



Clean Water for North Carolina

Clean Currents

Summer 2014

A newsletter of clean water and community environmental justice issues

Promises Lie in Ruins after Senate Frack Bill 786, Public Resistance Grows

When NC legislators passed Senate Bill 820 in 2012 over Governor Perdue's veto, to allow injection of "frack fluids" to extract natural gas, they broke a long-standing promise to the people of North Carolina to protect groundwater as a source of drinking water. But to get a "yes" on that bill with worried legislators in both parties, the sponsors agreed to several other promises to mitigate the potential damage. The promises the public was counting on included:

- 1) A moratorium on permits until the Mining and Energy Commission had finished drafting more than 120 complex rules and the legislature voted to approve them.
- 2) The most protective "baseline testing" rules in the nation, with a requirement to test drinking water wells out to 5,000 feet from drilling operations.
- 3) Legislation based on the results of Study Groups on Compulsory Pooling of landowners and Local Government Control of gas drilling and development.



When Senate Bill 786 was first drafted, there was no sign of a premature lifting of the moratorium on fracking permits. But the Mining and Energy Commission had asked the legislature to greatly reduce the radius for well testing and limit local government control of gas development. At the last minute, the Senate sponsors also added language to repeal the requirement for final approval of the rules, thus lifting the moratorium.

Rep. Mike Stone of Lee County and other fracking supporters sneered at concerned colleagues during the final debate on the bill in the House of Representatives, saying they had put up with "this kind of delaying" for years and it was long past time to move forward. In the end, the bill passed both chambers in less than two weeks, and all three promises to the public, of which at least 55% oppose fracking, had been smashed. Eleven Republican Representatives listened to their concerned constituents and voted against SB 786. People and local governments around the state are rising up, determined to hold legislators accountable for a vote that sells out NC's public interest for dirty oil and gas political money.

US Supreme Court Rules in Favor of Polluter – Setback for Communities

In June, the U.S. Supreme Court ruled against landowners in Buncombe County who had sued the CTS Corporation, potentially harming the ability of other communities to seek justice and compensation, and to hold toxic polluters accountable.

The lawsuit involved two dozen landowners near the former CTS electroplating facility (now a nationally listed "Superfund" hazardous waste site). It challenged whether North Carolina's "statute of repose" prohibits suing a company more than 10 years after the pollution activity stopped, regardless of when residents knew of the contamination. Connecticut, Kansas, and Oregon have similar provisions. The court ruled 7 to 2 to side with CTS, upholding NC's statute. In her dissenting opinion, Justice Ruth Bader Ginsburg wrote, "the court allows those responsible for environmental contamination ... to escape liability for the devastating harm they cause, harm hidden from detection for more than 10 years."

The decision has devastating implications for other communities near toxic sites, most notably the Marines and their families stationed at Camp Lejeune, NC, along with others who were exposed to toxins in drinking water in the 1950s-1980s. Many veterans are seeking compensation from the federal government in lawsuits, or health care promised in a 2012 law, now also in question. Seeking to get off the hook for these huge liabilities, the Obama Administration filed a brief in support of the polluter, an action that could thwart environmental justice for years to come.

In Raleigh, legislators responded quickly, passing a bill almost unanimously in June to clarify that the ten-year limit should not apply in cases related to groundwater contamination which exceeds state standards. Congress is also considering legislation to protect residents' rights to sue. It's hoped these legislative efforts will change the outcome of the CTS and Camp Lejeune cases. *For more on the CTS of Asheville Superfund site, see p. 4.*

WHO WE ARE

Clean Water for North Carolina

Clean Water for North Carolina is a private, non-profit organization based in Asheville, NC. CWFNC works to ensure that all people have a right to live, work, and play in clean and safe communities. Together, we have the power and responsibility to work for a healthy and sustainable environment. Our staff works with an active and diverse board of directors, as well as members, to increase grassroots involvement in environmental decisions.

CWFNC spearheads action statewide and helps grassroots and environmental groups, individuals, and local governments develop strategies to address threats to the environment.

Our Mission

Clean Water for North Carolina promotes clean, safe water and environments and empowered, just communities for all North Carolinians through organizing, education, advocacy, and technical assistance.

