

Approved by EQAC, January 21, 2015

**FAIRFAX COUNTY ENVIRONMENTAL QUALITY ADVISORY COUNCIL
MINUTES**

DATE: Wednesday, May 14, 2014
TIME: 7:15 P.M.
PLACE: Hidden Oaks Nature Center

MEMBERS PRESENT

Stella Koch (Chairman, At-Large)	Robert McLaren (At-Large)
Larry Zaragoza (Vice Chair, Mt.Vernon)	Michael Sanio (Hunter Mill)
Linda Burchfiel (At-Large)	David Smith (Braddock)
Hana Burkly (Student Member)	Rich Weisman (Sully)
Frank Crandall (Dranesville)	Clyde Wilber (Springfield)

MEMBERS ABSENT

Johna Gagnon (Lee)	Alex Robbins (Providence)
George Lamb (At-Large)	Glen White (Mason)

STAFF

Kambiz Agazi	Noel Kaplan
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GUESTS

Rayola Dougher	George Ma
Stacey Evers	Lisa Matthews
Traci K. Goldberg	Barbara Murray
Erika Gordioski	Greg Prelewicz
Dusty Horwitt	Tim Stevens
Joan Horwitt	Cindy Walsh
Jini Mohanty	

Panel discussion regarding the potential for hydraulic fracturing within the George Washington National Forest and potential implications to the Potomac River

Matters discussed:

- Dusty Horwitt, Senior Analyst, Earthworks
 - Concerns about risk of horizontal drilling in George Washington National Forest on the Virginia/West Virginia state border.
 - Hearing in New York regarding risk to New York City drinking water supply in the Catskill Mountains from hydraulic fracturing in Marcellus Shale.
 - Concerns about the potential for hydraulic fracturing in the GW National Forest raised by Fairfax Water, the Washington Aqueduct and DC Water—suggestion of a need for better scientific justification.
 - Marcellus shale is under about half of the national forest; about one-third of the country has shales.
 - Concerns/risks identified: proprietary chemicals used in the process; quantities of wastewater generated; natural radioactivity (radium) in the shale; potential for spills/leaks into the Potomac River; potential for methane migration underground and implications to groundwater and surface water supplies; risks disclosed to investors that are not known to general public and regulatory agencies; the extent to which regulations are adequate.

- Greg Prelewicz, Chief, Source Water Planning and Protection, Fairfax Water
 - Fairfax Water currently does not have an official policy; an October 2011 letter from staff urges caution.
 - Watershed includes only the fringes of the Marcellus shale, so the watershed is not experiencing as much hydraulic fracturing as other areas (e.g., Pennsylvania).
 - Taylor Formation, in the Northern Neck, has generated much attention in the General Assembly.
 - Fairfax Water is closely tracking EPA's study of this issue—there is lots of information posted on its website.
 - State of Maryland is conducting its own study will be complete this fall; the state is developing recommendations.
 - Fairfax Water is concerned about the potential increase in salt/bromide-related compounds that can react during the water treatment process to form regulated constituents.
 - Fairfax Water would like to know more about chemicals that are often used in the hydraulic fracturing process.
 - There are increasing efforts at the state level to increase disclosure of chemical use but not a similar Federal standard.
 - Technology is improving, but this is still an emerging science.

