

TOMPKINS COUNTY WATER RESOURCES COUNCIL

**October 19, 2009
Meeting Minutes**

Voting Members Present (16): Sharon Anderson, Will Burbank, Liz Cameron, Donna Eschenbrenner, Barry Goodrich, Roxy Johnston, Joan Jurkowich, Dan Karig, Darby Kiley, Rick Manning, Gregg McConnell, Frank Proto, Elaine Quaroni, Cindy Schulte, Mary Shelley, Linda Wagenet

Voting Members Excused (2): Ed Bugliosi, Craig Schutt

Voting Members Absent (1): Bud Shattuck

Non-Voting Members Present (6): John Andersson (Associate), Dooley Kiefer (Associate), Jose Lozano (Associate), Todd Miller (Ex-Officio), Steve Penningroth (Associate), Marjory Rinaldo-Lee (Associate)

Staff Present (1): Kathy Wilsea (T C Planning Dept.)

Guests Present (6): Bill Kappel, Ed Kokkelenberg, Jim McGarry, Sue Ritter, Sharinne Sukhnanand, Lisa Wright-Mathews

Chairman Frank Proto called the meeting of the Water Resources Council to order at 4:18 PM.

Agenda Review and Approval of Minutes – There were no changes to the agenda. The draft minutes of September 21, 2009 were moved by Cindy Schulte, seconded by Joan Jurkowich and passed by voice vote with one correction of a typo.

The DEC Draft Supplemental Generic Environmental Impact Statement on Gas Drilling – Bill Kappel, of US Geological Survey, said this document addresses water resources in terms of the gas drilling hydrofracing process. It does not address fees, oversight, enforcement, etc. It also does not address pipelines, which have a tremendous amount of disturbance during their construction period. For background, he explained one drilling pad involves 4 to 5 acres of land, and typically has eight horizontal wells from one vertical well. When the pad opens, the drilling company has three years to complete the site, with exceptions possible for re-fracing.

Bill attended testimony last Thursday at the State Legislature, where speakers were Pete Grannis, Commissioner of DEC; Susan Riha, Director of the NYS Water Resources Institute; and John Williams, of USGS. Dr. Riha made two main points: water withdrawals are disruptive to the environment, and flowback water needs better storage and treatment methods. The Great Lakes watershed lacks permitting agencies for water removal from streams. Removal can occur under two methods: alternative basewell method or normalized flow method. The latter is based on averages, so water could be withdrawn during low flow periods, leaving streams very low or dry. The dsGEIS mentions full containment of wastes, then discusses double-lined ponds. Both Riha and Williams say local wastewater treatment plants are not designed to treat flowback water, and radioactivity and some wastes will pass through. Drill cuttings will be left on site. Fluids will be handled as hazardous waste. If NYS has criteria for radioactive discharges, they need to be spelled out. Riha and Williams objected to use of wastewater treatment plants, which are overseen by DEC's Division of Waste. According to a newsletter distributed by attorneys Whiteman, Osterman & Hanna, the Environmental Conservation Law gas regulatory program supersedes local laws except as they apply to roads. So local governments cannot address fracing through zoning. In Dr. Riha's testimony, she urged the Legislature to consider the cumulative impact of inadequate wastewater treatment, advocated for total maximum daily loads and total dissolved solids limits, and pointed out the Mineral section leans heavily toward reuse of water resources.

Points made by Mr. Williams of USGS included the need for regulations for water withdrawals outside the Susquehanna and Delaware river basins, and better regulation of service casings at drill sites. There is no plan for modification if drillers find salt water at shallow depths. He advocated for requiring drilling bond logs to show adequate seals at all levels.

Bill stressed the document under review is long and complex. USGS feels it is incomplete as an Environmental Impact Statement. Use of this natural resource should not overshadow other natural resources. Questions can be addressed to Bill at wkappel@usgs.gov or 266-0217 x 3013.

In the discussion period, Bill said USGS recommends testing for “signatures” of gas in Pennsylvania and New York. This analysis traces the gas to a location, and there is no way to trace contamination unless this baseline information is provided. However, it is very difficult to identify fracking flowback in this manner, as what goes down is not what comes out. Considering the likelihood of flowback being reused, Bill said there is a low chance of this, but the industry is figuring out other mediums. In Canada, the industry is experimenting with liquid propane, which can be separated out and reused. Research in reverse osmosis has not worked out yet. Alternative technology was not part of the dsGEIS. Bill warned that all Marcellus wells in Pennsylvania have produced, so companies are constructing pipelines as they drill. Letters urging changes at the Legislature level might bring about change in water resource protection, but USGS alone can’t get it done. DEC has addressed the issue in a very small framework, minimally meeting their charge. DEC permit fees are based on depth only, and staff for enforcement is stretched ultrathin. DEC could charge by horizontal drilling distance, too, and get money for staff resources. Bill did not see reference in the document to stormwater controls beyond the pad area. Drilling companies want to do it right, but not more than required, because of cost. Comments directed to the NYS Legislature should be separate from comments to DEC on the dsGEIS. Liz Cameron said she is finding a lot of “should” and “could” language in the document. Bill said the GEIS portion should be taken as required steps. Drilling companies would be required to contact property owners and sample drinking water sources with 1,000 feet of drilling site before drilling, at three months, and then every six months until one year after gas drilling ends. Information is to be provided to NYS, the county, and the property owner. The local Health Department has to respond to any complaints. There is no provision to monitor if the property owner declines initial testing. There is a limited list of requirements for baseline testing, but no method specified. The document treats every well as though it is isolated, there is no cumulative impact considered. If requests for change to withdrawal criteria are made to the State Legislature, it should be recommended that the DEC Division of Water Resources provide regulation. He agreed that NYS legislators are uninformed, but constituents need to hold them responsible. The Susquehanna and Delaware river basins have criteria, and we need to apply those criteria to the Great Lakes watershed. Bill was not able to respond to a question about how much revenue might come in from drilling on state land. He said there is no “sweet spot” in Tompkins County, and drillers will find better areas in the Twin Tiers.