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Belinda Joyner, Northeast Organizer

We Welcome Anjali Orlando to Our Durham Staff

Anjali grew up in south Florida and Chapel Hill, North Carolina, and earned a B.A. in Anthropology from UNC-Chapel Hill. She has a master's degree in natural resource policy from the NCSU School of Forestry and Environmental Resources and a law degree from NC Central University. Before joining CWFNC's staff, she worked as an environmental research specialist at the US EPA, and helped lower income residents gain legal access as an intern for the Environmental Poverty Law Project. As CWFNC's Water and Energy Justice Organizer/Researcher, Anjali will work to strengthen communities' rights to safe, affordable water and environmental justice and be a key part of our advocacy and outreach team. Anjali and her musician husband John and son Alex live in Bahama, just north of Durham.



Farewell and Best Wishes to Maribel Sierra!

Maribel is leaving CWFNC after almost 3 years of dedicated work as a researcher and organizer. Often working behind the scenes, her contributions were numerous, and included helping to form the FrackFree NC alliance, advocacy through FrackUpdates and online social media, and making connections with community members



and other organizations. She is excited to have helped draw more attention to the issue of fracking and says, "It has been a joy to work with Clean Water for NC and the Frack Free NC partner organizations! It is encouraging to know that there are many dedicated individuals across the state who support our work for clean water and environmental justice."

Maribel has an internship in public health this summer, and will be working with the Lincoln Community Health Center in Durham. She is interested in community health and nutrition, focusing on increasing low-income communities' access to healthy foods and disease prevention through diet. She also plans to apply to graduate school in public health. Good luck, Maribel!

Thanks to Jodi Lasseter

Hearty thanks to Jodi Lasseter, who served as Clean Water for NC's Board Chair from 2011 to 2014, leading us into the era of strategic action and frack resistance and building our capacity to develop and update important policies. Jodi stepped down early this year to spend more time on her own Turning Tides Consulting and other creative work, but continues to be active on fracking and a variety of energy-related issues in addition to her extensive travel to work with a wide range of progressive organizations! All the Board members, staff and many CWFNC members and volunteers wish you all the best!



Happy 30th Anniversary, Clean Water for North Carolina!

This year marks CWFNC's 30-Year Anniversary of work towards clean water and environmentally just communities across North Carolina. Some highlights from our first 30 years:



1984 – The Clean Water Fund (now known as Clean Water for NC) was founded at a kitchen

table in Charlotte by grassroots activist Lark Hayes, with the goal of working for greater public involvement in protecting communities from hazardous waste sites, contaminated drinking water and other environmental health threats.

Late 1980s

- CWFNC's Nan Freeland presses to protect workers and community from contamination at Sledgelock manufacturing, Rocky Mount.
- Nathenette Mayo calls for an end to "Toxic Terrorism" at press conference in Shiloh community around the dioxin-laced Koppers Superfund site, Morrisville.



1987, CWFNC marches with Granville County activists against proposed hazardous waste incinerator.

1990s

- Nan Freeland helps develop the Principles of Environmental Justice at the first National People of Color Summit. Today, EJ principles help guide our community work.



CWFNC, labor and health groups organize a march to protest the deaths of 26 poultry workers in Hamlet factory fire.

- CWFNC works with Stanly County Opposed to Toxic Chemical Hazards (SCOTCH) to reduce toxic emissions from Solite plant, and require Air Toxics Rules to be enforced.

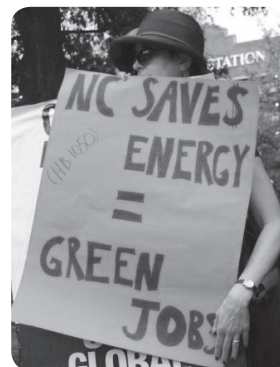
- First NC Environmental Justice Summit in 1998, Franklinton Center.

2000s

- Grassroots lobbyists for clean water gather at the NC General Assembly to build support for strong water quality protections, which became an annual tradition.
- CWFNC and other local groups challenge Blue Ridge Paper Products, the region's largest toxic releasing industry, in effort to clean up the Pigeon River.
- CWFNC works with 20 allies to develop a legislative proposal for statewide energy efficiency program independent of the utilities, NC SAVE\$ ENERGY.



