Meeting Minutes of the Local Government Regulation Study Group of the North Carolina Mining and Energy Commission January 16, 2013

1. Preliminary Matters

Dr. Price called the meeting to order at 09:10 am and welcomed all study group members and others attending. She then held a moment of silence. Following this action, Dr. Price read the ethics statement and asked Study Group members whether or not they had a conflict of interest with respect to any action items on the agenda. Hearing no remarks of conflicts, she proceeded with the meeting.

The following personnel were in attendance for all or part of the meeting:

Study Group Members

Charles Taylor – Chairman, attended via teleconference

Dr. Marva Price

Jim Womack

Charlotte Mitchell, attended via teleconference

Erin Wynia

Johanna Reese

Becki Grav

Mack Paul

Richard Whisnant

Ginger Warner

DENR Staff Members

W.E. "Toby" Vinson

Walt Haven

Others in Attendance

Refer to the attached meeting sign in sheets.

2. <u>Approval of Previous Meetings Minutes</u>

Mr. Womack moved to approve the minutes. Mr. Paul seconded the motion, which then passed via unanimous vote.

3. Election of Vice Chairman of the Study Group

Chairman Taylor requested nominations for the position of Vice Chair of the Study Group. Dr. Price was nominated by Mr. Womack, which Mr. Paul seconded. Dr. Price was elected to serve as Vice Chairwoman via unanimous vote.

4. Study Group Responsibilities

Mr. Womack explained the purpose, structure, and the functioning of the Study Group to all attendees. He stated that the Study Group would ultimately determine which regulations would be the responsibility of the State and which would be under local jurisdiction. Mr. Womack further remarked that the public was welcome to participate, but only as invited by the Chairperson.

- **5.** <u>Extraterritorial Jurisdiction Presentation</u> Johanna Reese and Erin Wynia, Ms. Wynia and Ms. Reese explained that Extraterritorial Jurisdiction (ETJ) refers to land areas which are not within but usually are contiguous to a municipality, but are typically considered to be part of a respective town or city. Additionally, the following concepts were also presented:
 - a. Bordering municipalities have the authority to apply urban planning and development regulations to adjoining ETJs;
 - b. Zoning and land-use controls which apply to a city also apply to an ETJ. Thus, oil and gas exploration and production sites would be subject to these local ordinances, unless the State prohibited the application of such ordinances. Examples might include noise and light restrictions;
 - c. Parts of a given ETJ may be annexed by an adjoining town;
 - d. ETJs are under the authority of a board, whose members are appointed by county commissioners;

Dr. Price allowed for the submission of written questions from the public at the end of this presentation. One of the questions was a request from Ms. Sally Kost (Chatham County Commissioner) that she be allowed to explain ETJ implementation in her county. Thus, in response to an invitation from Dr. Price, Ms. Kost stated that some ETJ areas within her county were under consideration for annexing. Additionally, she explained that the Pittsboro ETJ encompassed a larger area than had been presented by Ms. Reese or Ms. Wynia.

6. <u>Impacts on Infrastructure from Oil and Gas Operations</u> – Emily McGraw, NCDOT.

Ms. McGraw presented her research concerning expected impacts to roads and road bridges resulting from increased vehicular traffic related to oil and gas operations. Using Pennsylvania as a case study, she addressed the following matters as related to North Carolina:

- a. Typical oil and gas well construction generates around 1,450 truck trips, with one "trip" being from origin, to delivery, and back to origin;
- b. Typical oil and gas well construction time frames generally follow this pattern: Pad Development (4 to 6 weeks); Drilling Operations (4 to 5

weeks); Hydraulic Fracturing (7 to 30 days); Reclaiming of Site (3 to 4 weeks).