Ideas for Reorganization – Frank Proto said the Executive Committee met, and a list of proposals was distributed to all members by email. A draft resolution was available to members today. Joan Jurkowich pointed out the last paragraphs of the resolution say they are temporary adjustments, but the Planning Department does not consider them temporary. Frank asked that members review the resolution and proposals and be prepared to vote next month. Dooley Kiefer announced a handful of legislators is considering a change for the Planning Department budget to restore some funding for advisory board support. All the advisory boards handled by the Planning Department are discussing changes. Joan Jurkowich said they will have approximately equal support, but each board is making different choices. Generally, PAB will meet less frequently, EMC chooses to have full minutes and less day-to-day support, while WRC chooses action-only minutes and continued day-to-day support.

2009 Membership Applications – A folder of new applications, applications for renewal, info on how WRC recruits, and committee guidelines and tools was passed around during the beginning of the meeting. Linda Wagenet represented the Nominating Committee. She provided a handout with the recommended slate, saying the slate was approved by three committee members, with one member absent. No interviews were held due to time constraints. WRC has had discussion in the past about continuing the Economic Development seat, and a proposed resolution to change the seat to a planning seat was not passed by the County Legislature in 2008. The Nominating Committee recommends appointing Ed Kokkelenberg to the Economic Development seat. Linda emphasized to applicants that attendance at meetings is needed. Linda withdrew her application so someone else can serve in the Environment seat, and Marjory Rinaldo-Lee is recommended for that seat (Marjory is currently an associate member). Linda requests associate membership. Other applicants not selected for voting seats are recommended for associate membership: Ken Zeserson, Lisa Wright-Matthews, and Judith Abrams. The committee recommends reappointment of Steve Penningroth and appointment of Linda Wagenet as associates.

Kathy Wilsea explained the three municipal seats. Appointments are for three years, and they expire on a rotating basis. The seat filled by Ed Bugliosi will expire at the end of 2009, the seat filled by Bud Shattuck will expire at the end of 2010 but Bud is not running for his municipal office, and the seat filled by Cindy Schulte will expire at the end of 2011 but Cindy is not running for her municipal office. The Council of Governments recommends having Cindy retain a municipal seat. The Nominating Committee recommends appointment of Lynn Leopold (exp 2010), retention of Cindy Schulte (exp 2011), and reappointment of Ed Bugliosi (exp 2012). Linda pointed out the municipal seats are not one-to-one with each municipality, and some seats, like Cooperative Extension and Soil & Water Conservation District, are not open to the public.

Dooley Kiefer said she is the member of the Nominating Committee who couldn't attend the meeting and dissented regarding part of the slate. She feels the Economic Development seat should be abolished and changed to At-Large, with Marjory Rinaldo-Lee appointed at-large, Ed Kokkelenberg as an associate member, Lynn Leopold in the Environment Seat, and Ken Zeserson in a municipal seat. Linda reiterated that the other three committee members voted for this slate. Joan Jurkowich moved to change the Economic Development seat to At-Large, which was seconded by Mary Shelley. Linda reiterated the majority of the committee felt the seat should be retained since an appropriate application was received, and some members voiced support for this decision. Frank said we will check on the process for making such a change. Joan withdrew her motion.

Will Burbank moved to table the slate until November, which received no second. Vote to support the slate as proposed was unanimous.

Committees – Gas Drilling: Liz Cameron said the water testing parameters are still under review. The response time for the DEC dsGEIS is tight, and a draft of the committee's comments will be sent to WRC members prior to the November meeting. While local groups are holding some joint meetings, and draft comments will be shared, Liz expects WRC to comment separately. **WRC/CU Monitoring Plan:** Roxy Johnston reported she attended a USGS conference, and took WRC posters with her. NYS Senator Nozzolio was there and accepted a copy of the monitoring plan. He is the person to contact regarding support to keep the Salmon Creek gaging station operating. **Wetlands:** Darby Kiley said they are still working on the model ordinance. If a municipality has a permitting system in place for wetlands, they become an "interested agency" for gas drilling notices from DEC. **Aquifer:** Todd will report at the December meeting on the results of the Dryden study. **Cayuga Lake Recreation:** Dan Karig reported the paddlers' dock is proceeding for the Farmers Market. The City is doing the permitting process. They need to get a resolution through the Board of Public Works, then Sue Kittell of the Ithaca Urban Renewal Agency can arrange for funding.

Chair Report – Frank said the County Legislature is still working on the budget. Persons who have applied for membership were encouraged to get a list of committees so they could be familiar with their functions and be ready to sign up next year.

Announcements – Lisa Wright-Mathews read an announcement from Sharon Anderson that Cooperative Extension will host two meetings on gas drilling: 10/27 at the Unitarian Church, 7:00 PM, and 10/29 at Law Auditorium, 7:00 PM. Roxy issued a reminder that the Network/IO's phosphorus conference will take place at the Unitarian Annex on Saturday from 9 AM to noon.

Adjournment -- The meeting was adjourned at 6:15 PM.

Respectfully submitted,
Kathy Wilsea, Planning Department Secretary
Adopted by the Council on November 16, 2009.