

Minutes
Environmental Protection Committee
2 Martin Luther King, Jr. Drive, S. E.
Suite 1252 East Tower
Atlanta, GA 30334

June 25, 2019

Attendees:

Committee Members

Ray Lambert, Chair
William Bagwell, Vice Chair
Dwight Davis – Via Conference Call
Rob Leebern
Aaron McWhorter
Mark Mobley – Via Conference Call
Brother Stewart – Via Conference Call
Dee Yancey
Bodine Sinyard, Board Chair, Ex-officio

Board Members

Nancy Addison
Dwight Evans
Joe Hatfield
Duncan Johnson
Paul Shailendra – Via Conference Call
Miki Thomaston

Guests

Scott Tanner, Joe Tanner & Associates
Mark Woodall, Sierra Club
Jim Renner, Southern Ionics Minerals
Chris Manganiello, Chattahoochee Riverkeeper
Bryan Tolar, Georgia Urban Ag Council
Doug Miell, Georgia Chamber
April Lipscomb, Southern Environmental Law Center
Ronny Just, Georgia Power
Nick Johnson, Georgia Conservancy
Chad Smalls, Georgia Conservancy
Will Bentley, Georgia Agribusiness Council
Thomas Farmer, The Nature Conservancy
Alex Bradford, Georgia Farm Bureau
Blake Raulerson, Georgia Farm Bureau

Staff Members

Mark Williams, Commissioner
Walter Rabon
Kyle Pearson – Via Conference Call
Wes Robinson
Melanie Johnson
Cathy Barnette
Amber Carter
Artica Gaston
Houston Webb
Thomas Barnard
Jeff Cown
Dave Crass
Steve Friedman
Cassidy Gerstorff
Tina Johannsen
Karl Burgess
Robert Stokes
Larry Blankenship
Jeremy Bolen
Rachel Rice
Sam Cox
Jay Howell
Kaitlin Goode

Richard Dunn, Director
Lauren Curry
Jac Capp
Karen Hays
Chuck Mueller
Laura Williams
Sydney Brogden
Dika Kuoh
Jim Cooley

The June 25, 2019 meeting of the Environmental Protection Committee was called to order by Chairman Bodine Sinyard.

Chairman Sinyard called on Ray Lambert, Chairman of the Environmental Protection Committee. Chairman Lambert called on Chuck Mueller, Chief of the Land Protection Branch, to present the Proposed Amendments to the Rules for Oil and Gas and Deep Drilling, Chapter 391-3-13.

Mr. Mueller stated he is bringing an action item to the Board today. He further stated the General Assembly passed House Bill 205 during the 2018 legislative session, and the legislation directed EPD to promulgate rules and regulations to address hydraulic fracking operations. He added the legislation required the rules address: criteria for public notice of any application, identification of ground-water sources within one-half mile of proposed wellhead or route, disclosure of chemicals used in fluids, provisions for the restoration and reclamation of abandoned well sites, storage facilities, access roads, requirements for an application to provide notice to impacted property owners and residents, requirements for the Director to notify the public, permitting requirements, increasing the bond requirement, and a \$500.00 permit fee.

Mr. Mueller stated the Rule language includes: clean up to remove definitions and other provisions already established elsewhere in Georgia Code or DNR Rules, clarification as to which well drilling activities are governed by these regulations, applicable changes required by the statute, location of well proposed to be fractured and the route, a brief description of the project, the identification of ground-water sources within one-half mile of any proposed wellhead and within one-half mile along the route, ground-water monitoring, disclosure of chemicals in the fluids used in the hydraulic fracturing process, provisions for the safe disposal of hydraulic fracturing fluids, and provisions for the restoration and reclamation of the sites. Mr. Mueller further stated we received three written comments, and the comments are summarized into broad categories, including: requests for EPD to include the guidance document in the Rule itself, requests that we include additional planning requirements including comprehensive transportation plans or consultation with other agencies, and requests to incorporate provisions to address air emissions, erosion and sedimentation, stormwater management, land application of wastewater, and wastewater disposal. Mr. Mueller added there was discussion about specific technical aspects, including disposal of fluids, groundwater monitoring, reclamation of wells, siting requirements, unlined pits, and an accredited lab for analysis, and that no changes to the proposed rules were recommended based on the comments received, but modifications to the guidance document were made.

Mr. Mueller stated we began the stakeholder process in October 2018, we briefed the Board in March, and began the public comment period in April. He further stated he favorably requests adoption of this package. Mr. Mueller added he would be happy to answer any questions.

Chairman Lambert asked if there have been any permit applications and Mr. Mueller responded no.

Chairman Lambert called on April Lipscomb with the Southern Environmental Law Center for comment.

Ms. Lipscomb stated that the rules are better than what we started with but still need some changes, and the checklist should be in the Rule rather than as a guidance document. She further stated that the rule allows unlined pits and the rule itself should say you cannot have unlined pits. She added that she encourages the Board to not adopt the Rules and ask DNR to make some changes.

Mr. Mueller responded that we kept the checklist as a guidance document because we do not have a lot of experience in this area and the guidance document gives our staff flexibility to review on a case- by- case basis the adequacy of the permit application to make sure its protective of the environment.

Chairman Lambert asked if the permit applications would be reviewed on a case- by- case basis if EPD gets any applications and Mr. Mueller responded yes.

Mr. Davis asked why the checklist is a guidance document and not a part of the rule.

Mr. Mueller stated the rule references the checklist and Mr. Davis responded and conversation ensued.

Mr. Bagwell asked how someone can get the checklist and Mr. Mueller responded it will be available on the website.

A motion was made by Mr. Bagwell, seconded by Mr. Stewart and carried unanimously that the Committee recommend that the Board adopt the Resolution to approve the proposed amendments to the Rules for Oil and Gas and Deep Drilling, Chapter 391-3-13, as presented.

Chairman Lambert called on Jac Capp, Chief of the Watershed Protection Branch, to present the Proposed Amendments to the Rules for Certification of Environmentally Sensitive Property, Chapter 391-3-18.

Mr. Capp stated this is a section of the tax code where EPD certifies that a certain piece of property meets certain criteria in order to benefit on a tax evaluation. Mr. Capp further stated the current rule has been in effect since 1992 and has been unchanged. Mr. Capp added EPD's Watershed branch gets applications for that tax evaluation criteria, we approve them, and then the application goes to the Department of Revenue.

Mr. Capp stated we have updated our rules to make them consistent with the tax code, added a new category of "Constructed Wetlands", modified another category, and made the procedure simpler by removing details more appropriately included in the application form and eliminating the requirement the property owner hire a consultant. Mr. Capp further stated we briefed the Board in

March, went out for public notice in April, held a public hearing in May and have received no comments. Mr. Capp added that he requests favorable consideration of the rule amendments.

Chairman Lambert asked how many applications EPD gets and Mr. Capp responded less than one per year.

Chairman Lambert asked about constructed wetlands.

Mr. McWhorter asked about a tax problem in the state and conversation ensued.

A motion was made by Mr. Bagwell, seconded by Mr. Yancey and carried unanimously that the Committee recommend that the Board adopt the Resolution to approve the proposed amendments to the Rules for Certification of Environmentally Sensitive Property, Chapter 391-3-18, as presented.

There being no further business, the meeting was adjourned.