

**MINUTES
of the
SECOND MEETING
of the
NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE**

**July 11-12, 2011
Gallup-McKinley County School District Administration Building
Gallup**

The second meeting of the New Mexico Finance Authority (NMFA) Oversight Committee was called to order by Representative Patricia A. Lundstrom, chair, on July 11, 2011 at 9:40 a.m. in the conference room of the Gallup-McKinley County School District Administration Building in Gallup.

Present

Rep. Patricia A. Lundstrom, Chair
Sen. Mary Kay Papen, Vice Chair
Rep. Alonzo Baldonado
Rep. Roberto "Bobby" J. Gonzales
Rep. Yvette Herrell
Rep. Jane E. Powdrell-Culbert
Rep. Debbie A. Rodella
Sen. Nancy Rodriguez
Rep. Henry Kiki Saavedra
Rep. James R. J. Strickler
Sen. David Ulibarri
Rep. Richard D. Vigil (July 11)
Rep. James P. White

Advisory Members

Rep. Ernest H. Chavez
Rep. Anna M. Crook
Rep. Rick Little
Sen. Lynda M. Lovejoy
Sen. Richard C. Martinez
Sen. George K. Munoz
Rep. Edward C. Sandoval (July 11)

Absent

Sen. Sue Wilson Beffort
Sen. Kent L. Cravens
Sen. Tim Eichenberg
Rep. Candy Spence Ezzell
Sen. Stephen H. Fischmann
Sen. Clinton D. Harden, Jr.
Rep. Dona G. Irwin
Sen. Howie C. Morales

Sen. William F. Burt
Rep. David L. Doyle
Rep. Mary Helen Garcia
Sen. Mary Jane M. Garcia
Rep. Thomas A. Garcia
Sen. Eric G. Griego
Rep. Ben Lujan
Rep. W. Ken Martinez
Sen. Steven P. Neville
Rep. Andy Nuñez
Sen. William H. Payne
Rep. Sheryl Williams Stapleton
Rep. Thomas C. Taylor

Guest Legislator

Rep. George Dodge, Jr.

(Attendance dates are noted for members not present for the entire meeting.)

Staff

Doris Faust, Legislative Council Service (LCS)

Tom Pollard, LCS

Lisa Sullivan, LCS

Claudia Armijo, LCS

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file and posted on the New Mexico Legislature web site.

Monday, July 11

Representative Lundstrom welcomed the members and guests. She noted that the committee meeting was being attended by special guests, including the mayor of Gallup, Jackie McKinney, whom she introduced as the first speaker.

Overview of Local Capital Projects and Capital Needs

Mayor McKinney said that he has been the mayor of Gallup for only four months. He voiced his appreciation for the members' decision to hold the committee meeting in Gallup and noted that the city would be hosting a dinner that evening for committee members and staff. He reported that the City of Gallup continues to look for ways to partner with the Navajo Nation and others regarding the Navajo-Gallup Water Supply Project, explaining that the project has evolved over four decades as a major infrastructure initiative to identify and secure a long-term water supply for communities in the eastern portion of the Navajo Nation, the Jicarilla Apache Nation and the City of Gallup. He further noted that on March 30, 2009, President Obama signed into law the Omnibus Public Land Management Act of 2009, which authorized the secretary of the interior, acting through the U.S. commissioner of reclamation, to construct, operate and maintain the Navajo-Gallup Water Supply Project in substantial accordance with the "preferred alternative" indicated in the project's final environmental impact statement.

The water project is expected to provide a long-term sustainable water supply intended to serve a future population of nearly 250,000 people by the year 2040 and to provide a reliable municipal and industrial water supply to the eastern section of the Navajo Nation, the

southwestern part of the Jicarilla Apache Nation and the City of Gallup via diversions from the San Juan River in northern New Mexico.

Mayor McKinney explained that existing ground water supplies are dwindling and of poor quality, and the existing supplies cannot meet the population's needs in the future. He noted that more than 40 percent of Navajo households haul water to meet their daily needs. Additionally, the City of Gallup's ground water levels have dropped approximately 300 feet during the past 10 years, causing serious concern that the supply will not meet water demands within the decade. He added that the lack of a water supply makes it extremely difficult for the Jicarilla Apache people to live and work on areas of the reservation located outside of Dulce.

The water project is designed to divert 37,764 acre-feet of water per year from the San Juan River, resulting in a depletion of 35,893 acre-feet, with a demand rate of 160 gallons per capita per day, based on the 2040 projected population.

