

Notes from Meeting of the Stakeholder Group on Oil and Gas Management

February 21, 2013

Stakeholder Members Present

Tom Alexander, Southwestern Energy, by phone
Victor Czar, City of Sanford
Keith Duncan, Rockingham County
Brandon Jones, NCDOT
Terrell Jones, Lee County
David Kelly, Environmental Defense Fund
Craig Kennedy, Moore County
Benny Lee, Chatham County Landowner
Ward Lenz, State Energy Office
Ryke Longest, Duke University School of Law
John Monaghan, Piedmont Natural Gas
Don O'Toole, City of Durham
Terry Pierce, DHHS
James Robinson, RAFI-USA
Paul Sherman, N.C. Farm Bureau
Vann Stancil, Wildlife Resources Commission
Hope Taylor, Clean Water for North Carolina
Steve Townsend, retired oil and gas industry engineer
Lynne Weaver, NCDOJ

DENR Staff Present

John Seymour, Division of Environmental Assistance and Outreach, Stakeholder Group Facilitator
Bradley Bennett, DWQ
Ryan Channell, Division of Energy, Mineral and Land Resources (DEMLR)
Tracy Davis, DEMLR
Walt Haven, DEMLR
Evan Kane, Division of Water Quality (DWQ)
Katherine Marciniak, DEMLR
Trina Ozer, Office of the Secretary
Ken Pickle, DWQ
Don Rayno, Division of Water Resources
Jon Risgaard, DWQ

Trina Ozer welcomed the group and reviewed the goals for the day. The meeting began with a presentation from Evan Kane of the Division of Water Quality, which is assisting the Environmental Management Commission with its responsibility under Session Law 2012-143 to develop rules for stormwater management on oil and gas sites. Mr. Kane made a presentation on the EMC's authority and responsibilities, and Ken Pickle of DWQ made a presentation on the various options for stormwater management and oil and gas drilling sites.

Tom Alexander suggested that the Division contact the Arkansas Department of Environmental Quality. Mr. Alexander said there are approximately 3,000 natural gas wells in Arkansas and DEQ has developed

their own documents regarding stormwater management. Mr. Pickle thanked Mr. Alexander and said that DWQ would contact DEQ in Arkansas.

Don O'Toole asked how the rules for stormwater management adopted by the EMC might affect the existing Jordan Lake Rules. He asked whether the stormwater rules would address nutrient management. Bradley Bennett of DWQ answered that he did not believe that nutrients were an issue of concern with natural gas drilling sites.

Hope Taylor said that Clean Water for North Carolina has an interest in strong accountability for adherence to stormwater rules, and that they would like to see both periodic and unannounced inspections of drilling sites. Ms. Taylor added that this would require additional regulatory staff.

One of the stakeholders asked if performance bonds would be required as part of the stormwater rules. DWQ responded that they would not be required as part of the stormwater rules. Mr. O'Toole asked what would happen if the permittee clears out, would an existing bond cover that? Staff mentioned that bonds are currently being studied by one of the study groups of the Mining and Energy Commission. Mr. Alexander mentioned that he would not recommend that there be multiple bonds, and instead recommended having a single bond for the entire operation.

Keith Duncan said he had some concerns related to stormwater because there are sites in Rockingham County near the river that could be used for natural gas drilling. He asked if there will be separation criteria for sites like that. Mr. Kane answered that the MEC is charged with developing rules for setbacks. Ms. Ozer said that the MEC would start discussing setbacks soon.

James Robinson said that RAFI also feels enforcement of stormwater regulations is important.

Ms. Taylor said that more bonding is necessary than what is currently in law. She recommended a comprehensive bond required on performance for all the various programs.

Mr. O'Toole said that he did not want state regulation of natural gas sites to prevent local governments from collecting additional bonds where they are already collecting bonds. As an example, Mr. O'Toole mentioned bonds that are currently required as part of the Falls Lake and Jordan Lake rules.

The group agreed that bonding should be adequate to ensure performance of all environmental requirements, including stormwater management and site closure.

Paul Sherman of the North Carolina Farm Bureau suggested that DWQ incorporate a BMP manual as part of the comprehensive permit, with continuous review of the manual. Vann Stancil recommended that endangered species be kept in mind in the development of this manual. David Kelly recommended that DWQ consider cumulative impacts and the effects of having several developments clustered together.

Next, Jon Risgaard of DWQ made a presentation concerning land application of wastes from hydraulic fracturing activities. Terrell Jones asked what setbacks were required when land applying waste. Mr. Risgaard said that it depends on the type of application but there are various setbacks required. He said that most of them are 100 feet or 50 feet, but that one is 400 feet. Mr. Jones asked specifically about schools, and Mr. Risgaard said schools are covered by a setback from the property boundary. Mr. Jones said he was aware of a situation where land application occurred behind a school, and a road running through the school's property was used by vehicles accessing the land application site. Mr. Jones said he thinks DWQ should look into setbacks for schools.

Steve Townsend asked Tom Alexander how Southwestern Energy disposes of drilling cuttings. Mr. Alexander said they go to a permitted disposal facility, such as a landfill. Mr. Alexander said his

company no longer land applies these wastes because of rules and regulations and because it is no longer the common business practice.

Mr. Risgaard asked what type of threshold the stakeholders would recommend for allowing land application of drilling wastes – a volume threshold or a threshold based on characteristics. Mr. Sherman said that he thought characteristics are a hard thing to use as a threshold and he recommended volume. Ryke Longest concurred.

Katherine Marciniak then made a presentation on the draft rule for water management that the Water and Waste Management Committee of the MEC will review at its March meeting. The draft rules limit withdrawals to 20% of the 7Q10. Staff said that 7Q10 is a standard that is used in other programs as well. Mr. Longest pointed out that the ecological flows study is ongoing, and that that study may recommend that a different standard be used.

Mr. Longest asked why the rule does not ask for the hydrologic unit code (HUC) as part of the permit, and Mr. Rayno said that it was covered by the requirement to provide the latitude and longitude.

Ms. Taylor said that there are very few drought monitors in the region, and that requiring data from the nearest drought monitor may not yield data about whether the groundwater near the site of withdrawal is actually experiencing drought. She recommended that the MEC require the operator to install a monitoring well in cases where the nearest drought monitor is more than five miles away. Mr. Rayno said that he wasn't sure if that would be useful, since a new monitoring well would not be tied into the existing network of drought monitors, and it would be difficult to tie the new data into the existing historical data.

Mr. Longest said that without a change to the groundwater monitoring requirements, the existing draft water rule creates a disparity of protection for surface water versus groundwater. The group did not have any other recommendations for how to fix that, but suggested talking to the American Water Works Association or the USGS for suggestions.