

**Meeting Minutes of the  
North Carolina Mining and Energy Commission  
December 19, 2012  
Ground Floor Hearing Room  
Archdale Building  
Raleigh, North Carolina**

**1. Preliminary Matters**

Chairman Jim Womack called the meeting of the North Carolina Mining and Energy Commission to order at 9:00 am with a moment of silence followed by the Pledge of Allegiance. He welcomed Commission members and others attending the meeting.

Chairman Womack read the excerpt of the State Government Ethics Act, and asked Commission Members to consider whether or not they have or may have a conflict of interest with respect to any action Items on the agenda. Mr. George Howard stated that his company had initiated a land acquisition program in Colorado for mitigation banking and that oil and gas was not expected to be involved with his customer base. Chairman Womack agreed that there was nothing on the agenda that would be a conflict of interest for Mr. Howard.

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

**Commission Members**

Dr. Robert Mensah-Biney  
Dr. Ray Covington  
Mr. Ivan K. Gilmore  
Mr. Charles E. Holbrook  
Mr. George Howard  
Ms. Charlotte A. Mitchell  
Ms. Amy E. Pickle  
Dr. Vikram Rao  
Ms. Jane Lewis-Raymond  
Mr. Charles Taylor  
Dr. Kenneth B. Taylor  
Mr. James Womack

**Commission Member by Telephone Conference**

Dr. Marva Price

**DENR Staff Members**

Ms. Robin Smith (Assistant Secretary for the Environment)  
Mr. Tracy Davis  
Mr. Mell Nevils  
Mr. Toby Vinson  
Mr. Walt Haven  
Ms. Trina Ozer  
Ms. Brenda Harris

## **The Attorney General's Office**

Ms. Jennie Wilhelm Hauser

Ms. Jeannie Ambrose

## **Others in Attendance**

See attached sign in sheets.

### **2. Approval of November 02, 2012 Minutes**

A motion to approve the minutes was made by Mr. Gilmore and seconded by Mr. Taylor. The motion passed with no dissenting votes.

### **3. Administrative Update from Staff – Mr. Tracy Davis, Director of Energy, Mineral, and Land Resources**

Mr. Tracy Davis provided an overview of the draft MEC and DENR quarterly report that is due to the General Assembly by January 1, 2013. Mr. Davis then provided an update on hiring new staff positions, and he introduced the new Energy Program Supervisor, Mr. Walt Haven. Mr. Davis also provided an update on the number and types of presentations that have been given by DENR staff on the DENR study, policy and regulatory matters, and the geology of the oil and gas resource to various interest groups since July 2012. Assistant Secretary Robin Smith discussed funding obligations for currently vacant DENR positions and the inability to move the positions from one division to another at this time.

Mr. Mell Nevils announced he would serve as the new ethics liaison for the MEC and specifically discussed the following additional administrative matters:

- A. Requirements for each commission member to complete his/her Statement of Economic Interest and associated ethics training by the required deadlines set by the State Ethics Commission,
- B. Travel reimbursements,
- C. Parking passes,
- D. Public comments, and
- E. Reminder to forward e-mail traffic between MEC members and the public to DEMLR staff through the email service account provided earlier to the members to allow for electronic storage and recordkeeping for public records purposes.

Mr. Nevils also introduced Mr. W. E. "Toby" Vinson, who was recently hired as the Chief Engineer for the Land Quality Section to supervise the Section's regional office operations.

### **4. Committee Reports**

Dr. Vikram Rao (Chair – Water & Waste Management Committee) stated his committee divided regulatory work loads into two "buckets" or subdivisions: "Use of Water" and "Disposal of Waste." His committee requested that staff develop a rule outline concerning water use in time for the January 2013 committee meeting. Dr. Rao

explained that his committee would allow members of the public to speak, if a given speaker has requested audience via written correspondence (see respective committee minutes for details).

Mr. Charles Holbrook (Chair – Administration of Oil & Gas Committee) provided an update of his committee’s membership, which included the appointments of Dr. Ken Taylor, Mr. Charles Taylor, and Mr. “Tex” Gilmore. He explained that his committee’s 12 regulatory work items were arranged into five “buckets” or subdivisions. The committee plans to review existing oil and gas rules in North Carolina, rules from other states, as well as best management practices and American Petroleum Institute guidelines to address respective regulatory work items (see respective committee minutes for details).

