

Minutes of May 17, 2013 meeting of the Marcellus Shale Safe Drilling Initiative Advisory Commission

Approved July 22, 2013

The Commission held its seventeenth meeting at the Lane University Center at Frostburg University, on May 17, 2013, beginning at 2:00 pm. In attendance were Chairman David Vanko and Commission members Senator George Edwards, Commissioner James Raley, Commissioner William Valentine, Mayor Peggy Jamison, Shawn Bender, Steve Bunker, Dr. Clifford Mitchell and Nick Weber. Jeffrey Kupfer attended by conference call. Also in attendance were staff of state agencies and members of the public.

Chairman Vanko called the meeting to order. Two documents had been sent to the Commissioners a few days before the meeting: a Discussion Draft of the Best Practices report dated May 13, 2013, a copy of which has been posted on MDE's website with these minutes, and a chart that relates the recommendations in Dr. Eshleman's report with the Departments' recommendations in the draft. The intention was to go over this draft report, with an emphasis on additions and changes from the recommendations we discussed in previous meetings.

The initial discussion was on recommendations on the Comprehensive Gas Development Plan (CGDP) that were changed from the previous version. The time frame had been reduced from 10 years to 5 years, but it was still to be mandatory. In a discussion about duplication between the CGDP and the individual permits, it was recommended that any analysis prepared for the CGDP would not have to be repeated in an application for an individual permit. Commissioner Kupfer thought a five year plan was unrealistic for companies with holdings of 10,000 acres. It was noted that the CGDP was like a "30,000 foot view" that focused on surface impacts. It would not unduly restrict a company's specific plans for drilling.

If a company's holdings are in three separate areas, should it submit one CGDP or three? A suggested criterion is whether the two areas could share infrastructure.

Should CGDPs be transferrable if holdings are sold?

Could permits for exploratory wells be issued first and then followed by a CGDP? This is more typical of the way companies act. A company does not want to get a CGDP approved and then be unable to change course.

Regarding the Environmental Assessment, it was clarified that some assessment will be done as part of the CGDP and a complete assessment done for an individual well permit. The guidelines for the Environmental Assessment are being revised by MDE's Science Services Administration, using some of the funds in the deficiency appropriation for FY2013.

The setback requirements for streams ponds, etc. need to be clarified because the boundaries can be measured differently and change over time. Floodplain means the 100-year floodplain.

Should there be an additional setback for reservoirs? Additional thought should be given to the tributaries to drinking water reservoirs. Should certain lands be identified as off-limits to gas extraction under Md. Env. Code Section 14-108? Will gas be extracted from beneath State and federal land?

There should be provisions for waiver of the setback provisions, especially if the waiver has the effect of minimizing an environmental impact.

What about Tier II streams? It was noted that the Anti-degradation regulations are due to be amended within 2 years.

There was discussion about how to involve other State agencies – would Clearinghouse review be appropriate? Should the agencies become involved at the CGDP stage? MDE, DNR, MDOT, DHMH and MDP would probably want to be involved.

There is still concern about controls on gathering lines and gas lines downstream of compressor stations.

Clarifications to the chemical disclosure recommendations were discussed as was the need to know what chemicals should be included in baseline monitoring. One Commissioner pointed out that, if disclosure happens before drilling commences, companies may not know exactly what chemicals will be used. The disclosure recommendations were modeled on the OSHA Workers' Right to Know law and regulations. The draft includes a recommendation to forbid the use of diesel in fracking; there is no recommendation to ban any other chemical.

The engine emission standards in this draft are more stringent than those in the Eshleman report.

A requirement to use electricity from the grid will cause companies to avoid drilling in Maryland. Companies don't usually use electric drill rigs.

The obligation to enforce the noise standards lies with the counties, but it is widely recognized that the counties don't have the capability to monitor noise levels.

The last item discussed was whether the Commission wanted to see one more draft and meet to discuss it before a draft was posted for public comment. There was general agreement among the Commissioners that this would be desirable, and it was proposed that staff would prepare a new draft and circulate it in advance of a meeting to be scheduled in early June.

The meeting adjourned at 4:45.