- There has been increased recycling efforts in the last several years.
 - In some basins, consumptive use of water can be an issue (water is removed from the basin).
 - Best management practices are evolving.
 - The American Water Works Association, the Association of Metropolitan Water Agencies and the National Association of Water Companies issued a joint statement regarding the protection of drinking water supplies.
 - The National Groundwater Association has issued a position paper.
 - Common themes in these statements support best practices, full disclosure of chemicals, appropriate state agency regulatory oversight and enforcement and ensuring that oil and gas developers will have financially sound strategies to be held responsible for hazards arising after extraction activities have ended.
 - Oil and gas developers do have financial resources to cover potential liabilities.
 - The aforementioned papers were provided, along with additional references.
- Rayola Dougher, Senior Economic Advisor, Media Relations, American Petroleum Institute
 - API was formed in 1919 formed with encouragement from Congress.
 - Trade Organization representing 600 companies; company members supply about 60% of the energy used in the United States.
 - There is a shifting source of US energy, misinformation about risks of extraction of gas from shale.
 - The “Gasland” picture of a flaming hose was found to be a fraud, and the gas in the homeowner’s well was chemically unrelated to natural gas extraction there.
 - Significant resource in the US; 92,000 oil and gas wells on Bureau of Land Management land; 1,800 wells in Virginia since the 1950s, 12 wells in the Jefferson National Forest.
 - Traditionally a heavily regulated industry at both the federal and state levels.
 - In addition to state and federal regulations and permitting requirements, approximately 600 technical standards for the oil and gas industry have been established by the American Petroleum Institute.
 - The timeline to install a well—several years from exploration to production.
 - Disagreement regarding representations made about truck traffic generated by hydraulic fracturing.
 - Hydraulic fracturing has been in existence since 1947—it’s not a new process. The recent innovation regarding this process is horizontal drilling.
 - Description of the drilling process and precautions taken to protect groundwater; no documented case where fracturing deep under the surface (a mile or so) affected a water supply.
 - 2-4 million gallons water required to drill well and fracture—less than 1% of water consumption in this part of the country. Permit required for this level of water consumption.

- Multiple chemicals used, but only about 0.5% of what's put down a well is chemicals—most of the materials are water and sand.
- Since 1986, every chemical used must be disclosed—every well site must have a Material Safety Data Sheet. 15 states use FracFocus Site to share information
- Question regarding nature of disclosure—the specific chemical or the chemical family? (the family, but a good deal of more specific information is required).
- Intellectual property rights are protected, though—some chemicals used are under patents, and confidentiality is respected. Most States are working on the balance between disclosure and protection of property rights. Disclosure is being provided, though, to health care professionals, emergency responders and regulatory agency representatives when appropriate (including proprietary chemicals).
- There is more concern about what you bring out of wells than what you are putting in. Much of the fracturing fluid is recovered and recycled for use in future operations.
- For what is not recycled, management practices are in place.
- Naturally occurring radioactive materials exist, primary concern is workers.
- There are 800,000 injection control wells, 11 in Virginia, depth unknown, well below aquifers.
- Completed site the size of a two-car garage; most communities want the resource, often they own the mineral rights.
- “Before” and “after” photos shown of pad sites.
- Stresses need for EQAC recommendations to be based on facts.

Questions/Comments/Discussion:

- Discussion/disagreement regarding extent of disclosure of patented chemicals.
- Fracturing technology is not new—it goes back even farther than 1947—e.g., Project Plowshare using nuclear explosions to fracture rock.
- Concerned about chemicals being used, would like to see a true cost/benefit study and risk assessment. Response cited one study highlighting significantly greater economic benefit than cost; interested in knowing: (1) technical costs; and (2) who funded any such study (response—funding from the Manhattan Institute).
- Re: intellectual property—once you file a patent, you have intellectual property. If someone violates a patent, there is recourse; there is trade secret protection provisions. More discussion about transparency vs. protection of trade secrets.
- Discussion of issue of recommended setbacks from drinking water wells (differing views/guidance on this question)
- Fairfax Water is tracking EPA study closely—expecting more of an informative document and not necessarily a yea/nay
- Water industry have many questions, setbacks few hundred feet from wetlands/drinking water reservoirs, to several thousands of feet--need to know the science. One view—different states set different setback requirements, which is appropriate. Another view—

uniform federal requirements are needed. States are not well-positioned to determine optimal requirements.