Ms. McGraw discussed the current condition of NCDOT infrastructure as it relates to roads passing through the major Triassic Basin areas. She explained that while major highways are capable of handling increased truck traffic, many secondary roads and bridges will require repair and additional structural support. She also identified the following action items which NCDOT is considering:

- a. Development of a process to maintain infrastructure;
- b. Development of infrastructure maintenance agreements with industry;
- c. Development of internal business operations, by using field and/or central offices to address DOT matters;
- d. Development of an infrastructure assessment process;
- Development of an accountability structure, where industry would have some accountability related to the impact and upkeep of roads and bridges.

Mr. Womack suggested DOT proactively work with industry to determine where operations are expected to occur. He explained that a DOT-industry working relationship could consider the following:

- a. Local waterways and the use of vessel transport traffic (i.e. barges) to partially relieve road impacts;
- b. Use of rail lines for road impact relief;
- c. Identification of "choke points" within the transportation network (i.e. lighted intersections) which slow traffic flow;
- d. Use of formal convoy operations during specified periods of the day;
- e. Limiting oil and gas trucking during specified periods of the day (i.e. during rush hour).

Dr. Price allowed for the submission of written questions from the public at the end of this presentation. Some of these questions related to spill response, as well as damage to vehicles resulting from rock aggregate debris being bounced from dump trucks onto vehicles. Mr. Marty Tillman (NCDOT and audience member) explained that industry is responsible for responding to its own spills. Additionally, damage from aggregate thrown from a dump truck (from an unsecured load) directly onto another vehicle is also the responsibility of the respective company, (anything on the road that is thrown up by a truck or any other vehicle into another vehicle is considered a road hazard and not the responsibility of the vehicle that projected it). Another question involved the responsibility for pipeline maintenance along roadways. Ms. McGraw stated that

pipeline issues were not fully addressed by Pennsylvania and that NCDOT was researching strategies to handle the matter.

7. <u>Local Government Regulations in other States</u> – W.E. "Toby" Vinson, DEMLR.

Mr. Vinson presented his research related to local government authority and regulations in selected states where oil and gas operations exist. He cited these specific examples:

- a. Certain states require an established horizontal separation distance between an oil or gas well and a property line. For instance, Alabama requires a setback of 200 ft;
- b. Noise levels are typically regulated by local governments;
- Some local rules require that certain types of work only be done during daylight hours;
- d. The application of severance taxes and the distribution of those moneys among state and local governments.
- e. The application of ad valorem taxes (property taxes) by local governments.

Mr. Vinson stated that his research is continuing.

8. Study Group Report Structure – W.E. "Toby" Vinson, DEMLR.

Mr. Vinson provided a suggested report structure for the Study Group's final document, which would include the following sections: (see attachment)

- a. Introduction
- b. Summary of Meetings and Records
- c. Issues
- d. Stakeholder Input
- e. Findings and Proposed Rules
- f. Conclusions and Summary

9. Discussion and Brainstorming

The Study Group discussed whether or not additional legal authority needed to be given to local governments, or if current authority was adequate to address local oil and gas operations. The Group recognized that this question would most likely frame future discussions.

The Study Group scheduled the next meeting for February 15, 2013 at 09:00 am. A meeting location in Chatham County has yet to be determined.

The Study Group adjourned at 11:13 am.

Outline/Appearance of Final Report: (Structure with some recommended inclusions)

LOCAL GOVERNMENT REGULATION STUDY GROUP FINAL REPORT

BY: list of contributors

Introduction:

Part 3. Section 2.(k) The Mining and Energy Commission, in conjunction with the Department of Environment and Natural Resources, the North Carolina League of Municipalities, and the North Carolina Association of County Commissioners, shall examine the issue of local government regulation of oil and gas exploration and development activities, and the use of horizontal drilling and hydraulic fracturing for that purpose. The Commission shall formulate recommendations that maintain a uniform system for the management of such activities, which allow for reasonable local regulations, including required setbacks, infrastructure placement, and light and noise restrictions, that do not prohibit or have the effect of prohibiting oil and gas exploration and development activities, and the use of horizontal drilling and hydraulic fracturing for that purpose, or otherwise conflict with State law. The Commission shall report its findings and recommendations, including legislative proposals, to the Joint Legislative Commission on Energy Policy, created under Section 6(a) of this act, and Environmental Review Commission on or before ???