Mr. George Howard (Chair – Environmental Standards Committee) stated that his committee had reviewed disclosure of chemical additives in hydraulic fracturing fluid constituents. Specifically, he discussed the Environmental Defense Fund presentation and the Groundwater Protection Council’s “Frac Focus” presentation, which had been provided to the committee on December 18, 2012 (see respective committee minutes for details). Chairman Womack expressed concern for complete, but cost-effective testing of water, air, and soil samples.

Ms. Amy Pickle (Chair – Rules Committee) discussed her committee’s consideration of North Carolina’s existing rule framework as well as those used by other states. She also noted that while North Carolina already has a standard rule framework style, her committee is considering other rule structure strategies. She indicated that the committee intends to draft a rule framework that follows the life cycle of a well which would provide for consistency, clarity, and ease-of-use of the rules when completed (see respective committee minutes for details).

## **5. Study Group Reports**

Mr. Charles Taylor (Chair – Local Government Regulation Study Group) mentioned that his study group was considering the authority of local governments to regulate roads, emergency response, emergency management, local groundwater quality, and property rights of residents. He stated that his study group was researching these issues as well as federal regulations, unfunded mandates, and rule enforcement (see respective study group minutes for details).

Dr. Ray Covington (Chair - Compulsory Pooling Study Group) stated that his study group would meet immediately after the Mining and Energy Commission meeting concluded (see respective study group minutes for details).

Ms. Jane Lewis-Raymond (Chair - Funding Levels & Sources Study Group) indicated that her Study Group was looking at examples from Pennsylvania and other states related to impact fees and the distribution of those fees (i.e. DENR, Department of Transportation, local governments, residents, etc.). Chairman Womack added that severance taxes should be reasonable and should not curtail resource development.

## **6. Guest Speaker Presentation – Mr. Bill Ritter, Director, Center for the New Energy Economy and Former Governor of Colorado**

Mr. Ritter discussed the following items:

- A. Colorado rules had to be modified to account for horizontal drilling, hydraulic fracturing, and for improving the environmental protection of pit linings.
- B. Colorado Oil and Gas Committee's public outreach program.
- C. Colorado's operating and permitting load had resulted in about 48,000 operating wells and around 1,000 well permits per year.
- D. Hydraulic fracturing fluid disclosure and recycling of wastewater from hydraulic fracturing.
- E. Background and baseline sampling for water, soil, and air.
- F. Specific examples of legal conflicts involving state rules, industry practice, and local government sovereignty.

Governor Ritter also mentioned that he would provide follow up information from the scientists associated with his office at Colorado State University, with respect to background and baseline sampling protocols.

## 7. Public Comment

Chairman Womack stated that one person had signed up to provide public comment, but that the respective individual was no longer present.

## 8. Concluding Remarks

Chairman Womack discussed the work flow process of the MEC's committees and study groups and how draft rules from the committees will be put into the rule framework by the Rules Committee prior to full MEC approval. He expressed a desire for one fiscal note to cover the entire body of new rules. Chairman Womack also made the following committee assignments to move these assignments presently assigned to the full MEC to the appropriate committee:

| <b>Committee Name</b>       | <b>Regulatory Work Item Assignment</b>  |
|-----------------------------|---|
| Administration of Oil & Gas | #3: Prevention of pollution of water supplies; #14: Measures to mitigate impacts on infrastructure; #16: Proper well closure, site reclamation, post-closure monitoring, and financial assurance. |
| Rules                       | #25: Any other matter the Commission deems necessary for implementation of the regulatory program.  |
| Environmental Standards     | #4: Protection of the quality of water, air, soil, or other environmental resources.  |

Additionally, Chairman Womack defined a stakeholder as being anyone with an interest in our deliberations and who wishes to communicate that interest directly with the MEC, its committee chairs, or the directors of the study groups. In addition, stakeholders may communicate through DENR's stakeholder group representatives to provide input and feedback to DENR staff. Dr. Covington invited land owners potentially impacted by future shale gas activities to contact him directly.

The meeting adjourned at 1:45 pm.

Respectfully submitted,

Brenda M. Harris  
Mining Program Secretary

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Mr. Tracy E. Davis, PE, CPM  
Division of Energy, Mineral, and Land Resources