April 20, 2012

Mr. John Crumpton, County Manager
Chairman and Lee County Commissioners
PO Box 1968
Sanford, NC 27331-1968

Dear Manager, Chairman and Commissioners:

It is my privilege, as chair of the Lee County Environmental Affairs Board to share with you the collective advice of the EAB concerning the possible development of the natural gas industry in our county. The EAB has been studying this issue since January of 2011.

As the duly appointed body assigned to research and recommend on environmental issues, we function as a non-partisan, non-biased board dedicated to addressing matters of concern through researching and studying the most recent information on both sides of the issue.

The recently released preliminary report by DENR on the extraction of natural gas states “DENR believes that hydraulic fracturing can be done safely if the right protections are in place”. The Lee County EAB is and has been focused on the “IF” part of that statement. According to the DENR report and our studies, a number of states have experienced problems associated with natural gas exploration and development because the appropriate measures were not in place from the beginning.

We encourage our local officials and the state legislature to not make the same mistake. We believe a regulatory framework needs to be developed with local input and put in place with appropriate funding for staff and resources to enforce the regulations before any gas well permits are issued in North Carolina.

In accordance with our mission and purpose we offer the following attachment on how to best ensure quality of life in Lee County should the natural gas industry develop in our region.

I trust you will find these recommendations of value as you deliberate with the best interests and wellbeing of the Lee County, Sanford and Broadway communities in mind.

Respectfully,

Jimmy W. Foster, Ed.D.
Chairman

Richard B. Hayes, Lee County Commissioner
Jane J. Smith
Ophelia Livingston
Raymond J. Martin
Mary Ann Holt
Regarding Hydraulic Fracturing in Lee County

a. Provide more educational programs for landowners and local attorneys about the process of hydro-fracturing and the leasing of mineral rights.

Ultimately the landowners in Lee County will decide if hydro-fracturing will be done in the county. Gas companies cannot drill on land unless the owner leases the mineral rights. With 50,000 acres of mineral rights not yet leased landowners need more education about the entire process. We also need county attorneys to become knowledgeable about gas leases so they can better advise landowners.

b. Encourage local officials, state officials and DENR to proceed slowly but deliberately, taking advantage of changing technologies, the newest scientific information, the best practices from all over the world and develop a model MASTER PLAN.

Given the area in Lee County is relatively small and the current price of natural gas is low, the likelihood of this industry developing rapidly is extremely low. Therefore we would encourage the state to take a measured and deliberative approach; and to develop a plan that will truly protect our community and the environment while contributing to the economic growth of the area.

c. Significantly reduce the amount of water used in hydro-fracking by utilizing alternative including, but not limited to: propane, or nitrogen, or carbon dioxide.

In every state where natural gas has been extracted from shale there have been issues about water, water quality and waste water treatment. Let’s greatly reduce the amount of water needed by encouraging gas companies to use alternative ways of fracking. In Canada they are using propane and other sites have used nitrogen or carbon dioxide. The DENR report acknowledges Lee County is not a water rich area. The industry will dramatically expand demand on these limited resources.

d. Develop a “state of the art” portable water treatment plant for waste water.

There are companies with experience in treating waste water on site. It is important to continue researching this method with the aim of reducing the need to transport waste water over the primary and secondary roads serving Lee County.
e. Develop optimal methods for treating and disposing of all types of waste from this industry to include, drilling mud, hazardous waste, etc.

Adequate storage methods must be devised to handle hazardous waste generated by hydraulic fracturing. Currently there are no commercial hazardous waste disposal facilities in North Carolina according to the DENR report.

f. Develop a funding model to ensure the state and counties/cities have the financial resources to regulate the industry and pay the associated costs.

The state and counties/cities need to have the money to (1) replace or repair infrastructure, (2) develop state of the art regulations, (3) have the staff and resources to enforce the regulations, and (4) funding to train & equip emergency response teams, etc.

g. Develop a model of state, local, regulatory and petroleum officials working together to protect our community and the environment.

North Carolina does not need a state plan that preempts local government bodies from carrying out their elected responsibilities. Local officials from Pennsylvania believe it is critical that local governments be engaged and involved. North Carolina would not be well-served with a “one size fits all” piece of legislation that fails to account for the varying geology and water availability across the region.

h. Increase the current bond requirement and expand the coverage to include any type of damage to the land, air or water.

The current bond requirement is $5,000.00 plus one dollar per linear foot. Currently the bonding money can only be used to properly close a well. The estimated cost to close a well is much greater than $5,000.00. The bonding money can not be used for any other damages such as spills, accidents, etc.

i. Establish a threshold of how far below the water table fracking can safely occur and restrict fracking to that depth.

In Lee County the water table is about 250 feet and much of the shale is at depths of 2,500 feet but in a number of places the shale is very near the surface, even at the surface, in places. We need hydro-geologists to tell us what depth is safe for fracking.
j. Determine if set backs from diabase dikes are appropriate.

Throughout the shale area there are numerous diabase dikes, some thick others thin. The DENR report says water flows great distances along these dikes especially thin dikes. In order to protect the ground water, we need to know about set backs.

k. Require the state to provide local officials with quarterly published briefings on how the entire process is working.

Local officials answer to local people and they need to know first hand how the process is working.

l. Encourage active participation of the Association of County Commissioners, North Carolina League of Municipalities and the School of Government in ensuring a viable role for local governments in the entire process.

It is important that local government not be left out in developing the regulatory framework. These organizations do have great influence with the legislature.

m. Encourage legislators to keep the regulatory authority with DENR.

Many with considerable expertise in the legal, governmental, and scientific aspects of this issue believe DENR is best positioned for this assignment.

n. Provide opportunities for people involved in public water utilities, law enforcement, emergency management, public health, environmental affairs, transportation, planning, to participate in the regulatory and oversight process.

When people are involved in a process they understand it better and are more likely to support it. People also have good ideas about how to make things better.

o. Determine the cost to expand the county water system to serve all residents in the affected part of the county.

Residents in the impacted area need to know the county has a back up plan to supply water should well water be affected.
The issue of hydraulic fracturing has become high profile and “front page news” in periodicals, television and the internet. It is a discussion charged with emotions on both sides of the aisle, literally and figuratively. Missing from the conversation has been the word…collaboration. Whatever the legislative outcome, it is of paramount importance to bring all interest to the table, put away differences and concentrate on creating the most viable, safe and pragmatic processes…together.

Respectfully submitted by the Lee County Environmental Affairs Board.