

Slide 1 - Progress Report on 2017 House Memorial 1

Chairmen, committee members: Thank you for the opportunity for the HM1 Working Group to present its progress in response to unanimously passed 2017 House Memorial 1. In essence, that memorial asked for a proposal to the 2019 legislature on how water planning should be made useful.

My name is Theresa Cardenas, and I will begin and end the presentation. Dr. Bob Wessely will speak to our specific proposal. Before proceeding further, we want to express our appreciation for the ongoing support in our work from the HM1 sponsor Representative Tomás Salazar.

Slide 2 - Background

How did we get here? The issue papers included water governance, disconnects, public and tribal participations, credible data, and water rights.

The ISC was unable to convene the task force due to leadership change, state water plan obligations, no funding for additional tasks, etc. The study group expanded into the HM1 Working Group, which included almost all of the desired representation categories, and took on the task force role. In the process, they maintained coordination with ISC staff. Periodically, invitations were made to join the effort. Presentations were made to various groups, such as the Water Dialogue who endorsed our product, and to the Business Water Task Force.

Slide 3 - Not a Drought; Dry Is Now Normal

New Mexico has not addressed its water problems. Those problems will only worsen without incisive planning and resultant actions. Water-wise, we have been spoiled by an unusually wet 20th century. Our water management has gotten us into trouble and regular increases in average temperatures yield reduced water availability.

Slide 4 - "Rio Grande" Near Socorro in 2018

The ISC's perception of the situation in 2002 is unequal to their perception in 2018.

16 years later, across the state, consumptive use still exceeds renewable supply. That situation will continue into the foreseeable future, unless and until we act. And further, lest we forget, water availability shrinks as temperatures and use rise.

Slide 5 – Example of Disconnects

There are lots of issues. This slide points out just one -- an example of how not to deal with our tightly limited water resource: ISC plans for one set of regions (upper left); OSE administers for a different set of regions (upper right); and neither set of regions is linked to hydrological reality (bottom). A piece of our proposal is to align all our water planning and administration to nature's ground rules. Such a concept had strong support from the 2017 Water Town Hall hosted by the ISC.

Slide 6 - Avoid Troubles – Plan for a Finite Resource

Planning is critical. Who builds an office building without a detailed set of plans? Water, one of our most vital resources, requires careful, thoughtful planning.

Planning must be coordinated across levels, disciplines and multiple interests, and have relevancy, credibility, and real impact.

Water belongs to the public so planning for it must be done through an open, inclusionary and participatory process-

Planning should be an ongoing process that addresses water problems, integral to effecting solutions. It should be a tool for management and protection of water resources. Planning should define the actions needed to deal with the problems and have a mechanism to cause

those actions to actually take place. All of this at a level appropriate for the particular problem – state level, regional or basin level, and sub-regional or locale level.

Our tradition of periodically assembling ad hoc groups to develop plans that just gather dust is not productive. Merely creating lists of all possible projects and all possible actions, while having some use, is not planning.

Bob Wessely will now talk about our proposal and the rationale for it.

Slide 7- What's Been Developed?

We have five documents.

The cover letter provides a brief history of our project and work, including a list of participants. It also points out a few topics we deliberately avoided.

Making the Case for Change packs the substance of the proposal into six pages.

While well geographically and constituency distributed, we realized we were a smaller group than the task force envisioned by HM1. Accordingly, we invited some 30 planning and other experts with diverse interests from across the state to review the draft *Making the Case for Change* document before its issue. We tabulated over 60 comments and our responses in a separate report.

The *Executive Guidance for Water Planning* extensively lays out how we believe New Mexico water planning should be accomplished in the future. It includes rationale for planners' participation and the means to remedy the issues cited in the memorial. It deals with each of the issue papers. As of today, it is in final review. We suggest that the Legislature simply provide it to the Executive Branch (OSE and ISC) with a recommendation to refine and implement it. In the absence of ISC participation, the HM1 Working Group chose to defer the requested cost and schedule determinations to the agencies that will actually be tasked with implementation.

As a part of the improved water planning process, we have some specific legislative policy suggestions that are being reviewed by the Legislative Council Service. The suggestions cover water code amendments, appropriation needs, evaluation of water resource agencies, ISC membership and mission reform.

Slide 8 - Making the Case for Change - Overview

The crux of today's discussion is the fairly dense six-page document in your packet entitled "Making the Case for Change". We have distilled the essence of two years of research, debate and outreach into that document.

In approaching its how-to-water-plan mission, the HM1 Working Group realized New Mexico's failure to face up to cosmic-level state problems had a negative impact on the water planning process at all levels. So we expanded the task a little to identify and propose planning solutions for major problems. That expansion adds to and supports a detailed description of how water planning should be made effective – purposes, processes, products, and impacts.

At a summary level, New Mexico needs to recognize that water is a limited resource. We cannot continue one-time remedies and ongoing deficit spending of water.