March around Canton paper mill with TN and NC activists.



2010s

- CWFNC helps organize communities across the state to oppose private water rate increases and publishes report: "Privatizing NC's Water, Undermining Justice" to draw attention to the costs and poor service facing vulnerable communities as a result of rapid privatization.
- Fracking is raised as an issue after USGS publishes report of shale basins in NC. Over 3 million North Carolinians rely on private wells as a source of drinking water which could be impacted from natural gas development.
- CWFNC's Belinda Joyner works with residents in Ahoskie and Garysburg to challenge Enviva, a giant wood pellet manufacturing company producing fuel for export to Europe, and impacting neighboring communities, with noise, dust and dangerous traffic.



Community Updates

Mountain Farmers Raise Alarms Over Chemical Spraying Along Powercuts

Guest contributor: Nicole Delcogliano

Since 2010, the French Broad Electric Membership Corporation, a cooperative electric power provider serving 38,000 customers in western NC and eastern TN, has used herbicides to manage right-of-way vegetation along portions of their 3,300 miles of power cuts. Residents, particularly numerous mountain farmers, worry about negative impacts on other plants, wildlife, and water quality. French Broad EMC is using two “broad spectrum” herbicide brands (they do not target just one plant). According to the Environmental Protection Agency, use of multiple pesticides together is more likely to cause impairment to local environments.

Cooperative members feel the EMC has not responded adequately to their concerns regarding the potential impacts. Some residents in Yancey, Madison, Mitchell and Buncombe Counties are mobilizing against the chemicals’ use, asking that the EMC at least allow private property owners to opt out. A new short film titled *Power Land People* explores the controversy through a series of interviews. View it at <http://bit.ly/fbemc>!

Western NC is Fired Up About Fracking!

Many grassroots groups have formed in the western region of the state since news broke of interest in exploring shale gas potential in the mountains. Folks from Swain, Cherokee, Macon, and Madison Counties have been getting together to strategize resistance, and are chomping at the bit to fight fracking coming to their area. Though the state only plans to spend \$11,725 on preliminary testing, western residents don’t want to chance further interest. They have already held numerous educational events in town halls and churches, and are planning a WNC Against Fracking Summit. Grassroots groups and businesses across the region have been calling for a Public Hearing to be held on the draft Oil and Gas rules in the mountains as well. The amount of energy is amazing to behold!

Coal Ash Saga Continues, Legislation Fails to Protect Communities

Despite valiant efforts by advocates across the state, the “Coal Ash Management Act of 2014” (SB 729) falls well short of what is needed to protect North Carolina from ongoing groundwater contamination and disasters like the Dan River ash spill. The bill, likely to pass in this short session, allows capped storage, which leaves ash in place and doesn’t prevent groundwater contamination or another spill. Duke must only close four of its fourteen coal ash sites, and the ash could end up in unlined landfills. Local governments couldn’t ban or regulate the coal ash.

At least one NC community is already facing the consequences of hasty action to move toxic coal ash. Person County PRIDE and others have protested over 2,500 tons of coal ash waste from the Dan River spill being dumped in their County landfill.

This facility was designed for ordinary household waste, not hazardous coal waste, and residents are now at risk from leaks.

Duke Energy struggled to fix a dangerous 40 foot crack in its Cape Fear coal waste impoundment dam—first discovered by Waterkeeper Alliance—and illegally dumped 61 million gallons of contaminated water into the Cape Fear River. It’s possible this “high hazard” dam will fail again, and it’s not even one of the four coal ash sites prioritized for cleanup!

Residents near CTS toxic site evacuated; push for full cleanup continues

In Buncombe County, toxic trichloroethylene (TCE) continues to spread from the former CTS industrial site, which was listed as a national Superfund site in 2012.

In June, the EPA temporarily relocated thirteen nearby residents from their homes after indoor air sampling found dangerous levels of TCE, coming from polluted springs on a property near the site. Now, the agency is testing air in neighboring houses to see if more residents should be evacuated.

