1. The EPA awards $500,000 in grants to DENR, returned...because don’t need them?

(a) One of two grants being turned back is a $359,710 grant to establish a long-term wetlands monitoring network in the Piedmont and coastal plains regions. That’s work that would greatly inform the state’s analysis of requests to dredge and fill wetlands. John Dorney, who two years ago retired as the long-time head of the state’s wetlands regulatory unit within DENR, explained that his former unit relied on the grant funding to make its scientific analysis possible. That unit is being disbanded by this DENR administration when its current grant funding expires. The current head of DENR’s water resources division says the money is not needed to carry out the department’s new priorities as defined by DENR Secretary John Skvarla. Water Resources Division Director Tom Reeder said, "Quite simply the grants were not needed for the division to meet our core mission...We’re simply slimming down." (From NC League of Conservation Voters email)

(These two paragraphs from the grant application reveal why DENR top brass doesn’t want actual “data”)

This grant proposes to formally establish a long term wetland monitoring network in the Coastal Plain and Piedmont ecoregions of North Carolina (NC). By establishing such a wetland monitoring network, long term data can be used to track changes in wetland condition/function over time and models can be developed to predict wetland condition as long term data is collected. This project will establish monitoring stations that can begin to produce information for evaluating climate change implications by looking at consistent changes in long term data across wetland types. By collecting long term data for various wetland types and comparing that data to data collected on a shorter term basis, reference wetlands can be established. This data can be used by regulatory agencies to determine potential success criteria for restored wetlands.

By analyzing previously collected wetland data along with the long term wetland data collected by this project, informed management decisions can be made to improve water quality in NC. Finally, analyzed monitoring data for informing regulatory programs, watershed plans, and guiding restoration efforts by developing a consistent method to tracking and sharing that data. Maps displaying monitored wetlands sites can be selected and all monitoring for that site can be displayed. A database of wetland profile data will be
developed such that they represent reference wetlands by type and can be used to guide restoration projects.

(b) The other $222,595 grant being declined is for monitoring water quality in areas that could be impacted by potential fracking operations. It would establish surface water quality "baselines" against which to compare potential future contamination. Gathering such data is viewed by environmental resource professionals as an essential part of effectively regulating the potential impacts of fracking. This baseline monitoring was a key recommendation in the state’s own 2012 report on oil and gas exploration issues. Refusing to accept funding to carry out that monitoring is nearly inexplicable. (From NC League of Conservation Voters email)

(These two paragraphs from the EPA grant application reveal why DENR doesn’t want this data, either):

With regards to environmental impacts, the [DENR 2012] study found that in the Sanford sub-basin, there appears to be less separation between groundwater used for drinking and the gas-producing layer of shale than is present in most other gas producing states. The study also found that water quality problems associated with oil and gas operations in general are often traced to either the production phase of well operations or to waste management and disposal activities. Unlike other construction projects, oil and gas exploration and production activities are exempt from federal Clean Water Act stormwater requirements.

Little data exists with regards to resource inventory or water quality in the area of interest. Establishment of a monitoring network in the area of proposed hydraulic fracturing will provide much needed information that can be used to assess water quality conditions and to evaluate the existence of any sensitive resources that could be present. This grant would identify and characterize reference wetlands and streams in the Triassic Basins to be used as goals for remediation of wetlands and streams that may be impacted during the hydraulic fracturing.

(c) And the spin from DENR Assistant Secretary, Mitch Gillespie (former NC House Representative, and a chief instigator of fracking legislation). He said the April 2013 grant applications had no “focus;” DENR’s wetlands section has recently been moved [out of sight, probably will be gutted]; data collection begins too soon without "direction" on what specifics will be tested. Said MEC’s baseline testing rules are under development, anyway, and thus data collected by these EPA grants might not be consistent, and would be “too old” to be useful when fracking actually starts after 2015, and...SAVES taxpayer dollars. The Facts: The EPA grant was for surface water sampling (streams, creeks, wetlands in this area) and NOT groundwater from private wells. The MEC baseline testing only applies to private water wells...NOT surface waters. Two very different pieces of the water puzzle. Why would data be
“too” old? Real science relies on past data to measure change over time, to investigate and mitigate damage...formerly under DENR’s purview, but this is a McCrory crowd that wants to do “less” while permitting more. Perhaps the real reason to give back EPA money is so they don’t actually do the “science” in the Triassic basin that has had limited surface water research. Also, Fig. 2 in the application shows a Conceptual Model of Methane Transport from an underlying natural gas reservoir to groundwater and surface water. The diagram shows rogue fractures into aquifer. Hmm, this absolutely raises fracking concerns. **MEC and DENR want fracking:** These studies might reveal facts; so don’t take the money! Rep Mike Stone (Lee Co) wanted DENR to provide public assurances [*Stone seeking 2014 re-election?*] that “old data” is a sufficient reason not to do these studies. Why not postpone the start of grant instead of refuse it? Gillespie said that is what he should have done...my bad [*like a fox*].

