



# Clean Water for North Carolina

## Clean Currents

Winter 2011-2012

*A newsletter of clean water and community environmental justice issues*

### Anything for a profit: Aqua America to Supply Water for PA Gas Industry

by Katie Hicks

Aqua America, the parent company of NC private water/sewer giant Aqua NC, recently announced a deal to construct and operate a \$24 million pipeline to transport fresh water to three gas fracking operations in Pennsylvania. Penn Virginia Resource Partners (PVR) will construct the pipeline and supply natural gas companies operating in the Marcellus Shale, while Aqua America will handle water intake and operate the pipeline.

Fracking poses threats to both regional water supplies and infrastructure, among the many reasons CWFNC has taken a strong anti-fracking stance. A typical horizontal well uses 1-7 million gallons of water per frack, injected at high pressure along with a soup of chemicals to extract natural gas from deep shales. This water often comes from municipal systems, nearby water wells or surface water intakes. There is still no good disposal or treatment option for the “produced water” that comes back to the surface laced with contaminants from the shale and chemical additives after fracking.

Aqua America's involvement comes as little surprise; CWFNC and Food and Water Watch have documented the corporation's profits at the expense of communities' access to safe, affordable water. In addition to its strategy of aggressive water/sewer system acquisition, Aqua shows a pattern of minimize spending on improvements and service while maximizing rate increases. In Charlotte, Aqua NC nominally operates the water system for the Park South Station development and makes a heavy profit on residents' bills, though the company did not construct the distribution system and even purchases the treated water from Charlotte's public water utility. The PVR deal appears to follow a similar pattern. Though the CEOs of Aqua America and PVR call the deal a “winwin situation,” and project reduced truck traffic to haul water, communities will be the losers. They will experience the injustice of heavy use of public waters for industry and the impacts on air, water and local infrastructure and sustainable economic development as natural gas extraction intensifies.

### Hundreds Turn Out for Shale Gas Study Meeting—Is Momentum Shifting?

by Hope Taylor

On October 10th, over 300 people attended a Sanford public meeting to provide input for the shale gas study the Dept. of Environment and Natural Resources is beginning. Dozens of speakers expressed opposition to approving hydraulic fracturing for gas in NC, especially on such a quick timetable. The bill that mandated the study, House Bill 242, had been strengthened by comments from many groups, including CWFNC, but would rush the NC study's conclusions and regulatory recommendations before EPA's study of fracking impacts, not due until 2014, is even halfway finished.

The deadline for the shale gas study report and recommended regulatory changes is May, 2012, just before next year's short legislative session.

Despite assurances that they will “take it slow and do it right” some legislators seem poised to rush legislation next year to allow fracking in NC, just when our environmental agency has been weakened by big cuts in funding, staffing and the ability to make new protective rules.

The meeting on the shale gas study was held in Lee County, where over 9,000 acres of land have been leased for gas drilling, and many speakers were expected to express support for gas development. Instead, all but 3 speakers expressed strong concerns, including fracking's massive water use, the

impacts of heavy trucking, noise, air pollution, pipelines and a lack of wastewater options as well as the unrealistically fast schedule. CWFNC's comments focused on the need to study health impacts of air and water pollution, the importance of preserving our current groundwater protections, the greater risks involved in fracking NC's shallow shale formations and impacts on low income residents, people of color and well users near leased areas.

In another sign that momentum against fracking may be building, Creedmoor, a town of 4,000 in Granville County (the north end of the Deep River shale), passed an ordinance September 27 to

ban all hydraulic fracturing for gas. Creedmoor Mayor Darryl Moss emphasized that local governments need to speak out now on this issue to protect the health and safety of their residents.



*Heavy truck traffic to carry water, sand, chemicals and wastewater is a major impact of fracking on roads, safety and noise*

# 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.

### ***Board of Directors***

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Belinda Joyner, Northeast Organizer

## **Maribel Sierra Joins CWFNC Staff in Durham!**



*Maribel at Latino Festival in Durham*

We welcome Maribel Sierra as our new Water and Energy Researcher/ Organizer, working in the Durham office. Maribel dove into her work during the final days of preparation for our successful statewide Summit on the Impacts of Fracking in September (see pages 4 and 5). She has since testified at the Oct. 10 shale gas study meeting and done community outreach in Durham and Lee Counties.

Maribel was born in Texas, but considers herself a North Carolinian, as she grew up in Biscoe, NC, in rural Montgomery County. She is a recent graduate of UNC-Chapel Hill with a double major in Biology and Spanish. Her interests in sustainability and environmental health led to her interest in CWFNC's work with communities and environmental justice. Maribel has a diverse

scientific and volunteer-based background having spent time in an analytical chemistry lab, as a nature educator at the Piedmont Wildlife Center, a volunteer with Chapel Hill-Carrboro City Schools, and a Public Service Scholar during her time at UNC Chapel Hill.

Her fluency in Spanish and experience with Latino medical clinics at UNC hospitals will help her expand our bilingual outreach on well user protection, fracking awareness and other water, energy and environmental issues. Her writing, research and graphics skills are already proving invaluable for preparation of CWFNC's outreach materials and media work. We're very glad to have you on the team, Maribel! Please contact her at (919) 401-9600 or maribel@cwfn.org.

## **Judge Takes "Standing" Away from TN Groups in Case Against Blue Ridge**



Katie Hicks with leaders of Clean Water Expected in East TN, Amelia Taylor and Ewok Carswell.

The legal case to hold NC regulators accountable for failing to improve the long-polluted waters of the Pigeon River in western NC and east TN is an uphill battle. Blue Ridge Paper Products in Canton, NC joined with the NC Division of Water Quality (DWQ) in defending its 2010 wastewater discharge permit.

At a hearing on September 30, the lawyers from the Southern Environmental Law Center representing CWFNC and six other groups defeated a number of motions made by DWQ and the mill, including

efforts to dismiss the whole case and an attempt to close the issue without an "evidentiary" hearing and leave the current permit as is.

It was a shock, when the judge denied the "standing" of the three parties representing the most directly impacted downstream folks (Clean Water Expected in East Tennessee, Cocke County, TN, and Tennessee Scenic Rivers Association), denying them the right to participate in the case. However, there is still a strong sense of solidarity among all the groups, and the parties remaining in the case will move forward to trial with backing from our Tennessee partners.

### EPA Names Widespread Toxic Contaminant TCE a Carcinogen

by Katie Hicks

After a decade of review, the U. S. Environmental Protection Agency has officially determined that trichloroethylene (TCE) causes cancer. A man-made organic solvent used industrially during much of the 20th century, TCE is one of the most common contaminants at hazardous waste sites across the country. It has been found in very high concentrations at Camp Lejeune in Jacksonville and at the site of the former CTS facility in southern Buncombe County. The communities near these sites have noted for years that cancer was common among neighbors and family members, but feel encouraged that EPA has finally recognized and validated the chemical's health risks with a scientific assessment.

"This confirms what we've known all along," said one cancer survivor from Camp Lejeune, and South Asheville residents add that it's "good news" for making a stronger argument for a full clean up to EPA and polluters. Both communities recognize that this ruling alone will not bring immediate change, but will begin holding industries accountable for decades of contaminated water supplies and severe health impacts on nearby residents.

Lee Ann Smith, a Buncombe County activist whose family has suffered from cancer, has taken steps to organize her neighbors and approach the cleanup from multiple angles. While a small group of residents is working with EPA toward remediation of TCE contamination, the neighborhood has also called on Buncombe County to condemn the old industrial CTS facility, saying that the building is both a hazard and eyesore under county ordinances.

*"Environmental Justice demands the cessation of the production of toxins, hazardous wastes, and radioactive materials and that all past and current producers be held strictly accountable to the people for detoxification and the containment at the point of production."*  
EJ Principle #6

### Contamination from Texfi Site Threatening Fayetteville Water Supply?

by Hope Taylor

A former textile manufacturing facility, Texfi, closed in 1999, leaving a legacy of TCE and other toxic solvents in the groundwater, soils and streams on and near the property. Only 250 feet from the site is a large storage tank that holds treated drinking water to serve over 100,000 Fayetteville residents. Texfi has declared bankruptcy, leaving \$942,000 for testing, monitoring wells, and cleanup at the site. Most of the fund is gone.

Fayetteville Public Works and DENR installed monitoring wells and detected contamination moving toward the storage tank. They plan to dig a trench that would prevent the shallow contaminants reaching the water plant, probably requiring all remaining funds from the bankruptcy. In the meantime, the contaminant "plume," originally

thought to be 10 feet deep, is now found to reach down 30 feet. State officials say will be unaffordable to clean up, but CWFNC agrees that it probably doesn't pose a threat of contamination to the 7 foot deep clear well, as long as testing of monitoring wells and the storage tank continue.

Another potential threat to the city's water supply would be the solvents reaching the Cape Fear River, with the water supply intake only 450 feet downstream from the Texfi site. Continuing to monitor contamination close near site on the River side is critical, as well as frequent testing of water above the intake. CWFNC strongly supports these actions taken by the city. Under normal River flows, any

### Utilities Commission Snubs Aqua NC Customers Fighting Rate Increases

In September, after a long, heated rate case for private water corporation Aqua NC, the NC Utilities Commission approved a 13% increase in monthly base rates for customers and more than \$4 million in increased revenues. The Public Staff of the Commission, established to represent the "using and consuming public", had finally stepped up to act as an advocate for customers during the rate case. They had made strong recommendations to slash Aqua's proposed rates, citing inappropriate expenses NC customers shouldn't have to pay. Unfortunately, the Commission's final decision only reduced Aqua NC's requested rates slightly and ignored Public Staff's recommendations to end the very high, "flat" sewer rate for Aqua NC customers.

CWFNC's research found that privately owned companies charge higher rates, make few improvements to systems, and are less accountable and transparent than publicly-owned water suppliers (see our 2011 report at [www.cwfnc.org](http://www.cwfnc.org)). In its ruling, the Utilities Commission prioritized the company's interests over customers' rights to safe and affordable water. Though the Commission acknowledged that pay raises for national Aqua executives "has not been proven to be a reasonable increase to be recovered from ratepayers," their ruling makes NC customers pay for over \$200,000 of the raises.

In early 2012, NC residents affected by water privatization and CWFNC will meet to build a movement to stop water privatization from taking away North Carolinians' rights to safe and affordable water. If you are a private water or sewer customer or concerned resident and would like to attend this statewide gathering, contact Katie Hicks at (828) 251-1291 or [katie@cwfnc.org](mailto:katie@cwfnc.org).



## **“Keeping NC’s Water Air and Communities Safe from Hydraulic Fracturing for Natural Gas”**



In September, Clean Water for NC hosted a Statewide Summit on hydraulic fracturing and its impacts on water, air, infrastructure and quality of life in states that have experienced rapid gas development. For speaker presentations and videos, please visit our website, [www.cwfnc.org](http://www.cwfnc.org)



Dr. Avner Vengosh of Duke University’s Nicholas School of the Environment speaks about finding high levels of leaked methane in well water from nearby drilling sites.



Jordan Treakle of the Rural Advancement Foundation International (RAFI) warns participants about the predatory leases gas companies are getting folks to sign in Lee County.



Carol French and Carolyn Knapp, dairy farmers in Bradford County, PA, talk about their experience living with intense gas development and exploitative mineral leases. They are co-founders of the Pennsylvania Landowners’ Group for Awareness and Solutions.



Chatham County Commissioner Sally Kost asks questions about potential threats to her community from fracking, and working to protect communities statewide.



Dr. Simona Perry, research associate, Rensselaer Polytechnic Institute, answers an audience question. Dr. Perry's work focused on social, community and environmental impacts of natural gas extraction.



Calvin Tillman, former mayor of Dish, TX and co-founder of Shaletest.org describes the impacts that the gas industry imposed on his community. During his time as mayor Tillman recruited independent researchers to analyze air quality and health impacts as a result of natural gas extraction activity.

*"Environmental Justice mandates the right to ethical, balanced and responsible uses of land and renewable resources in the interest of a sustainable planet for humans and other living things." - EJ Principle #3*



Jennifer Hayes, Duke University Law student, describes the current state of federal regulation and the limitations of major environmental laws.



Ryke Longest, director of Duke University's Environmental Law and Policy Clinic, talks about key North Carolina statutes and regulation that protect against hydraulic fracturing.



Photo credit: Marshall Tyler

### DENR Cut Backs, “Reform” Bill Will Hurt Communities, Air and Water

by Rachel Lang-Balde

The 2011 NC Legislature ratified a scary budget for health, education, social services and the environment early this year, and though the Governor vetoed it in June, they later passed it again with House and Senate majorities over 60%, thus overriding the veto. DENR's 7 regional offices face drastic staff cuts, and potentially complete shut down (Mooresville, Fayetteville, Asheville and Raleigh). Many administrative staffers were cut (receptionists and office managers), disabling direct service to NC residents and communities. The cuts radically weaken DENR's ability to enforce existing laws, respond to local emergencies, or provide services to permit holders. Heightened by the fact that DENR staff can be hard to reach while out in the field, this creates a less responsive bureaucracy on multiple levels.

A bill that massively affects DENR and communities is S781, the Regulatory Reform Act of 2011, thus burying NC regulators in cost-benefit analyses and making it virtually impossible for DENR to issue and implement new protections.

DENR is currently in what is referred to as “justification review” for the regional offices and some programs. At stake is a “one size fits all” permitting process. With diminished staff and loss of inspectors, permits are less likely to be informed by hands on knowledge or enforced. As Grady McCallie of NC Conservation Network said, the current process is like “having a sword over the heads of regional offices.” With retained staff unaware of their fate, the possibility of skewed decisions or lack of enforcement remains.

### Updates on Utility Merger, Rate Hikes and NC SAVE\$ ENERGY!

The NC SAVE\$ ENERGY bill, H874, was filed in the NC House of Representatives in April by lead sponsor Rep. Paul Leubke of Durham, along with Reps. Fisher (Asheville), Harrison (Greensboro) and Womble (Winston-Salem) and other co-sponsors across the state. Rep. Leubke and our Alliance lobbyists tried to recruit a few Republican cosponsors, and many of you recruited some great co-sponsors from your areas! Unfortunately, without a Republican co-sponsor, and with frightening defensive battles to fight as social justice, education, health and social services and environmental protection were being gutted, a pro-active bill like NC SAVE\$ ENERGY didn't get a hearing in committee.

Several NC SAVE\$ ENERGY allies strongly supported enhanced energy efficiency, including an independent fund to weatherize homes, as part of a settlement for the merger of Duke Energy with Progress Energy. No final decision has been reached on a settlement. Some cities called for a review of the merger by the Federal Energy Regulatory Commission, saying the merger undermines competition and

leaves customers vulnerable. The state Commission's ruling will have to wait for the federal agency—maybe an opportunity for more public input!

**Duke Energy has called for a nearly 20% rate hike for North Carolina customers** and both Duke and Progress will be coming back for more hikes next year! They are both calling for automatic annual rate hikes to build expensive and unneeded power plants that will waste customer's money, when there is so much efficiency that we can do to create jobs. The NC SAVE\$ ENERGY Alliance voted to support opposition of these automatic annual rate hikes. We hope all of you will want to participate in efforts to protect consumers across NC!

**ATTEND THE RATE HIKE HEARING—TELL OFFICIALS THAT RATE HIKES ARE UNFAIR; CALL FOR MAJOR COMMITMENT TO EFFICIENCY INSTEAD!** Raleigh: November 28th, 1 PM, North Carolina Utilities Commission, Dobbs Building or send comments to Chairman Ed Finlay, [finley@ncuc.net](mailto:finley@ncuc.net)

### Bad Coal Ash Bill passes U.S. House of Representatives

by Katie Hicks

Over the past two years, CWFNC and allies across the country have called on the USEPA to create regulations for disposal of coal ash waste, which contains arsenic, lead, mercury, and other toxins. EPA began to develop regulations after a 2008 dam failure in Kingston, TN, raised questions about the safety of many of the impoundments where the waste is currently stored. The agency has considered several options, including new rules to treat coal ash as hazardous “special waste,” or at the minimum to require lined storage and frequent groundwater monitoring near storage sites.

Unlined ponds are particularly worrisome in NC, where more than 50% of people drink groundwater. Addition-

ally, twelve NC impoundments are considered “high risk” because dam failure could cause loss of human life.

Now, the U.S. House has passed the “Coal Residuals Reuse and Management Act of 2011,” which would prevent EPA from creating minimum federal protections. The bill aims to decrease the “regulatory burden” on polluters and weaken the EPA, at the expense of Americans' health and safety. Sponsor David McKinley (R-WV) has called it a “jobs bill,” but Tufts University report indicates that new regulations could create over 28,000 jobs.

Call your U.S. Senator at (202) 2243121 for Senate switchboard, and ask them to oppose HR 2273.





## Clean Water for North Carolina

### Thanks to our Foundation Partners and Major Donors for their Generous Support!

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CWFNC's Urban Community Streams partnership with Asheville Green Opportunities (GO) trains young adults to use biological monitoring to track the health of long-neglected streams running through urban neighborhoods. GO focuses on "green collar" job training and placement. Here, GO members identify aquatic insects collected from the sadly named creek, Nasty Branch. An exciting new GO program trains participants to install stormwater management features like berms, swales and rain gardens.



CWFNC staffers Belinda, Hope and Maribel are joined by members of the Louisiana Bucket Brigade, a group that samples air for toxic chemicals around oil and gas facilities to enforce environmental laws and protect their communities, at the recent NC Environmental Justice Summit in Whitakers, NC. They carried a strong message to NC communities: "Don't let this industry into your state! You'll have to fight the pollution that will affect you and your children every day. And if you have concerns now about big business controls decisions in your state, you haven't seen anything until the oil and gas industry comes in!"

### Thanks to Our Recent New and Renewing Members!

Robbie Sweetser, Maureen Linneman, Ann Karson, James Hoyle, Marc Petrequin, Dr. Bernard J. Offerman, Katie Breckheimer, Sharon Miller, Jim and Carol Hillegas, Beverly Kerr, Rachel Kubie, Kevin Yoder, Marcia Weber, Leah Karpen, Michael McCue, Bill and Shirl Thomas, Bill and Stephanie Whitesides, Steve Wing, Christa Davis, Karl and Deborah Fields, Jack Spruill, Ruth Stolting, Bill and Edie McKellar, Diane VanHelden, Pamela Hawe, Ginger Zucchini, Martha Girolami, Jennifer McGovern and Steve Unruhe, Judith Davis, Jerry Price, Joanna Connolly, Helen Fisher, Scott Pearson and Tina Motley-Pearson, Jodi Lasseter, Allen and Rosemary Hubbard, John Wagner, Susan DeLaney, Cindy Kahler, Sandy Adair, Circle of Mercy Congregation-Asheville, Richard and Jo Ann Fireman, Steve Gurley, Margaret Kane, Anne Cassenbaum, Kay Cameron

### Join Clean Water for North Carolina (or renew your membership)



Here is my donation to join or renew my CWFNC membership:

☐ \$25 ☐ \$35 ☐ \$100 ☐ Other ☐ I would like to volunteer

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### **CWFNC Works for Environmental Justice !**

In 1991, the People of Color National Leadership Summit met in Washington, DC and adopted 17 challenging "Principles of Environmental Justice." Every 3 years, CWFNC's Board reviews and affirms our commitment to these principles as goals for our own work. Please look for featured example EJ Principles in this issue of Clean Currents, placed in relevant articles and topics! To see all 17 Principles of Environmental Justice, visit our website at [www.cwfn.org](http://www.cwfn.org).

### **Volunteer Highlight - Sarah Kellogg Joins Water Justice Canvass Team**



Sarah Kellogg is shown at the Swain County Health Department, where she visited with Katie during the Water Justice Listening Canvass in October to talk about the County's well program. Sarah is a graduate of UNC

Chapel Hill with interests in environmental law, sustainable agriculture, and environmental justice. The Listening Canvass project caught her eye, so she joined our staff for a day of door-to-door conversations about drinking water with Swain County residents. Our thanks to Sarah!

If you're interested in becoming a Canvass volunteer, contact Katie at (828) 251-1291 or [katie@cwfn.org](mailto:katie@cwfn.org).

### **Senate Bill 709, Will YOUR NC Representative Vote to Sustain the Veto?**

The "Energy Jobs Act" (S709), passed by both NC House and Senate earlier this year, would:

- require the Governor to enter into commitment with governors of South Carolina and Virginia to facilitate off shore oil drilling
- direct DENR to provide quick turnaround recommendations for regulatory changes to enable shale gas extraction and
- create an "Energy Jobs Council," dominated by industry representatives to ensure years of rapid fossil based energy exploration and extraction, with only token interest in wind, renewables and efficiency.

The bill was vetoed by Governor Perdue on June 30, on the grounds that it removed constitutional authority from agencies and from her office. The Senate has voted to override the veto but in the House of Representatives sponsors haven't quite found the 60% of votes to override. It's unclear whether the legislature will actually hold a planned session in early Nov., but if they do, you can be sure that pressure will be on to override S709!

Please call, email or write to your NC Representative as soon as possible (go to <http://www.ncleg.net/> and click on "who represents me" for contact info), and ask them to sustain the Governor's veto by voting NO to override S709!