The Legislature and the Executive Branch need to get serious about curative action.

Slide 9 - Serious Unaddressed Problems

NM has no planning or governance mechanism in place to deal with the over-pumping of groundwater in the lower Rio Grande – through the Texas lawsuit, the state is risking federal control over our water uses as well as estimates as high as a billion dollars in damages.

The middle Rio Grande has been using end-of-the-year water discharges to barely meet its required downstream deliveries, which do not aid either the farmer or the fish. With temperature rise reducing overall water availability, the state risks another, comparable draconian lawsuit.

NM has allowed significant depletion of our aquifers, such as in Estancia, the Mimbres and the Ogallala. We face the economic impact of inability to provide affordable water in such places, and within just a few decades.

New Mexico's water management has allowed unrealistic promises and resultant over-uses of water. At that, enforcement has been minimal. And recently, our water planning and management agency staffs and budgets have been decimated.

We recognize that there are a few other top level problems – such as undefined tribal priority rights - but the State needs to focus to accomplish anything well.

Slide 10 - Addressing the Problems

We identified five remedial strategies, all of which are needed to deal with each of the identified problems.

1. Our water planning and administration key personnel should be less political and more professional. We need to revise the commissioner and leader appointment processes, insist on appropriate professional qualifications for the roles, and formalize the ISC mission to adequately cover vital planning tasks.
2. We need to reform our attitude and approach to water administration, with our resource limitations (compacts, aquifers and treaties) being the driving forces. In other words, we have to learn to live within our means for a change. Individual user allocations should conform to the limitations, rather than our allocating uses and then praying we can meet the compacts and treaties or sustain the aquifers. To achieve this, we propose to actually implement the existing fifteen year old tool, called Active Water Resource Management or AWRM, particularly within the complex and difficult areas of the state. While AWRM calls for priority administration, it also enables and implicitly encourages negotiation of local alternative water administration rules, a proper role for regional water planning.
3. Water planning must focus on creating realistic solutions to identified problems, and be genuinely recognized as a primary driving force for water-related decision-making. For primary water planning, we recommend ongoing, sub-regional (or locale) roundtables, providing a negotiating environment to deal with local issues. Regional roundtables should be aligned to surface or groundwater basins and made up of representatives from the locales or sub-regions. The region's (basin's) role is to make sure their sub-regions, as neighbors, are properly coordinated, and meet the appropriate aggregate resource limits. Beyond funding, the state (ISC) role is for broad policy establishment and oversight of the planning processes.
4. Competent water planning needs credible, relevant science-based data on resources and demands. The common technical platform or approach across regions is desirable. However, the ISC's so-called Administrative Water Supply - that used a water use snapshot in time, assumed demand equaled withdrawals, and considered only selected water uses - was worse than misleading. At a minimum, water planning data needs to take cognizance of ownership constraints, of seasonal, annual and decadal fluctuations, and of geo-spatial attributes. And, of course, that data must be readily available to the local water planners. Our detailed planning guidance document proposes a common science-based technical approach.
5. Funding is an issue. The current request of \$280,000 for the planning program is completely insufficient. While there will be substantial costs to establish the reforms and for ongoing

planning and administration, they will be small in comparison with the costs should we continue on our current trajectory. We recommend a large one-time appropriation to cover two years of the costs of OSE and ISC establishing the proposed reforms. And during those two years we would expect them to scope out appropriate ongoing planning and administration efforts, to identify revenue or funding streams to cover those costs, and to report back to this committee in no more than two years' time.

Slide 11 - No Surprises Here!

Except, perhaps, for collecting the problems and solutions into one place, we're not saying anything new.

Other states are robustly addressing their planning and resiliency issues. New Mexico is lagging behind in both. We are now suggesting change, and substantial change at that – involving both legislative action and executive action.

Now, Theresa will provide the punch lines.

Slide 12 - What Should the Legislature Do?

We know you folks are super busy with a gazillion different tasks. However, we think reform of our water administration is crucial to the social, economic and environmental well-being of our state – today and tomorrow. *Making the Case for Change* contains our suggested first steps.

Beyond asking you to read it, we ask that you establish policies and enact the code revisions in accord with our suggestions.

Slide 13 - Thank You!

In the environment of shrinking water availability, the state has promised, explicitly or inferentially, far more water than it has, or ever had.

Besides violating Article XVI of the state constitution, this over-promise risks huge quantities of taxpayer dollars in interstate Compact lawsuit damages, federal control of New Mexico's water, and the economic consequences of little to no affordable groundwater left in large areas of the state.

There will be pushback against change from those who have enjoyed the status quo, such as the over-use of water that causes drawdown of resource reserves. However, to avoid dire consequences in the not too distant future, the state must act promptly.

Thank you again for the opportunity to present the results of our work on House Memorial 1 in developing the proposal the House requested. We hope it meets with your approval, and even more, that it stimulates real reform. We stand for questions or comments.