

Stephen L. Beshear
Governor

Leonard K. Peters
Secretary



Stephen A. Coleman, Chairman,
Frankfort
Ron Brunty, Vice chair, Letcher
Tom Herman, Louisville
Martha Tarrant, Lexington
Benjamin Peterson, Benton

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Arnita Gadson, Executive Director

Kentucky Environmental Quality Commission
Public Forum
January 22, 2015
6:00 p.m. – 9:00 p.m.

Video conferencing

HOST SITE

Kentucky State University
Aquaculture Center
Multipurpose Room 101
Frankfort, Kentucky

PARTICIPATING SITES

University of Pikeville
Community Technical Center
119 College St.
Suite 134 Video Conference Room
Pikeville, Kentucky

University of Louisville
Miller Information Technology Center, Room 55
Belknap Campus
Louisville, Kentucky

Western Kentucky University
Media and Technology Hall, Room 279
Bowling Green, Kentucky

EQC Commissioners present

Stephen A. Coleman, Vice Chairman

Ron Brunty

Martha Tarrant

Tom Herman

Benjamin Peterson

Presenters:

Steve Hohmann

Bob Bauer

Stephen A. Coleman, Vice Chairman

Meeting called to order at 6:02 p.m.

Chairman called for Public Speakers – No requests.

Oil and Gas Task Force briefing

Steve Hohmann, Commissioner Department of Natural Resources

- ❖ Hydraulic Fracking for oil and gas reserves is a nationwide issue, due to boon in oil and gas production. The U.S led the way in oil and gas production from Shale formations, some of which are over 2 miles deep.
- ❖ Big Shale play occurred in Texas in the Permian basin, Eagle and Bakken formations in North Dakota, Marcellus formations in Pennsylvania and West Virginia, and the Utica formations in Ohio.
- ❖ Hydraulic fracking has not happened on a large scale in Kentucky so far.

Fracking process and technology:

- ❖ Hydraulic fracking was developed in the 1960's in Texas.
- ❖ In horizontal drilling, they drill down to the formations, go laterally up to two miles, and pump millions of gallons of water mixed with chemicals to fracture the formation under high pressure. It then allows gas and oil trapped in the shale to flow back into the wells when the pressure is released.
- ❖ The technology has advanced faster in most cases than the regulations and statutes that govern the oil and gas development.
- ❖ The regulations did not address certain aspects of the new technology which was not contemplated when written.

Why is Fracking not happening in KY?

- ❖ The primary regulatory authority for oil and gas is the Department of Natural Resources, Division of Oil and Gas. Many of these regulations were developed with conserving the oil and natural gas resources in mind, not environmental protection. Recent regulations consider this.
- ❖ The Division of Oil and Gas and their regulatory statute come under Chapter 353. The Department of Environmental Protection regulates the water needed for these wells and the waste disposal of the waters.
- ❖ The Division of Waste Management regulates the drilling waste produced from the cuttings of the boreholes under Chapter 224 of the statutes and regulations.
- ❖ The primary field for oil and gas production in the recent past is the Devonian shale in Eastern KY in Pike County. It is a shale that lies roughly 4,000+ feet deep with clay particles.
- ❖ We have had fracturing in the Devonian shale for quite a while in KY. Liquid nitrogen is used for fracking rather than water, because the clay particles when wet expand and clog up the pipes. Using nitrogen causes less disposal problems. The small operators of oil and gas fields are the first to lose production when there is a price war. These small operators are called “Stripper Wells”. They produce only 4 to 5 barrels of oil a day and minimum amounts of gas.
- ❖ The Berea Sandstone in North Eastern Kentucky is only 2,025 feet deep, with very low pressure.
- ❖ The Rogersville shale in Eastern Kentucky lies very deep at about 10,000 feet. Generally, only large companies drill in that environment, so there are no real developments there yet.

KOGA (Kentucky Oil and Gas Association) stated that Kentucky contributes about a billion dollars to the economy every year and employs 3,200 people with average wages of \$75,000.

Workgroup

The “Workgroup” was formed by the Secretary of the Cabinet, Len Peters, in May 2014. Commissioner Steve Hohmann, DNR, was named the Chairman. Members

included: Executive Director of KY Oil and Gas Association, Chamber of Commerce, KY Environmental Quality Commission, Representatives from Kentucky Farm Bureau, Reggie Van Stockum, Shelby County Environmental Attorney, Tom Fitzgerald, KY Resources Council, and Representatives from industry.

It was formed for the following reasons:

- ❖ In anticipation of increase in oil and gas production in KY.
- ❖ Updates of statutes and regulations governing oil and gas.

The first meeting was held on June 1st 2014. Eleven meetings have been held since. The mission of the workgroup:

- ❖ Review current regulations and statutes governing the oil and gas industry in KY.
- ❖ Suggest appropriate revisions.
- ❖ Suggest possible Legislative action to be recommended in the 2015 General Assembly.