TCE is widespread in groundwater and air near old industrial sites. In 2011 it was officially classified as a carcinogen. The same year, the level that’s considered safe in indoor air was reduced from 120 to 2 micrograms per cubic meter. Tests found 11 µg/m³ in one of the affected homes. EPA had found similar levels near the CTS site before, but this time the stricter maximum levels authorized them to take action.

Meanwhile, the community is telling EPA to have the “Responsible Party”, CTS Corp., quickly and thoroughly clean up the source of the plume of contaminated groundwater and the polluted springs. The source includes a shallow area of petroleum mixed with TCE, as well as TCE which has sunk into deep soil and bedrock. Community members say it’s critical for EPA to fast-track removal of both the shallow and deep sources of spreading contamination.

Raleigh “Donut Hole” Community Struggles to Get Safe Water

In late 2012, a resident of an un-annexed neighborhood along Trawick Rd in east Raleigh had Wake County test his well, after hearing about contamination in Wake Forest. To everyone’s surprise, pesticides were found in his well and soon in other wells in the modest income neighborhood, but no source of the contaminants was found. Clean Water for NC went door to door to help answer questions about results and connect the residents. Within months, dozens of households had formed a Neighborhood Committee, and started researching alternatives to get permanent, safe water.

But the residents face steep odds: they don’t qualify for rural infrastructure funding, they don’t have the resources to pay for annexation by Raleigh, and the City’s policies don’t allow them to take a loan to build water lines to homes outside the city. Wake County Commissioner James West has given consistent support and enlisted help from the County Environmental Services staff, but it’s the efforts of the Neighborhood Committee, and dozens of residents now petitioning their neighbors for support, that we hope will lead the County to set up a “Critical Infrastructure Special Assessment” to fund water lines and allow affordable, extended payments for the homeowners!



Cumberland Residents with Arsenic Contaminated Wells To Get Public Water Lines

In March, after levels of natural drinking water wells the County’s several reports of high arsenic in several near Fayetteville, Environmental Health Program called a meeting with affected residents. Because of strong County Commission support for the County’s “Safe Water Task Force,” they were able to quickly arrange for a voluntary annexation of the residents to receive water lines only, without the cost of sewer system installation.

According to Daniel Ortiz, the Environmental Health Director, who also heads the Safe Water Task force, the cost to each homeowner for extending water lines will be about \$8,000, but the residents will have several years to pay this off. The Safe Water Task Force, developed after several Cumberland County neighborhoods with contaminated wells were reported in 2008, includes elected public officials and County staff, and has facilitated rapid investigations and problem solving with impacted residents. The Bernard Allen Emergency Drinking Water Fund, which Clean Water for NC helped to establish in 2007, has been an important source of assistance with filters or water line extensions for lower income residents in this and dozens of other counties across the state.



Camp LeJeune Veterans Exposed to TCE STILL Not Getting Health Benefits

Perhaps as many as a million Marines, their families and residents living around the Camp Lejeune base through the 1980s were probably been exposed to trichloroethylene and other toxic compounds from fuel storage, dry cleaners and other sources. Federal agency studies of the Jacksonville site denied the seriousness of the problem for many years, but in 2012, with leadership from NC Rep. Brad Miller, Congress passed the Janey Ensminger Act, named for the daughter of activist veteran Jerry Ensminger who died of cancer years after drinking TCE-laced water, to provide health care for a wide range of ailments that could be associated with exposure.

Two years after the Act was passed, a veterans’ group that met with Clean Water for NC reports that the steps required by the bill to implement that health care have still not been taken, so they are receiving NO benefits whatsoever. In addition to the initially defined conditions that could be caused by these exposures, more health conditions were to be identified and actual services initiated for applying veterans. We hope to help them with petitions and e-advocacy—watch for your opportunity to weigh in to support their efforts to get Pres. Obama to implement the Act by Executive Order!



