

Minutes of August 26, 2013 meeting of the Marcellus Shale Safe Drilling Initiative Advisory Commission

Approved September 25, 2013.

The Commission held its twentieth meeting at Allegany College of Maryland, on August 26, 2013, beginning at 1:00 pm. In attendance were Chairman David Vanko and Commission members Senator George Edwards, Delegate Heather Mizeur, Commissioner James Raley, Commissioner William Valentine, Mayor Peggy Jamison, Shawn Bender, Steve Bunker, Jeff Kupfer, Clifford Mitchell, Dominick Murray, Paul Roberts, Nick Weber and Harry Weiss. Also in attendance were staff of state agencies and members of the public.

The Commissioners approved the minutes of the meetings of June 10, 2013 and July 22, 2013, with changes and clarifications suggested by Commissioner Kupfer.

Darius Irani and Jessica Varsa of the Regional Economic Studies Institute (RESI) presented an update of their work on the economic study. RESI had completed interviews with 42 individuals from a variety of stakeholder groups to learn more about the local economy and what concerns they had about the potential impact of Marcellus shale drilling on the local economy. In addition, they had completed approximately 150 in-person surveys relating to the potential nonmarket impacts. An online version of the survey went live on the preceding Friday on the Garrett County Economic Development site. A link will appear on MDE's webpage and others are encouraged to add a link to their own web pages. The survey will close at the end of September. RESI also described the additional tasks in their work plan, and the schedule.

This was followed by a question and answer period with the Commission. Senator Edwards suggested that in person interviews be conducted in Frostburg, Friendsville, Grantsville, and George's Creek. He also suggested that RESI look at the effect of drilling on tourism at Stonewall Jackson Lake in West Virginia and the Seven Springs area in Pennsylvania. RESI indicated that no additional in person interviews were planned, and that RESI would contact other tourist areas where drilling occurred to see if there is data on whether there is an effect.

Commissioner Weber asked about how far forward in time RESI will look, and whether they would capture the "bust" as well as the "boom." RESI is looking at a horizon to 2035. Would RESI try to model the effects of accidents? No.

Commissioner Kupfer noted that the descriptions of the scenarios was confusing, and that in addition to the no drilling scenario, there should be one for an average rate of development, and one for an accelerated rate of development.

Commissioner Valentine noted that the viewshed impact during drilling would be very different from after drilling is completed.

Dr. Mitchell asked if RESI would consider macro-economic trends. RESI noted that the models will incorporate some assumptions.

Delegate Mizeur said that she had gotten feedback on the survey and that the order of the questions could be misleading. She asked if the Commission could review the questions. It was noted that the survey had been sent to the Commissioners in advance for their comments. RESI also noted that the survey was properly constructed, and that it would lessen the value of the survey if it were changed midstream.

Commission Roberts asked what lease data RESI would use. RESI said that they would use the best available data, but that it could be several months old. Will RESI look at the net economic effect? RESI will identify both the positive and negative changes, and cannot predict now whether the net will be positive or negative. How will the results of the survey be weighed? RESI said that all the information feeds in to the analysis, and that the survey might account for 10% to 15%. Could someone have taken the survey twice in person? If that happened, RESI's tools should detect it.

Commissioner Weber noted that RESI should survey where the drilling is occurring. In addition, people might have interpreted the survey as asking about multiple wells being drilled on a single pad without interruption over a continuous period or about one well a year. RESI said that the people surveyed generally seemed to be "up to speed" on shale gas drilling, and that the hypothetical questions were intentionally simple.

This was followed by a presentation by Dr. Charles Yoe on risk assessment. He stressed that risk assessment is about making decisions under uncertainty. You need to identify the facts and the data gaps. He demonstrated a risk matrix that charted the magnitude of the harm (high, medium and low) against the probability of the harm (also high, medium and low). He conceptualizes risk as acceptable, tolerable and unacceptable. Classifying the risk involves value judgments and political judgments. When a risk is not identified as acceptable, the question becomes whether there is a way to reduce the risk to make it tolerable.

In the question and answer period, Dr. Mitchell asked about sensitivity analysis. Dr. Yoe responded that the degree of uncertainty is factored in, and it may be wise to move forward with test wells and adaptive management where the data are lacking.

