



*Jim Justice*  
*Governor of West Virginia*

July 1, 2019

Stephen S. McDaniel, Director  
Division of Natural Resources  
324 Fourth Avenue, Room 200  
South Charleston, WV 25303-1228

Re: Between Mile Markers 54 – 126.4 Ohio River– Hancock, Brooke, Ohio, Marshall and Wetzel Counties- Sand and Gravel Lease

Dear Director McDaniel:

This is in response to your June 26, 2019 request under W. Va. Code § 20-1-7(14) for approval to solicit sealed bids from the public for a lease to develop the sand and gravel interests underlying portions of the Ohio River from a point within Mile Marker 54 to Mile 126.4, Hancock, Brooke, Ohio, Marshall, and Wetzel Counties, WV. I hereby approve your request, subject to the division ensuring, at a minimum, that:

1. The bidding process is competitive and accords with § 20-1-7(14);
2. The bidders are responsible and qualified to hold the lease;
3. The mineral interests will be developed in an orderly, diligent, and timely manner;
4. The mineral interests will be developed in compliance with applicable environmental protection laws and regulations;
5. The state shall receive rents, royalties, or other compensation equal to or greater than the fair market value of the mineral interests leased;
6. The state's royalty shall be free of volumetric and cost deductions (*i.e.*, the lessee shall bear all costs incurred in exploring for, producing, marketing, and transporting the mineral interests to the point of sale), unless the particular circumstances warrant the state bearing a portion of the deductions;

OFFICE OF THE GOVERNOR

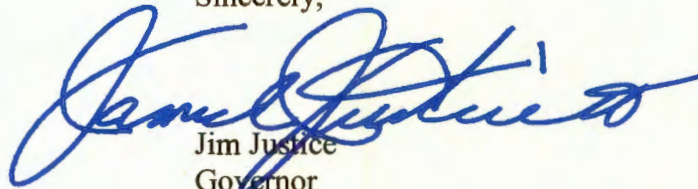
McDaniel

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7. The lessee shall be liable for royalty payments on mineral interests lost or wasted because of negligence or failure to comply with the lease or the law;
8. The lessee shall drill and produce wells necessary to protect the property from drainage or pay compensatory royalty for drainage;
9. The lessee shall regularly furnish detailed statements to the division showing the amount and quality of all minerals extracted and sold, the proceeds therefrom, and the amount used for production purposes or unavoidably lost; and
10. The proposed development is in the best economic interests of the state and will not unreasonably disrupt use and enjoyment of the Ohio River and all navigable portions of the Ohio River or the division's opportunities to develop other mineral interests in the area.

Although the resulting lease will include other important terms and conditions, I believe the foregoing solicitation and lease requirements are of key importance to ensure that the state receives a fair and reasonable deal. Please see that these requirements are adhered to and highlighted in the solicitation process. If they prove unworkable based on the particular circumstances at issue, please advise. Further, please keep my General Counsel, Brian Abraham, informed of the status of this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jim Justice", is written over the typed name and title.

Jim Justice  
Governor

CC:

Ed Gaunch, Cabinet Secretary, Department of Commerce  
Wes White, Interim General Counsel, Department of Commerce  
Dave Hardy, Cabinet Secretary, Department of Revenue



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**Stephen S. McDaniel**  
Director

June 26, 2019

Honorable Jim Justice  
Governor of West Virginia  
Office of the Governor  
State Capitol  
1900 Kanawha Boulevard East  
Charleston, West Virginia 25305  
ATTENTION: Brian Abraham, Chief Counsel

Re: Request for Sand & Gravel Lease  
Mile Markers 54 – 126.4  
Ohio River  
Hancock, Brooke, Ohio, Marshall and Wetzel Counties

Dear Governor Justice,

In accordance with West Virginia Code §20-1-7(14), the Division of Natural Resources hereby requests your approval to put out for public competitive bid the sand & gravel in, on and underlying that part of the Ohio River between Mile Markers 54 – 126.4 in Hancock, Brooke, Ohio, Marshall and Wetzel Counties.

The advertising and bidding procedure will be done in compliance with West Virginia Code §59-3-1.

Your favorable consideration of this request is appreciated.

Sincerely yours,

Stephen S. McDaniel  
Director

Approved: \_\_\_\_\_

Date: \_\_\_\_\_

  
7/1/2019