



FRIENDS OF THE JORDAN RIVER WATERSHED, INC.

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JORDAN RIVER VALLEY THREATENED AGAIN

Dear Friends of the Jordan,

1/10/04

Currently there are four pending permit applications to drill natural gas wells within the borders of the Jordan Valley Management Area (JVMA) of the Mackinaw State Forest. Two well sites, proposed by Ward Lake Energy of Gaylord, MI are located in section 7 of Star Township, Antrim County. Two other sites, proposed by Kosco Energy of Traverse City, MI are located in section 12 of Echo Township, Antrim County. All four proposed sites violate the provisions of the Jordan Valley Management PI (JVMP) of 1974, which specifically prohibits oil, gas or mineral extraction.

The Friends of the Jordan River Watershed Inc. (FOJ) supports and abides by the JVMP and are adamantly opposed to these proposed gas wells based on their negative environmental impacts, precedent setting intrusion into a protected natural area and drainage of public resources. To date all previous attempts to drill oil or gas wells on public land within the JVMA have been opposed, denied or withdrawn.

Following the ravages of the logging era and the Great Depression most of the JVMA reverted to State ownership and was allowed to heal. After years of planning and public hearings the Michigan Department of Natural Resources (MDNR) formally adopted the consensual JVMP in 1974. The principals guiding the management of the JVMA are to protect in a near natural setting the exceptionally high environmental and aesthetic qualities of the nearly 23,000 contiguous acres of public land for low impact multi-use recreation. The success of this plan can be best summarized by MDNR's characterization of the Jordan River Valley as the "Crown Jewel" of Michigan's forest ecosystems.

The industrial- like development associated with drilling gas wells such as bulldozed well pads, access roads, flow lines and processing plants fragments, degrades and disturbs fragile forest ecosystems and will negate the multitudinous efforts invested to preserve this natural treasure. FOJ understands the desires to extract our energy resources and respects the industry's right to do so but pristine places like the JVMA should simply be off-limits. That was the purpose and intent from the beginning and the provisions of the JVMP should be respected and enforced.

However, despite the public's overwhelmingly strong support to protect this area, coupled with improved oversight by MDNR and MDEQ of a largely responsible industry, certain inherent legal conflicts still exist. At the very heart of this controversy is the recurrent issue of severed minerals. Michigan's property laws allow separate ownership of the surface lands and mineral rights and also grants mineral ownership dominance. The surface of the parcels in question are public owned while the mineral rights are privately held and leased. Additionally, for two of the proposed sites, deed restrictions convey to the mineral owner liberties regarding road access and surface use.

Denial of drilling permits based solely on the wishes of the surface owner will likely evoke a takings claim by the mineral owner reminiscent of Nordhouse Dunes. Conversely, the mineral owners cannot reasonably expect to drill because these leases were purchased long after the JVMA received protective status.

But there is good news. Prudent and feasible alternatives exist to balance the rights of the mineral owner with public's mandate to protect this environment. The State of Michigan has the authority to trade mineral rights outside the JVMA thereby protecting the mineral owner's rights and preserving the integrity of both the JVMA and JVMP. FOJ proposes that these drilling applications first be evaluated based on the standard criteria of property law, environmental impact and economic viability. If any meet the needed criteria for permitting then the State and mineral owner should negotiate an equitable trade. The State of Michigan owns vast mineral holdings outside sensitive protected areas and has the legal authority to trade. Furthermore, precedent has already been established as a complex trade was successfully negotiated in the JVMA with Lee's Petroleum in 1998.

The citizens of Michigan expect our leaders to find a suitable resolution when so much is at stake. FOJ believes the tools for an equitable compromise exist to respect property rights and protect the environment. We sincerely urge the participants in these matters to seek the common good and avoid long term conflicts, ecological harm and unwanted litigation.

Respectfully Submitted,

Dr. W. Richter
President, Friends of the Jordan River Watershed Inc.



P.S. The issues described here are presently being reviewed and for two of the applications the standard time period for review has already elapsed. FOJ has only recently become aware of these proposals and apologize for the short notice. We urge your timely input and support. This letter will be distributed to various newspapers statewide but your voice is very important! Thanks - JWR.

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