Goals:

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Summary of Meetings and Records

- 1. Local Government Regulation Study Group (LGR) Meeting; December 18, 2012.
 - a. Agenda
 - b. Minutes
 - c. NCLM Attachment
 - d. NCACC Attachment
- 2. LGR Meeting; January 16, 2013.
 - a. Agenda
 - b. Minutes
 - c. NCLM/NCACC Presentation on ETJ Attachment (PowerPoint)
 - d. NCDOT Infrastructure Impacts Attachment (PowerPoint)
- 3. LGR Meeting; February ??, 2013

Issues:

- 1. Setbacks
- 2. Noise and Light Restrictions
- 3. Infrastructure Placement/Impacts
 - a. Impacts on Register of Deeds (Related to Issue 6.)
 - b. Impacts on Roads
 - c. Location on new infrastructure (gas distribution lines, water lines, etc.)
 - d. Zoning
- 4. Unfunded Mandates
 - a. Inclusion in receiving portion of State Severance Taxes
 - b. Ad valorem Taxes
 - c.
- 5. Environmental Concerns
 - a. Air Quality

- b. Water Quality
- c. Erosion Control
- 6. Property Rights
 - a. Mineral Rights vs. Surface Owner Rights
 - b. Easements
 - c. Land Use Management
 - d.

7.

Stakeholder Input:

List of Stakeholders included in meetings and list of attendance at meetings.

Findings:

Conclusions and Summary:

To include proposed rules; steering of issues/topics to Committees, Commission or Legislature; etc.......

LOCAL GOVERNMENT REGULATIONSTUDY GROUP MEETING

JANUARY 16, 2013

ATTENDANCE: PLEASE SIGN IN

1. Deb McNanus

2. Marly C. T. Man

3. Anote Levenx

4. Martha Oldhan

5. Charles Oldham

6 will Doran

7. Sally Kust

8. In Jayce

9. DianaHales

10. Mach Poul

11. Crystal Collins

12. Post Voyur

representing

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AACe

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Sanford Heald

Chatham County

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LOCAL GOVERNMENT REGULATIONSTUDY GROUP MEETING

JANUARY 16, 2013

ATTENDANCE: PLEASE SIGN IN

Representing

1. Toby Vinson

2. Jeannie Ambros

3. Maribel Sierra

4. J. Sharon Sanbutt

5. Walt Haven

6. Martha Girolami

7. James K. Wonda

8. Victor Czar

9. BOB BRIDWELL

10. Sharon Martin

11. MARVAPRIL

12. Te: Danner

NC DENR

Clean Water for NZ Chatham County Resident NC DENR

Chatham Resident

SANTORD/LEE Co. PLANNING DI.

Sanford, City Attorney's Office M+E Cemulini

Down at Gonts

LOCAL GOVERNMENT REGULATIONSTUDY GROUP MEETING

JANUARY 16, 2013

	PLEASE SIGN IN	Representing
1. Carolyn McLain	NCPOT	
2. Sarah Collins	NGLM	
3. Johnson Reese	NCACC	
4. Bechi Gray	John Loc	Lournatur /
5. Brooks Rainey Pears on	SELC	
6. Erin Wynia	NCLM	
7. RICHARD WHISNAMT	umc So	99
8. Emily McGraw	NCDO	
9. RAY SNEAD	NCSH	
10. Allen Hook	MSHP	[- L]
11. Scott Mooneyhon	The Fuside	l Cytol Press Hiso.
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LOCAL GOVERNMENT REGULATIONSTUDY GROUP **MEETING**

JANUARY 16, 2013
ATTENDANCE: PLEASE SIGN IN Representing
1. JULIE FERTIGINEWS 14 CHOLINA
2. Jim Foster
3. Laura Young
4. George McRae
5. C. Beny Lee
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