

**North Carolina Mining and Energy Commission**  
**Coordinated Permitting Study Group**  
Minutes of the September 27, 2013 Meeting

The North Carolina Mining and Energy Commission's (MEC) Coordinated Permitting Study Group held their sixth meeting on Friday, September 27, 2013 beginning at 2:30 pm in the Ground Floor Hearing Room of the Archdale Building, Raleigh, North Carolina. Study Group Director Dr. Kenneth Taylor presided over the meeting.

**I. Preliminary Matters**

**1. Call to Order and Notice of NCGS 138A-15**

Dr. Taylor called the meeting to order. He welcomed Commissioners and other Study Group members attending the meeting. He read the excerpt of the State Government Ethics Act, and asked members to consider whether or not they had a conflict of interest with respect to any action items on the agenda. No conflicts were raised.

**2. Welcome Study Group Members and Review of the Meeting Agenda**

Dr. Taylor welcomed all the study group members and reviewed the agenda prior to asking for a motion to approve minutes from the previous meeting.

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

Study Group Members Present

Dr. Kenneth Taylor, PG (Study Group Director), MEC  
Mr. Charles Holbrook, Administration of Oil and Gas Committee Chairman, MEC  
Mr. George Howard, Environmental Standards Committee Chairman, MEC  
Mr. James Womack, Mining and Energy Commission Chairman, MEC  
Dr. Ray Covington, Compulsory Pooling Study Group Director, MEC  
Mr. Mike Abraczkas, EIT, CPM, Deputy Director, Division of Air Quality (DAQ)  
Ms. Ellen Lorscheider, Division of Waste Management (DWM)  
Mr. Don Rayno, Division of Water Resources (DWR)  
Mr. Toby Vinson, PE, Chief Engineer, Land Quality Section, Division of Energy, Mineral, and Land Resources (DEMLR)  
Mr. Ken Pickle, Surface Water Protection Section, DEMLR  
Mr. Tracy Davis, PE, CPM, Director of DEMLR  
Mr. Brandon Jones, NC Department of Transportation (NCDOT)

Study Group Members Absent

Dr. Vikram Rao, Water and Waste Management Committee Chairman, MEC  
Mr. William Willets, PE, Engineering Supervisor, Permitting Section, DAQ  
Mr. Evan Kane, PG, Groundwater Planning, DWR

Dr. Taylor discussed the positive results of the white board exercise conducted at the last meeting and reviewed the number of comments received from Study Group members.

The completion date for the report has been extended by MEC Chairman Womack to December 5, 2013 from the original date of October 30, 2013.

### **3. Approval of the Minutes of the September 6, 2013 Study Group Meeting**

Mr. Mike Abraczinskas made the motion to approve the minutes; Dr. Ray Covington seconded the motion. The meeting minutes were approved.

## **II. Informational Items**

### **4. Review of the Outcome of the “White Board” Exercise**

Starting at one end of the table, each study group member has the opportunity to explain and/or add new information to the items listed in the Study Group Minutes of the September 6, 2013 meeting.

Mr. Brandon Jones (NC DOT) provided a handout for all study group members and mentioned the information contained in the document should cover items “a through f” as outlined in the September 6, 2013 meeting minutes. He explained that all permittees will be responsible for damage to roads, but are not expected to replace roads. Impact to bridges is the main concern for NCDOT due to the fact that many bridges in the Sanford Basin still being timber framed. Driveway access authorization may include strengthening or extending a road to meet conditions for approval. All permittees will be required to identify haul routes and the time of use. Although these requirements would be tied to a DEMLR drilling permit, NCDOT would provide enforcement for their rules. This would be in the form of permit conditions.

MEC Chairman Womack wanted to capture information on pipeline encroachment, agreements with utilities, and increased rail usage. Mr. Jones agreed that an examination of rail off-loading facilities would be good information to capture.

Mr. Tracy Davis discussed the erosion control program and the application of this program for a construction site, and how the application could cover an oil or gas well pad. He spoke about cross training Energy Program personnel to review and approve erosion plans. Mr. Davis discussed the need for knowing if materials are supplied from on-site borrow pits or are being hauled onto the site. He also discussed the need to address gathering lines and to identify the state agency with the proper authority to regulate the lines.

**Action Item:** *Ms. Jennie Hauser will review who has jurisdiction over gathering lines and report to the study group.*

Mr. Toby Vinson (DEMLR) discussed identifying all financial parties involved in oil and gas development and the installation/operation of a well. DEMLR needs to know if the permittee and all subcontractors are registered with the Secretary of State Office, thus authorized to conduct business in the state of North Carolina. The scope of a permit must be identified and delineated in order to determine how to manage post well installation activities such as production. Mr. Vinson mentioned the Erosion and Sediment Control Commission (ESCC) would have to exclude the oil and gas industry in order for the MEC to have jurisdiction over regulating erosion and sediment control at well sites.

MEC Chairman Womack wants production facilities – compressor stations and fractionators to be coordinated with the Utilities Commission.