Focus of the Workgroup:

- ❖ Deep Well recommendations
- ❖ Fees
- ❖ Bonding
- ❖ Reclamation
- ❖ Requirement for reclamation of all oil and gas sites
- ❖ Strengthening of statutory language
- ❖ Abandoned storage tanks reclamation recommendations

EQC Discussions:

Commission: Did methane gas leakage arise high enough from a level of concern to be addressed at this point?

Response: No it didn't. The EPA is requiring green completions and getting ready to propose additional rules on methane from oil and gas drilling activities. It will be handled by the Federal rules, but the KY Division of Air Quality currently has

an industry guidelines document on how to comply with the current methane regulations. It needs to be updated with further guidelines.

Commission: Is the current regulations for water and waste management adequate for the industry?

Response: We need analyze the adequacy. It may need to be strengthened.

Chapter 353 through the Division of Oil and Gas is not strong enough to address some of the practices we see today.

When the work group continues, the priority agenda topic is to address additional administrative Enforcement Authority for the Division of Oil and Gas, currently limited.

Bob Bauer-Executive Director
Kentucky Forest Industries Association
Timber Theft Update

- ❖ The Timber Product industry is a 12 billion dollar industry.
- ❖ KY is the 3rd largest hardwood lumber producing state in the nation.
- ❖ All saw mills are family owned operations.
- ❖ Fairly large secondary industry – the hardwood manufacturers. The largest county of employment is Jefferson.
- ❖ The number of employees in the Industry is approximately 30,000.

Timber Theft and Trespass Background

- ❖ Loggers have requirements. They should have training and continuing education every 3 years.
- ❖ Divisions of Forestry are the inspectors, most of which are around water quality issues using Best Management Practices.
- ❖ Most water quality issues in logging jobs come from erosion of logging roads.
- ❖ Stream side management Zones – this defines how many trees loggers can cut on the slopes.
- ❖ Ninety nine percent of logs generated in the state come from private lands.
- ❖ When the logger doesn't abide by the water quality regulations he will be:
 - Given a written warning
 - Cited by the cabinet, fined and put on a “bad actor list”. **That list is available on the University of Kentucky’s website.**

- ❖ Once the logger pays his fines and corrects the violation, the Division of Forestry is notified. After a couple of years of not having any issues, the logger's name is removed from the "bad actor" list.
- ❖ Sellers should always check the list of violators before using them.

Repeat Bad Actors

- ❖ Senator Bowen has drafted a bill to address the repeat bad actors, to be introduced in February. The bill will address those that had not paid their fines or fixed the site.
- ❖ There are \$6 00,000 in fines that have been levied, only \$110,000 collected so far.
- ❖ Large mills check the list every day.

Difference in Timber Theft and Timber Trespassing

Timber theft and trespassing is difficult to address. It occurs more in the Eastern part of the Kentucky where boundaries are not clear.

There are Timber trespassing laws to protect the landowners when it occurs

- ❖ If the landowners are not contacted by registered letter where timber is cut, there are fines that equal up to three times the value of the timber, plus the damages to the site. Legal fees are also levied and paid by the logger.

Timber theft on the other hand is difficult to address on a state level.

- ❖ There were a few proposed bills developed 5 years ago, making timber theft a felony.
- ❖ Timber theft is a difficult issue, due to lack of awareness.
- ❖ It is hard to file a criminal charge for timber theft because the value of the timber is difficult to determine. It is not given high priority when dealing with criminal action.
- ❖ Legislation has been proposed on Timber theft.
- ❖ Law enforcement is unclear.

Representative Leslie Combs introduced a Timber Theft and Trespass Taskforce around 2009. The Bill makes it through the house but not the Senate. In Nov, 2014, there was a meeting that included the County Attorney, Representatives from the Commonwealth Attorney General Office, loggers and Conservation groups to discuss the following:

- ❖ Getting on the agenda of the Attorneys annual meeting to discuss the existing laws and what is needed.

- ❖ The sawmills in the state that deal with independent loggers.
- ❖ A task force that would involve local law enforcement, and the development of a 3-4 person enforcement group to deal with Timber theft alone.
- ❖ Possibilities of forward movement without legislation.

EQC Discussion:

Commission: There are logs going across the Virginia border. Who is buying those logs? Are they stolen logs? Do you know the mills that buy them? Trees stolen are very personal. It is a very valuable family asset. The education system needs to improve.

Response: Overall, Kentucky is an importer of logs. It is hard for the mills to regulate. Harlan County has apprehended some who have cut their trees. Mississippi, South Carolina and Georgia passed legislation for Timber Theft. They have dedicated money for enforcement.

Commission: Where do the fines go that are collected from bad actors?

Response: For landowner assistance. The \$100,000 collected over a 12 year period has not been used.

Bluegrass Pipeline Draft Recommendation

A draft recommendation was presented and discussed. A motion was made by Commissioner Ron Brunty, with Commissioner Martha Tarrant, 2nd to move forward with the recommendation. The motion passed unanimously with clarification needed for “militate”. Staff will edit as suggested and forward to Chairman for approval for submission to the Secretary and/or Governor. Reference to the Ohio mandates was suggested.