- Concern about repeal of the 2005 Energy Act, along with the many exceptions to the Clean Water Act and other federal requirements. Debate about the extent to which hydraulic fracturing is subject to Clean Water Act and other federal requirements.
- Concern about bonding requirements and whether they are sufficient (\$10,000 per well plus \$2,000 per acre minimum in Virginia); similar levels at the federal level. One view—different states set different bond requirements beyond the federal minimum, which is appropriate.
- Concern about impacts to streams of all the roads that need to be built in forested areas to support hydraulic fracturing.
- Concern about extent of chemicals used for hydraulic fracturing and need for caution; implications to aquatic life?
- Concern about vastly different perspectives expressed tonight about the extent of regulatory oversight. Need a better focus on facts in order to allow for informed policy decisions.
- Concern about sufficiency of fines to remediate for contamination.
- Question about experience with the existing wells in the Jefferson National Forest (not sure). Concern that rules for monitoring are unclear—how do we then know what the experiences have been in the Jefferson National Forest.
- Comment that 2005 Energy Policy Act exemptions should be repealed
- Comment that there are many laws on the books, but enforcement is of concern.
- Differing general views expressed—one member not impressed with assurances and concerned about conflicting and obscure information/facts; another member wants to believe and support fracturing, seeing it as an incredible opportunity to provide energy self-sufficiency to the USA; however, that member is deeply suspicious of industry claims and stresses the need for strong, uniform federal regulations.
- One member raised concerns about methane leaks; potential for degradation of casings and potential for upward migration of gas (industry efforts to move to “green completions” and other efforts to minimize release into the environment were noted).
- All participants agreed to share presentation materials, talking points, and associated documents in order to assist EQAC in development informed, objective positions.
- Uncertain timeframe for Fish and Wildlife Service determination noted. No decision has been made, and it is unclear when a decision will be reached—this could affect EQAC’s timing on developing its recommendations. No participants were aware of the anticipated timing of decisions.

Consideration of an EQAC resolution regarding hydraulic fracturing in the George Washington National Forest

Matters discussed:

- Development of an EQAC position identifying a series of questions that need to be addressed (as opposed to a position for or against hydraulic fracturing)

Issues identified:

- 1) Regulatory exemptions available to the petroleum industry.
 - There are explicit exemptions to regulations for the petroleum industry that are required for other industries; these regulations are important for environmental protection.
 - A desire for the petroleum industry to meet the same standards required of other industries; i.e., removal of exemptions.
 - Examples: The 2005 Energy Policy Act; the Resource Conservation and Recovery Act; National Pollutant Discharge Elimination Standards (i.e., stormwater).
- 2) Disclosure of specific chemicals used.
 - A desire for disclosure of lists of chemicals used (i.e., the specific chemicals and not only the families of chemicals).
 - Applicability of the Emergency Planning and Community Right-to-Know Act.
 - Uncertainty resulting from lack of disclosure.
 - Drinking water safety/protection of health.
 - Implications of federal exemptions on inconsistent requirements among states and state enforcement capabilities
- 3) Stormwater runoff implications—impacts to streams.
- 4) Financial assurance to ensure that sufficient resources would be available to address releases into the environment—a desire for risk-based bonding.
- 5) Monitoring to ensure compliance with regulations.
- 6) Assurance of safe closure measures upon completion of extraction of natural gas.

Motions made:

Linda Burchfiel moved that EQAC authorize Larry Zaragoza to craft a letter, for circulation to all members present at the meeting (in order to confirm consistency with the motion) highlighting the following:

- Concern about regulatory exemptions applicable to the petroleum industry, with a list of examples.

- The need for disclosure of specific chemicals and not just families of chemicals, and the need for hydraulic fracturing to be subject to the Emergency Planning and Community Right-to-Know Act.
- The need for financial assurance that adequately reflects site-specific risks.
- Identification of baseline conditions prior to fracturing in order to support risk assessments.
- The need for monitoring to ensure compliance with regulations, including closure requirements.

The motion was seconded by Clyde Wilber.

Record of the vote:

The motion was approved unanimously, with the following members recusing themselves from the vote: Bob McLaren; Rich Weisman; Larry Zaragoza.

Follow-up actions:

- Larry Zaragoza will draft a letter per EQAC's discussion. The draft letter will be circulated to all EQAC members present in order to ensure consistency with the motion.

Discussion of the approved FY 2015 Budget

Matters discussed:

- Approval of a ¼ cent increase in the Stormwater Service District rate.
- Elimination of \$535,000 that had been proposed to fund Environmental Improvement Program projects.
- The need for follow-up correspondence from EQAC raising concern about the elimination of the EIP project funding, with an emphasis on the fiscal benefits of the EIP projects.
- Implications to the Invasive Management Area program and Energy Action Fairfax.
- Potential for restoration of funding through the FY 2014 carryover process in September.

