

**MINUTES
of the
FIRST MEETING
of the
WATER AND NATURAL RESOURCES COMMITTEE
June 10, 2005
Santa Fe**

The first meeting of the Water and Natural Resources Committee was called to order at 10:10 a.m. on Friday, June 10, 2005, by Senator Carlos R. Cisneros, chair.

PRESENT

Sen. Carlos R. Cisneros, Chair
Rep. Joe M Stell, Vice Chair
Sen. Sue Wilson Beffort
Rep. Ray Begaye
Sen. Dede Feldman
Rep. Dona G. Irwin
Rep. Kathy A. McCoy
Sen. Steven P. Neville
Rep. Andy Nunez
Sen. Mary Kay Papen
Sen. H. Diane Snyder
Rep. Mimi Stewart
Rep. Sandra L. Townsend
Rep. Don L. Tripp

Advisory Members

Sen. Rod Adair
Sen. Vernon D. Asbill
Rep. Anna M. Crook
Rep. Candy Spence Ezzell
Rep. Rhonda S. King
Rep. James Roger Madalena
Rep. Greg Payne
Rep. Danice Picraux
Sen. Nancy Rodriguez
Sen. John C. Ryan
Sen. Leonard Tsosie
Rep. Peter Wirth

ABSENT

Rep. Joseph Cervantes
Sen. Mary Jane M. Garcia
Rep. Larry A. Larranaga
Sen. Cynthia Nava

Rep. Richard P. Cheney
Sen. Clinton D. Harden, Jr.
Sen. Timothy Z. Jennings
Sen. Gay G. Kernan
Rep. Ben Lujan
Sen. Leonard Lee Rawson
Rep. Henry Kiki Saavedra
Rep. Eric A. Youngberg

Staff

Gordon Meeks
Jon Boller
Evan Blackstone
Liz Holmes

Guests

The guest list is in the original meeting file.

Friday, June 10

Senator Cisneros welcomed members, staff and guests and asked members of the committee to introduce themselves. He presented the schedule of meetings for the interim and suggested that the 2005 work plan reflect last year's approved work plan. There was no objection.

CURRENT WATER SUPPLY AND STATUS REPORT

John D'Antonio, state engineer, introduced his staff accompanying him and Jim Dunlap, chair of the Interstate Stream Commission (ISC), and Estevan Lopez, director of the ISC. Mr. D'Antonio said that the state is in much better condition this year compared to last year due to winter and spring precipitation, but warned that residents cannot become complacent. He demonstrated with historic charts that previous droughts during the twentieth century had years in which significant precipitation fell in the midst of long-term dry conditions. He showed photographs of flooding conditions, aggravated by sedimentation, and efforts to repair and improve dams and levees. He said the pilot channel worked as far as improving delivery to the Elephant Butte Reservoir for compliance with the Rio Grande Compact obligations.

He said that in recognition of the need to remain vigilant about the drought, the Office of the State Engineer is proceeding in implementation of active water management strategies, including installation of meters, preparation of water master manuals and hiring of water masters, and the creation of new water management districts in basins under prior administration. He summarized the status of administration in those basins and presented a schedule of public hearings to be held on proposed supplemental rules and basin-specific rules and regulations.

He told the committee that the Navajo water rights settlement was signed on April 19. Federal legislation to implement that agreement will be introduced to Congress in the fall, and he thanked the committee for its support of Senate Bill 172, which was enacted during the 2005 session to help implement the state's component of the settlement. Money has not yet been appropriated, but the state now has established an Indian Water Rights Settlement Fund as a mechanism to implement settlement provisions. He said that \$855 million will be sought from the federal government and a \$35 million match will be

sought from the state over the period of constructing the projects for implementing the terms of the settlement.

He summarized the recently mediated *Aamodt* case covering the water rights in the Pojoaque Valley. Among the terms of that settlement are agreements that the pueblos will draw water from the Rio Grande before drilling any new wells, and an impact fund for any adverse effects on non-Indians will be established. The pueblos also agreed that they will not exercise a priority call on non-Indian water users, existing wells will not be required to be capped and there will be no mandatory connections to the regional water system to be built.

Mr. Jim Dunlap, said that the Water and Natural Resources Committee is one of the most important committees of the legislature. He named the other members of the ISC and the areas of the state they represent and said the commission is a politically independent deliberative body that takes its responsibilities very seriously, never automatically rubber-stamping anything. He said one of the commission's priorities is to begin implementation of the recently completed state water plan.