Executive Director’s report **January 22, 2015**

1. Pipeline recommendation with Commissioner Coleman discussion for January meeting.
2. DOF (Division of Forestry) Leah MacSword, Exec. Director, stated Rep. Leslie Combs’ bill (Timber Theft) made it through the House and stalled in

the Senate – deferred to Bob Bauer with the Kentucky Forest Industries Association.

3. Possible changes to the EQC mandate: Reference to “control of noise” in the wording and Para (7) which establishes an advisory committee on noise control, needs more discussion for relevancy.

Nothing further action on the mandate changes.

4. The EJ (Environmental Justice) conference

Tentative date June 10 – 11, Louisville. Committee members have been chosen. Need to set meeting dates and establish agenda.

5. Biennial draft completed and forwarded. Comments received from Commissioners Brunty and Coleman. Completion date for next draft –mid-February

6. Talked with Representative Marzian regarding the Kentucky Energy Portfolio (will forward to all commissioners). Discussed possible Recommendation.

Received word from Representative Marzian to schedule presentation for the March meeting.

7. Working with DAQ on air monitoring status in Louisville – Goal, restore project.
8. Lees Lane – the Principal Responsible Parties (were notified December 31st with a 45 day response time regarding reopening acquisition of their responsibility. The PRP’s cannot ask for extensions.

Will contact UofK Superfund Research Center- Vapor Intrusion Study.

EPA

is interested in collaborating with them on possible studies involving Lees Lane for better communicate with the community.

9. Monitoring results of the Lees Lane Landfill home monitoring. Donna Seadler, EPA oversight.

No final results of inside testing. Retested for soil gas in the yards between

the house and the landfill in crawl spaces. Soil Gas Data completion date – March '15.

10. Black Leaf – Residential Cleanup data submitted at last meeting.

Update- Tim Hubbard and Sean Cecil met with a party interested in renovating the site for a possible transportation hub. Potential owners would qualify for the 415 Brownfield initiative.

Black Leaf Update January 16, 2015

Sediment Controls

- In 2014, the responsible party (RP) group agreed to take over long term sediment controls and monitoring for the on-site areas at Black Leaf. To that end, the RP group submitted to KDEP a plan detailing steps that they will take to monitor accumulation of sediment and gauge the effectiveness of the controls in place to prevent the off-site movement of any potentially impacted sediment. The plan was reviewed and accepted by KDEP in January 2015. Implementation of the plan was effective immediately. The RP group will begin regularly scheduled inspections this spring, and either KDEP or the RP group will make additional inspections to make sure the sediment controls are functioning as designed, namely after excessive rain events, when the likelihood for movement of sediment is highest.

On-site Characterization

- Following KDEP approval of the site characterization plan, the RP group's consultant collected numerous on-site samples in September and October, 2014 to determine the extent of contamination. The laboratory is nearly finished with validating the analytical results, with a final site characterization report expected to be submitted to KDEP by the end of February. KDEP will review the report to determine if additional sampling will be necessary or will request a cleanup plan from the RP Group which will need to meet state cleanup requirements.

11. Received complaint from a Mr. and Mrs. Horn regarding firing range in close proximity of their property. It had been filed with Division of Waste and an incident number assigned. Talked with Tim Hubbard who verified an inspector had been assigned and no violations noted. It was referred to the Superfund Branch for additional investigation. Will follow-up.

12. EQC has a new Executive Assistant, Sujatha Santhanam. She has already started reviewing the EQC publication.

Submitted for review by:

Arnita Gadson

Executive Director

EQC Discussions:

Commission: Staff was asked about the Earth Day Awards Ceremony Press Release.

Response: PR will send Press Release the last week of January. Commissioners will be notified.

Approval of Minutes:

November 20, 2014 meeting

Motion to approve – Commissioner Tarrant, Commissioner Brunty, 2nd, approved unanimously.

Elections were held

New Officers for 2015:

Commissioner Tarrant nominated Commissioner Coleman as Chairperson, Commissioner Brunty 2nd it – Elected unanimously.

Commissioner Herman nominated Commissioner Brunty as the Vice-Chair, Commissioner Tarrant 2nd it – Elected unanimously.

- ❖ Biennial Report – talked about photography.
- ❖ More Commissioner Visibility.
- ❖ Environmental Justice Conference.
- ❖ Annual meeting – Suggestions for venue
 - Salato wildlife center.
 - Buffalo Trace Distillery.

Place will be confirmed by the March meeting.

Important Dates:

April 10, 2015 – Earth Day Award Ceremony at Berry Hill Mansion.

June 4 & 5, 2015 - EQC Annual Meeting.

June 10&11, 2015 – Environmental Justice Conference in Louisville, KY.

Next Meeting: March 19, 2015

Meeting adjourned: 8.20 p. m

THESE ACTIONS, ALONG WITH THE AGENDA ITEMS, MAKE UP THE OFFICIAL MINUTES, WHICH ARE ON FILE IN THE OFFICE OF THE SECRETARY

Signed by:

Stephen A. Coleman, Chairman

Date: _____