**Issue 1:** *Funding Sources Study Group recommended bonding on the drilling sites. The current Erosion and Sediment Control program does not have bonding. The ESCC would have to exclude the oil and gas industry in order for the MEC to have jurisdiction over regulating erosion*

*and sediment control at well sites, or the Legislature would have to allow bonding of E&SC sites.*

Mr. Ken Pickle (DEMLR) discussed the need to provide graphic standards for plat maps and as-built diagrams to permittees in order to stream the permit review process. Conditions should be shown to ultimate build-out. Permittees should be required to meet minimum standards for a DENR electronic formatting and report submission, should one exist. Reports should also include an explanatory narrative and hydrological calculations. To potentially reduce permits being denied, permittees should have a checklist for submittal criteria to DENR.

**Action Item:** *Discuss DENR electronic formatting and report submission standards at next meeting.*

**Action Item:** *Create a Permit Checklist for submittal criteria for next meeting.*

Mr. George Howard (MEC) discussed the requirement of an approved vendor list within the Chemical Disclosure rules and the routing of the permit application to agencies such as Cultural Resources. It was noted that there may need to be some statutory language provided to allow for both items to occur in rule. For the approved vendor list, which no other industry in North Carolina has, the current statutory authority does not cover approving a company's "master list".

MEC Chairman Womack thought that issue could be addressed in a permit condition.

**Issue 2:** *Add into the permit rule set the requirement for the permittee to list the service companies they would be using to assure they were able to work in North Carolina.*

Ms. Ellen Lorscheider (DWM) spoke about disposing of drill cuttings. She would like to require the permittee provide the diameter of the wellbore in order to calculate the total tonnage of drill cuttings. These quantities of cuttings would go into the long term capacity planning that the state oversees for municipal solid waste facilities. The drill cuttings would need to be shipped to a landfill for disposal and currently, North Carolina does not have a permitted industrial landfill in the state. Municipal solid waste landfills could accept the drill cuttings but waste characterization is required prior to shipment. The Group did feel that it was appropriate for the permit application to ask for names of service companies and contractors.

**Action Item:** *KBT to provide Ms. Lorscheider with the volume estimate of drill cuttings to calculate total tonnage of drill cuttings.*

**Action Item:** *Check the draft Waste Management Rules to see if waste characterization is required prior to removal from the drill site.*

Dr. Ray Covington (MEC – Compulsory Pooling) discussed the possibility of including landman registry to the permitting process. The registration process is under review by other state agencies. The permit review process should include a checklist to capture compulsory pooled property and surface agreements. Dr. Taylor discussed the public notice parameters of the mining program, whereby adjacent landowners out to 1,000 feet from the proposed permitted boundary are notified by the applicant via certified mail.

Mr. Don Rayno (DWR) discussed state controlled surface water transfers from one basin to another. The daily limit for inter-basin transfers is two million gallons. The permittee should document and submit records to the state showing permission has been granted by the land owner to utilize surface waters located on private property. Land owner permission to install

temporary pipelines for water transfer should be documented and submitted to the state. A pump test will be required before a permittee can use ground water for installation and development activities. Mr. Rayno also provided a review of the other requirements built into the water use rule that were not captured in the meeting minutes. These other requirements include: National Heritage Survey with record of consultation; magnitude and quantity of withdrawals; rare, threatened, and endangered (RTE) species survey; other users and dischargers in the affected reach to determine an estimate of the cumulative effects along the affected reach; and for groundwater sources the rule requires a pump test, modeling the cone of depression, well construction records, and information associated with other water supplies in the area.

**Item 3:** *Investigate if there is a variance / waiver under the EMC to deal with the existing water management system in the State.*

Mr. Mike Abraczinskas (DAQ) mentioned fugitive dust and associated best management practices would be modeled after the mining program permits. The permittee should be provided with the proper documentation outlining requirements for US EPA green completions. DAQ needs to know the number and size of engines on-site, along with fuel type in order to fulfill US EPA requirements of quantifying air emissions every three years. He also was interested in how the permit fee would address all the issues associated with a multi-divisional coordinated permitting process.

Mr. James Womack discussed local government concerns. Mr. Womack wanted to know how unitization and drilling units would be implemented so local governments have verification that issued permits are within an approved area. The following local government items need to be addressed through the permit review process: zoning verification, planning/development, verification from the register of deeds office, notification to the tax assessor's office, emergency management, traffic management, and local residents. Discussion included a parallel process whereby DEMLR approves and issues a drilling/development permit and the MEC approves drilling units. DEMLR and the MEC need a verification process confirming drilling units and permit conditions are aligned. Flowcharts outlining the verification process would be helpful for permittees.

Dr. Taylor noted that no one from DWR (Water Quality Planning) were in attendance and the comments from Evan Kane would not be reviewed.

### **III. Study Group Discussion**

#### **5. Identify Proposed Legislative Needs for the Study Group Report**

Dr. Taylor deferred this agenda item for the next meeting.

#### **IV. Public Comments**

Therese Vick (Blue Ridge Environmental Defense League - BREDL) – Ms. Vick cautioned the study group with permitting an industrial landfill to accept drill cuttings. She said this would open North Carolina to accept this same waste stream from other states. The US EPA has a published list of chemicals that are permissible to dispose of in an industrial landfill. She discussed two consulting firms, Golder & Associates and Trinity Consultants assist the oil and gas industry with permit completion and submission.

**The Coordinated Permitting Study Group adjourned at 4:30 pm.**