Polluter Accountability

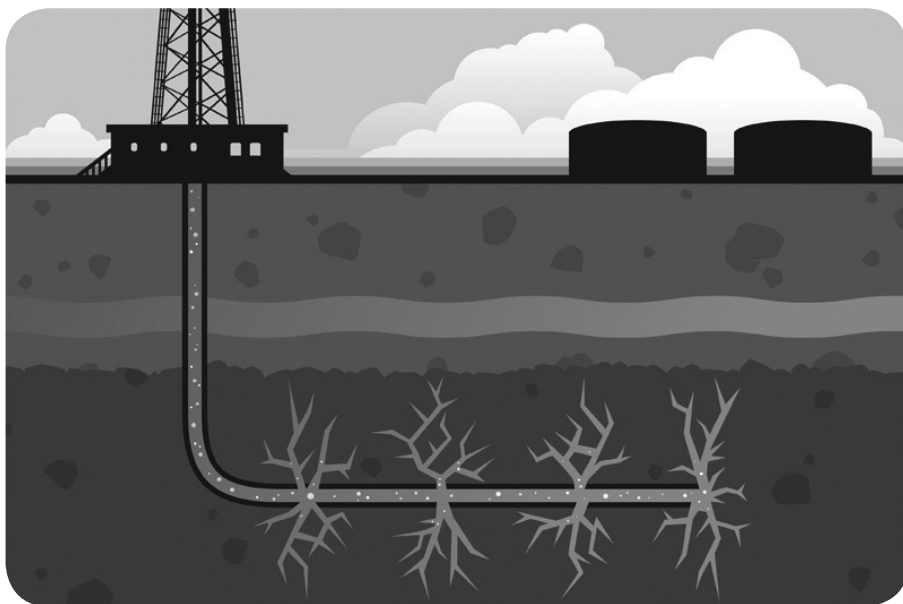
Fracking the Climate

Natural gas is often touted as a solution to climate change, marketed as a “clean burning transition fuel” because it releases half the carbon dioxide of coal. But the effect of fracking on the atmosphere depends on methane, a greenhouse gas that is up to 100 times more potent than carbon dioxide (CO₂) when it is released unburned. Methane escapes during all phases of fracking, from the drilling sites, processing plants, to the pipelines and storage facilities. These releases are called “fugitive emissions”, as they are difficult to trace and even harder to measure.

Scientists have been working to determine exactly how much fugitive emissions are released from fracking. This is especially important as the

Intergovernmental Panel on Climate Change’s newest report pushes natural gas as a potential solution to climate change if fugitive emissions are low or captured. The trouble is, nobody knows the extent of fugitive emissions from fracking operations, despite numerous studies. However, the studies all point in a worrying direction—that methane leakage is much higher than anyone thought. A November 2013 study by Harvard scientists measured atmospheric methane and found levels above drill sites are 50% higher than EPA had estimated. An April 2014 study from Perdue University found that drilling pads emitted 100 to 1000 times the amount of methane estimated by the EPA, even before drilling starts!

It’s clear natural gas is not the answer to the problem of human-caused climate change. At the very least, this points to the urgent need for stronger state and federal laws, and regulations for monitoring, evaluating, and reducing the fugitive methane emissions from the production and distribution of natural gas. Island and coast communities are already feeling the effects of global climate change. Future impacts will be far-ranging, and disproportionately affect already vulnerable populations of Indigenous and poor communities and people of color. We shouldn’t be duped by the natural gas industry calling itself “environmentally friendly”, when it grabs investment and policy attention away from actual, more job creating, solutions--efficiency and renewables.



“Stringency Provisions” Make NC’s Regulations Among Weakest in Nation

Only a few U.S. states have self-imposed limitations to keep them from creating environmental regulations which are stricter than federal requirements. Sadly, North Carolina became one of the worst in 2011 when the anti-regulatory, pro-industry legislature amended the NC administrative procedure act. According to a 2013 Environmental Law Institute report, NC is now one of only seven states which have broad prohibitions (called “stringency provisions”) in place keeping state environmental regulations from being stronger than the corresponding federal ones. The NC provisions place these limits on new environmental rules made after October, 2011. There are just a few exceptions, such as when adoption of a more restrictive

rule is required due to a “serious and unforeseen threat to the public health, safety, or welfare.”

