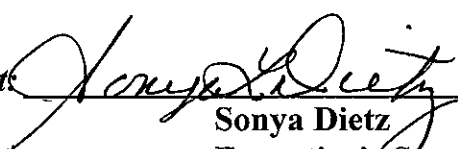
Council Agenda No. 8182-14


John DeFazio
President of Council

Attest: 
Jared Barker
Chief Clerk of Council

Chief Executive Office May 12, 2014

Approved: 
Rich Fitzgerald
County Executive

Attest: 
Sonya Dietz
Executive's Secretary

RECEIVED
MAY 09 2014

BY: