MINUTES
of the
FOURTH MEETING
of the
RADIOACTIVE AND HAZARDOUS MATERIALS COMMITTEE
November 14, 2003
Santa Fe

The fourth meeting of the Radioactive and Hazardous Materials Committee was called to order by Representative John A. Heaton, chair, on November 14, 2003 at 10:10 a.m. in Room 311 at the State Capitol.

PRESENT
Rep. John A. Heaton, Chair
Sen. Richard C. Martinez, Vice Chair
Sen. Phil A. Griego
Rep. Manuel G. Herrera
Sen. Carroll H. Leavell
Rep. Pauline J. Ponce
Rep. Jeannette O. Wallace

ABSENT
Rep. Donald E. Bratton
Sen. Mary Jane M. Garcia
Sen. Gay G. Kernan
Sen. Don Kidd
Rep. Antonio Lujan

Advisory Members
Rep. Thomas A. Anderson

Sen. Clinton D. Harden, Jr.
Sen. William H. Payne
Sen. John Pinto
Rep. Avon W. Wilson

Staff
Maha Khoury
Cenissa Martinez

Guests
The guest list is in the meeting file.

Committee Business

Chairman Heaton welcomed committee members and guests and invited Tracy Hughes, Department of Environment (ED) general counsel, to speak on discussion drafts of two proposed bills that would eliminate de novo hearings in the Air Quality Control Act and the Water Quality Act.

Proposal to Eliminate de Novo Hearings

Ms. Hughes described the negotiations between stakeholders on the de novo hearing issues. The groups agree that two hearings are not necessary. The problem is in the notice provisions. Richard Virtue, attorney and lobbyist for the Association of Commerce and Industry (ACI), indicated that ACI supports the two discussion drafts. The question is where the notice

provisions should go — in the statutes or in regulations. ACI is concerned about putting detailed notice requirements in the statutes. Douglas Meiklejohn, attorney and lobbyist for the Environmental Law Center and various communities, described how communities do not always receive notice of the first hearing by the department. The only notice given is published in the classified section of the newspaper and not read by most people. Communities rely on the second hearing because that is when they actually receive notice. Thus, community groups are opposed to eliminating the second de novo hearing. If adequate notice of the first hearing is provided, communities would not oppose eliminating the second hearing. Mr. Meiklejohn cited the Solid Waste Act and the mining acts as examples of detailed notice provisions and described the kinds of notice required under those acts. Mr. Virtue stated that such notice requirements could be problematic and are unnecessarily burdensome. Discussions ensued on whether the notice requirements should be in the statutes or in regulations, on the differences between state and federal requirements, and on the state register. The committee voted to endorse the two discussion drafts and accept any amendments on the notice issue if the stakeholders reach consensus.

Ambient Air Quality Study

Chairman Heaton explained the reasons why the study is necessary. Jim Norton, ED, also explained why the study is needed and how the department plans to conduct the study. There was no opposition to the appropriation for the study. The committee endorsed the bill.

Pipeline Safety Bill

Chairman Heaton explained that the intent of the bill is to enhance the pipeline safety program and improve safety. Pipelines are getting old, corroded and dangerous. The federal government is not doing a good job to ensure safety. The intent, at some point, is also to oversee interstate pipelines in the state. The federal government would pay one-half the cost for interstate oversight when New Mexico takes it over. Bruno Carrara, Pipeline Safety Bureau Chief, Public Regulation Commission (PRC), explained the fee amounts and structure in the bill. The intent of the fees is to completely fund the bureau and its duties under the law without taking money from the general fund. The industry has no problem with the amount of fees in the bill, only with some language. Public Service Company of New Mexico (PNM) has concerns as to how it will recover the costs. A discussion ensued as to whether PNM and others would be paying twice for the same fees. They are already paying for inspection and supervision. Mr. Carrara explained that inspection and supervision fees go to the general fund to support the utility division of PRC, not for pipeline safety. There are no fees being paid for pipeline inspection. The intent is to allow for an annual adjustment of the fees and to track what funds are necessary. The committee discussed how industry has a responsibility and should pay for the safety of pipelines. The fees should be earmarked for pipeline safety, not for administrative costs. A discussion ensued on administrative costs. Committee members agreed that they should be minimal. Chairman Heaton indicated that administrative duties sometimes overlap with pipeline oversight and that it is sometimes difficult to separate the two. The committee agreed to adopt the proposal if the bureau reviews the pipeline fees with the industry, if the funds are earmarked and if the fees charged are not more than what it takes to run the pipeline safety enterprise. The

goal is for New Mexico to qualify for interstate pipeline oversight at some point in the future. Committee members emphasized that there should be no double-charging the industry and that extra money in the fund should not be used for administrative purposes.

Committee Business

Chairman Heaton gave committee members an update on WIPP and the classification of waste. The minutes of the third meeting were approved.

Adjournment

The committee adjourned at 12:10 p.m.