Motions made:

Larry Zaragoza moved that Stella Koch be authorized to send a letter to the Board of Supervisors requesting funding of EIP projects through the carryover budget process. Michael Sanio seconded the motion.

Record of the vote:

The motion was approved unanimously, with no abstentions or recusals.

Follow-up actions:

- Stella Koch agreed to draft, per EQAC's vote, a short letter requesting consideration of funding for the EIP projects through the carryover budget process.
- EQAC agreed to schedule a discussion for its June 2014 meeting regarding recurrent EIP projects.

2014 Annual Report on the Environment: Status report

Matters discussed:

- Review of the report preparation time line.
- Identification of the need for a Visual Pollution section author.
- Need for chapter authors to sign up for chapter review slots at the July, August and September meetings.
- Coordination of completion of the Scorecard section—David Smith volunteered to do this.
- Outreach to other boards, authorities and commissions regarding the Annual Report and its utility—identification of other BACs with environmental functions

Motions made: None.

Follow-up actions:

- Noel Kaplan will circulate a blank scorecard section for chapter authors to complete, no later than August 13, 2014.
- EQAC members will continue to seek guidance from Board members regarding the utility of the Annual Report in its current form.
- EQAC will prepare both a long and a short version of the report again this year, consistent with the last few years.
- Noel Kaplan will provide to all members a list of environmentally-related boards, authorities and commissions.

Approval of Meeting Minutes

Deferred.

Report from the Student Member Search Committee

Matters discussed:

- Overview of the committee's review of the 37 applications that were submitted.
- Committee recommendations for a primary and alternate for the student member position for the July 2014-June 2015 term.

Motions made:

Hana Burkly moved that EQAC recommend to the Board of Supervisors that Matthew Baker be appointed to the student member position for the July 2014-June 2015 term, with Katrina White identified as the alternate in case Matthew Baker could not accept the position. Bob McLaren seconded the motion.

Record of the vote:

The motion was approved unanimously, with no abstentions or recusals.

Follow-up actions:

- Noel Kaplan will pursue the Board of Supervisors' appointment of Matthew Baker.
- Noel Kaplan will inform Katrina White that she was identified as the alternate.

Review of future meeting agendas

Matters discussed:

- Items for the June and July meeting agendas, including the July joint meeting with the Environmental Coordinating Committee.

Motions made: None.

Follow-up actions:

- EQAC members were asked to review the documents that had been provided identifying potential future meeting agendas as well as issues identified at the January 2014 public hearing.

Identification of an EQAC representative for the Tree Commission

Matters discussed:

- The need for EQAC to identify its representative for the Tree Commission. There were no volunteers.

Motions made: None.

Follow-up actions:

- This item will stay on EQAC's agendas until a Tree Commission appointee has been identified.

Chairman's items

Matters discussed:

- Stella Koch will meet with the Chairman of the Fairfax County Park Authority Board (Bill Bouie)
- Stella Koch summarized her recent conversation with Tawny Hammond, the Director of Fairfax County's Animal Shelter.
- Stella Koch noted that she had been asked to serve on an interview panel for a new wildlife management specialist.

Motions made: None.

Follow-up actions: None.

Council member items

Matters discussed:

- Bob McLaren and Rich Weisman will miss the June EQAC meeting.
- Frank Crandall expressed appreciation for the tree plantings that are being pursued in honor of his late wife, Joyce.

Motions made: None.

Follow-up actions: None.

Staff items

Matters discussed:

- Nothing new on the Web hits data.
- A Planning Commission public hearing on the green building policy revision was held on May 7. The decision was deferred until June 12.
- Board of Supervisors Environment Committee meeting on May 20.

- Planning Commission Environment Committee meetings on June 18 (MITRE energy technology report), July 10 (energy technology report and a briefing on the Noise Ordinance revision) and July 30 (MITRE electric vehicle charging infrastructure report)
- Kambiz Agazi shared the second draft of a county sustainability document, and requested comments by June 30.

Motions made: None.

Follow-up actions:

- EQAC members should provide their comments on the sustainability document to Noel Kaplan.

The meeting was adjourned at 10:45 PM.