2. **DENR delays action on Compulsory Pooling recommendations...until after the Nov 2014 elections?** Gillespie summarized some of the recommendations of the Study Group and how various states have handled compulsory pooling (PA does not allow; other states have various percentages of voluntary leased acreage, or owners—not the same thing). The Study Group recommended a 90% voluntary leased acreage threshold before the gas operator could apply for a Compulsory Pooling order. [*That 90% leased acreage might actually force a majority of small land owners into a pool if the drilling unit encompasses a large subdivision, a likely scenario.*] Gillespie said DENR wants to see the MEC rules completed, including the drilling unit size, spacing requirements, and setbacks before taking any action to accept the recommendations and move it to the Legislature for drafting law. The rules are scheduled for “completion and adoption” by MEC in October 2014, then 60-days public comment which would place this front-and-center before the November election. And, there is the other “controversial” provision that would force each compelled property owner to pay a portion [*estimated at thousands of dollars*] of production costs. This issue is about the “taking” of property and, my guess, will remain “buried” until after the November 2014 elections. Our job is to make this a central issue in the 2014 election.

3. **Mining & Energy Commission Report, Jim Womack, chair.** Several MEC members attended and reported on their Committee rules and Study Group reports required by the Legislature. Womack said rule writing should be completed by Sept 2014, out for public comment in Sept-Oct 2014 [*just before elections*]; and sent to Rules Review Commission by November 20, 2014. There are 131 discrete rules to be written; of that 51 are currently being researched, 23 are out of committee, and 14 have been adopted, by consensus, at the MEC. Womack mentioned some of the challenges: chemical disclosure/trade secrets, components for environmental testing, configuring a drilling unit, rules on leasing, best handling of wastewater (and use/or not of Class II injection wells), disposal of wastewater. Ray Covington covered the Compulsory Pooling recommendations...now on DENR hold.
Charles Taylor reported for Local Government Study Group: setbacks should not STIFLE industry, zoning stays with local governments as long as county/town doesn’t exclude the industry; could authorize special permitting in zoned areas to accommodate this industry; need legislation on gathering lines [look for 100s of miles of these snaking across property, roadways, streams in Lee and Chatham].

**Funding Levels Study Group.** Jane Lewis-Raymond. After research with NC DOT, Institute of Government, and others; expected costs to the state for “managing” this program is $3 million/year in personnel and equipment costs, primarily NC DOT and NC DENR. How to recover those costs? Apply a severance tax on the gas pumped out of the ground. Used the State of Arkansas experience since ZERO data on NC volume of gas. Arkansas’ severance tax of 1.5% covers their state costs. This rate would not generate extra revenue for State general fund. As to local government impacts, the report suggests leaving it up to the locals. Towns can work directly with the gas operators on Excess Maintenance Road permitting and bonding to pay for city road damages (counties do not have that option since State maintains all other roads). Reports suggest that other local impact fees for hazmat training and emergency management costs can be collected based on charges per fracking stage ($1,800 initial fee, plus $2,000 per a length of frack, resulting in up to $50,000 per well.) Where will the money go? Either to a state fund that local governments apply to, or directly to the local government. Probably the state will want to collect and distribute. Some happy talk about McDonald’s workers earning higher wages (above fed minimum) in PA because can’t get enough cheap labor in the fracking area. Womack: Definitely some positive economic impact in the local communities.


As you recall, the Legislature “fired” all members of the Environmental Management Commission on June 30 so Governor McCrory could appoint his folks. Atty. Benne Hutson, the new EMC chair said that 4 of the 15 members were re-appointed; 9 are new, 2 more to be appointed by Governor. They met Sept 12 for first time. Hutson will be an active voter (not just breaking ties) on this EMC. Said two main issues: stormwater control: current rules need revisions at the federal level. Concerned about stormwater at fracking operations since there will be greater water volume than other operations. The NPDES permit program for wastewater discharge into surface waters (rivers, streams, creeks) exempt’s gas operations. [NOTE: the EPA granted NC authority in 1975 to issue NPDES permits]. Hutson said current NC rules do not allow onsite disposal of drilling muds...another item MEC is considering. Air Quality, no need to worry, we are good! Additional state rules NOT required because Legislature passed Senate 781 that restricts state and local governments from adopting anything more stringent than federal standard. EPA will be issuing revised air quality rules in 2014. He mentioned the fact that truck trips and emissions from this industry should be monitored when fracking is active.
Diana Hales, retired