The NC Department of Environment and Natural Resources already faces challenges in the form of budget cuts and a new mission giving business interests more weight, but this further constrains the agency to state enforcement of minimum standards enacted by the slow-moving federal government. Meanwhile, the legislature is taking the same strategy to a local level, restricting local governments’ powers to protect their residents and natural resources! Join us in working to stop this “race to the bottom” of weakened regulations which cannot protect local communities.

Clean Water for North Carolina

Thanks to Our Generous Foundations and Major Donors!

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In Memory of Joanna Connolly

In April, Joanna Connolly, a CWFNC Board member from Lawndale, NC, passed away. She had taught Geology and Geography at Catawba Valley Community College for many years, involving her students in water quality studies that alert them to potential sources of natural and man-made contamination. Even after an almost fatal illness three years ago, Joanna was a bundle of determined energy. She continued to raise her beloved horses and care for her farm, and fought her way back to enough health to teach again for a year, despite becoming increasingly frail. She is survived by two sons and three daughters, most of whom lived with or very close to her, and many devoted friends. Clean Water for NC was fortunate to have been part of Joanna's very rich and busy life, and we miss her greatly.



Thanks to Our Recent New & Renewing Members!

Valerie Blanchette, Keely Puricz, Noah Myers, Mitchell Lerner, Ken & Betsy Schapira, Marshall Tyler, Steve Schewel & Lao Robert, Mitchell Jackson, John & Sandra Irving, Jane Srail, Mark Bayles & Martha Brown, Doug & Carol Wingeier, Meredith Jackson, Helen Leonard, Becky Leonard & Janis Brock, Lucy Christopher, Lucinda Kahler, Laura Upchurch, Gerrie Ann Zimmer, Alistair Hoehne, Vonna Viglione, Katie & Jeff Hicks, Georgia Ferrell, Betty & Clark Thomas, Karen & Joe Bearden, Tonia Crumpton, Tim Laughlin, Elaine Chiosso, Maribel Sierra, Barry Summers, Betty & Glenn Boyd, Scott Pearson & Tina Motley-Pearson, Debbie Hall / EnvironmentalLEE, Jennifer McGovern & Steven Unruhe, Roger Thomas, Kyle Dalton, Don Narensky, Glenn Bozorth, Lynn Kohn, Wayne & Jahala Williams, Bonnie Gramlich, Clyde Keisler, Donna Johnston, Maarten & Betty Simon-Thomas, Leah Karpen, Kelly & Joshua Martin, Tom Rothrock, Erika Emory, Susan Oehler, June & Anthony Pierce, Stanley & Carolyn Peele, Bill & Stephanie Whitesides, Jeri Gray, Kevin Yoder, Patti Dunlap, and Grace Curry

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Community Victories & Challenges
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Fellowship & Getting Involved

Speak Up to Protect North Carolina Communities from Fracking

No state has shown that passing rules on fracking and gas development, no matter how strict they may seem, is enough to protect communities. North Carolina faces additional challenges, having gutted its environmental agency, DENR, and rushed to lift the moratorium in Senate Bill 786 with no final legislative vote on the rules. **THESE HEARINGS ARE CRITICAL TO LET STATE OFFICIALS KNOW YOUR CONCERNS.**

The North Carolina Mining and Energy Commission (MEC) has developed draft rules for management of oil and gas activities, including horizontal drilling and hydraulic fracturing. The MEC rules will cover chemical disclosure by fracking companies and which chemicals will be prohibited and prescribe baseline water well testing requirements before and after drilling. Draft setback requirements for oil and gas wells are far less than what's needed to protect public health, waters, schools and hospitals.

We urge everyone to attend these meetings in order to have their comments and concerns about fracking heard and recorded by the MEC before they approve the final rules. Written comments can also be submitted until September 15, 2014.



The three MEC Public Hearings scheduled in August 2014 are:

August 20, Raleigh, location to be determined, 10 AM to 2 PM

August 22, Sanford, Wicker Civic Center, 1801 Nash Street, Sanford, 5 PM to 9 PM

August 25, Reidsville, Rockingham County High School, 180 High School Rd, Reidsville, NC, 5 PM to 9 PM

Information about the meetings is also posted on the MEC website by searching for "NC Mining and Energy Commission" and select "2014 Meeting Schedules" or "Draft Rules" to see the rules in detail.