He summarized the commission's current work agenda, including determination of how 14,000 acre-feet of water will be put to use pursuant to a congressional allocation of that amount and its approval of the Gila River settlement with Arizona. Another task is the completion of the Elephant Butte pilot project to save 15,000 to 30,000 acre-feet of water by bypassing the Rio Grande with water obligated to downstream users under the compact. Endangered species recovery is another priority of the commission. The Endangered Species Act affects every basin, and the state needs to ensure that actions taken to protect endangered species are based on sound science. He said the next species of concern is the Arkansas shiner on the Cimarron River.

He said the commission looks forward to being able to use the strategic water reserve established during the last session and is moving forward with implementation of the Pecos River settlement after the courts recently upheld the law in a lawsuit by challengers.

He closed by saying the commission will not bring proposals to the legislature without fully understanding their implications.

Mr. Lopez said he is proud to be working with the members of the ISC. He told the committee that in the Pecos River settlement, 9,584 acres of purchase agreement were negotiated, 5,003 acres had contracts executed and 1,402 acres had water rights retired and title assumed by the state. He showed a chart to illustrate the historic departures from cumulative delivery obligations under the Pecos River Compact. He said New Mexico is in good condition for the first time in several years as a result of the spring runoff and these water rights retirements. The state is anticipating a 17,000 acre-foot

cumulative credit by the end of this year.

He said that the lower Rio Grande is now looking to be in good shape after the Elephant Butte temporary channel carried as much as 4,000 cubic feet per second of water this spring. It was designed for 2,500. This flow rate will now allow more storage in the upper basin reservoirs pursuant to the Rio Grande Compact.

He told the committee that, relative to the Endangered Species Act, the silvery minnow population has increased and that the southwest flycatcher habitat has been proposed by the Federal Fish and Wildlife Service. He outlined actions being pursued by the commission to assume the state's obligations under recovery plans, including river monitoring, rescuing fish and construction of refugia.

He said that the federal government has committed \$66 million to implement the Gila River settlement and affirm New Mexico's right to 14,000 acre-feet of water, which was documented in the southwest regional water plan. The deadline for a consensus on how to use that money and water is 2014.

He closed by saying the state water plan will serve as the ISC's and the Office of the State Engineer's strategic plan for performance budgeting purposes.

Questions and discussion by the committee addressed:

- Sumner Lake sediment and the reservoir's capacity;
- declaration of the Milnesand area ground water basin;
- consensus of the *Aamodt* settlement agreement;
- dam safety around the state;
- qualifications of water masters;
- Gila River settlement parameters;
- water use entitlement in lieu of metering and measurement;
- quantification of legal rights;
- forfeiture or abandonment provisions;
- the source of revenues for water masters;
- accuracy of projected reservoir levels;
- the need for public service announcements on dam safety in Navajo;
- potential water imports into the Pojoaque Valley under the proposed *Aamodt* settlement;
- updating of the water supply information;
- the effect of the Navajo water rights settlement on individual Navajo water rights holders (Navajo allottees);
- the need for legislative concurrence with Indian water rights settlements;
- representation of Native Americans in ISC meetings and incorporation of Native American interests in state water plans;
- the kind of land purchased in the Pecos Valley for water rights retirements;

- the film on the Pueblo of Jemez water rights adjudication for presentation to the committee at a future meeting;
- the need for a status report at a future meeting on the drought task force recommendations on water conservation and the use of a \$400,000 appropriation for conservation;
- the status of dredging of the Elephant Butte pilot channel;
- the deadline for putting to use the federal money for the Gila River settlement;
- the condition and management of the Pecos River agricultural land retired under the settlement;
- the estimated cost of the *Aamodt* settlement; and
- the decision to include urban growth as a topic under the work plan.

WORK PLAN

The committee amended and then approved last year's work plan to be followed as this year's proposed work plan:

"The Water and Natural Resources Committee proposes to focus on three primary topics: legal issues; water conservation; and financing water needs. With respect to the legal issues, the committee anticipates the need for status reports on interstate compact compliance, endangered species and other legal aspects of water management.

The legislature has considered many measures to enhance the state's water conserving capacity, including tax incentives, water planning, improving water use efficiencies and urban planning. The committee proposes to revisit these and other water conservation measures.

Finally, the need for permanent funding sources to meet the state's water needs will reappear in the 2006 session as well."

The committee selected the following meeting dates and locations:

June 30-July 1	Santa Rosa
August 4-5	Los Alamos
September 1-2	Albuquerque
September 28-29	Las Cruces/Truth or Consequences
November 3-4	Santa Fe

The committee adjourned at 12:35 p.m.