Commissioner Weber asked about failure rates. Dr. Yoe said that that would become a line of evidence to be used. The question should be considered whether a best practice could reduce the probability or reduce the magnitude of the harm. Commissioner Murray noted that one person's acceptable risk may be another's unacceptable risk. Dr. Yoe advised getting the evidence and filling out the matrix before dealing with that question.

In general, the person performing the risk assessment would evaluate the risk associated with practice under Maryland law and regulations, and unless the risk is low, estimate whether best

practices could mitigate the harm. As an example, contamination that is cleaned up promptly poses a different risk than one that is not cleaned up. Does Maryland law require prompt cleanup?

Ms. Kenney noted that State agency staff would do the work of the risk assessment. Staff will come back with a work plan. She suggested that the top 20 risks identified by each of four expert groups (NGOs, Industry, Government, and Academia) – totaling 41 in all -- from the Resources for the Future survey be the starting point, and that the list could be expanded or contracted. Commissioner Weber noted that some areas could be off-limits to drilling under Env. Code Section 14-108.

There followed a brief discussion of how to focus the Commissioners' attention on the draft Best Practices report for purposes of memorializing their comments. Dr. Conn explained that she had prepared a Survey Monkey questionnaire that each Commissioner should fill out on line by September 15. The completed questionnaires, with the name of the Commissioner, will be made available to the public. The questionnaires will be used to structure the discussion at subsequent meetings. The responses will be preliminary in nature, and it is anticipated that, with discussion, opinions may change.

There was a brief report on the status of the public health report by Dr. Mitchell. He suggested that the next Commission meeting be combined with a public outreach meeting.

Public Comments included the following:

Eric Robison stated that CitizenShale had submitted its comments on the draft Best Practices Report. If there had been more documentation, the group could have provided additional comments. He also said that he would like to see the work plan for the rest of the Commission's work. He asked about the difference between a risk assessment and a risk analysis. Dr. Yoe answered that there are other ways to conceptualize it, but he thinks a risk analysis involves a risk assessment, a consideration of how to mitigate the risks, and risk communication.

Mr. Robison then commented on the in-person interviews conducted by RESI. He asserted that Ms. Varsa said that the budget is not sufficient to do a comprehensive study. [Ms. Varsa was not present to respond. Ms. Kenney contacted her later and Ms. Varsa said that this was an incorrect interpretation of what she had said.]

Paul Durham asked that the results of the Survey Monkey be made public. The Commissioners unanimously agreed that their completed surveys could be made public. He also suggested that the Commissioners should wait to read the public comments before weighing in with their own opinions. Lastly, he asked who would hold the staff accountable for the risk assessment.

Woody Getz suggested that Commissioners filling out the Survey Monkey questionnaire compose their comments in a Word document and cut and paste them into the survey. He

endorsed the idea of surveying other communities. He said that when looking at data from tourist areas where fracking has taken place to be sure the data are current. He noted that it is impossible for persons sharing a computer to respond to the RESI survey individually. He thanked Dr. Yoe for his presentation.

Jorge Aguilar of Food & Water Watch asked when MDE would start drafting regulations based on the best practices report. Ms. Kenney answered that it would not be anytime soon. She noted that although she could cite some good reasons for drafting regulations in advance of the decision whether to allow fracking, there was a widespread but erroneous public perception that doing so meant that the State had already decided to allow fracking. She wanted to reassure the public that no decision would be made about whether to allow fracking until the economic study, the risk assessment, and the public health report were completed.

John Quilty of the Deep Creek Lake Property Owners Association noted there were connections between the risk assessment and the economic study; for example, the risk of impacts to the viewshed. He suggested that the State leverage the synergy. Commissioner Mitchell agreed and noted that the work plans for the various studies are being shared.

Megan Jenny asked how we can achieve a risk assessment without risk communication. Commissioner Weiss suggested that there is a consensus on the nature of the significant risks. Dr. Conn noted that the State will follow a process in performing the risk assessment. After that, the risk management strategy will help explain the risks.

Jorge Aguilar asked if the State intended to lease gas rights under State lands. Dr. Conn said no, not at this time.

The meeting adjourned at 4:15.