Mayor McKinney explained that the water project has two branches: the eastern branch will divert 4,645 acre-feet of water per year with no return flow to the San Juan River; and the western branch will take the remaining 33,119 acre-feet of diversion water, with an average return flow to the river of 1,871 acre-feet of water.

Based on the area's projected population in 2040, the project is anticipated to serve 203,000 people in 43 chapters of the Navajo Nation, 1,300 people in the Jicarilla Apache Nation and 47,000 people in Gallup.

Mayor McKinney noted some of the challenges presented by the water supply project, including the integration of the facilities to the existing distribution systems; water rights adjudication; repayment contracts and cost share agreements; operations management and replacement responsibilities; and scheduling construction to meet the critical interim needs while using the existing wells as an interim water supply to meet critical needs.

Mayor McKinney referred the members to two handouts containing information regarding infrastructure project needs for Gallup. One lists various projects and their respective costs, funding sources and the status of projects, including the Navajo-Gallup Water Supply Project, the master plan for the City of Gallup transmission and storage facilities and the Gallup Rural Navajo Water Supply Project.

The second handout lists Gallup's capital projects and needs. Mayor McKinney noted that the 11 most important project needs will cost \$14,936,890. He also noted that Gallup has several other capital project needs. He told the committee members that the City of Gallup has what he referred to as "mega needs", meaning projects beyond the city's funding capacity, including the Navajo-Gallup water pipeline construction, construction of underpasses at 2nd and 3rd streets, the Allison Corridor reconstruction and infrastructure improvements for the new

Gallup Indian medical center. According to Mayor McKinney, the cost for the mega-needs projects is \$144,300,000.

Discussions ensued regarding the Navajo-Gallup Water Supply Project. Mayor McKinney gave special recognition to Representative Lundstrom, saying that she has worked diligently during the past 25 years and was instrumental in the project reaching fruition. Some members inquired as to the status of the water rights adjudications involved with the project. Mayor McKinney said that, to the best of his knowledge, Navajo water rights have been settled. He added that the City of Gallup has a contract regarding water rights with the Jicarilla Apache Nation. Representative Strickler noted that there are water rights still in litigation and that the settlement referred to by Mayor McKinney is still being challenged.

Mayor McKinney thanked the committee members for their time and for holding the meeting in Gallup.

Raymond R. Arsenault, superintendent of the Gallup-McKinley County School District, greeted the committee members. He gave a brief history of his three-year tenure as superintendent and provided background on his past professional experience. He noted that under his leadership, the school district has completed six new schools, and he thanked the legislators for their support in the school district's construction efforts. He explained that the school district is burdened by having a "virtually nonexistent" tax base. Regardless, he said, the district's five-year plan for construction of new schools would not include a tax increase.

Mr. Arsenault was joined by Leonard Haskie, assistant superintendent for the Gallup-McKinley County School District, who described a typical school in the district. He noted that most of the elementary schools have about 38,000 square feet of space. He said that in the City of Gallup, there are two middle schools, each with about 2,000 enrolled students, and two high schools, each with about 1,200 enrolled students, and 10 elementary schools. He said that many of the schools in the district have health and fire concerns related to the federal Occupational Safety and Health Administration (OSHA) and that it is critical that the school district address the OSHA issues as quickly as possible. He said that most of the schools are on public lands, and nearly all of the schools need safety renovations.

Sources for Local Matching Funds to Maximize Federal Grant Funding

Rick Martinez, chief of client services for the NMFA, said that he has concerns involving New Mexico's ability to use federal dollars to the maximum benefit of the state. Each year hundreds of thousands of federal dollars go unused by the state, he said, and as a consequence, the money reverts back to the federal government. He wants to find a means to tap into those federal dollars, which can help meet the challenges of local infrastructure financing throughout the state.

Mr. Martinez directed the members' attention to the *Quick Program Reference Guide for USDA Rural Development Funding Programs*, which he provided to the committee as a handout.

The handout outlines numerous rural development, business and cooperative programs administered through the United States Department of Agriculture (USDA). There are similar federal programs that can become sources of funding for New Mexico's local government project needs through various types of grants and loans, Mr. Martinez said. He noted that the last two pages of the handout contain contact information for USDA program specialists and field offices in New Mexico.

Members asked Mr. Martinez whether there is a guarantee of the federal dollars. He said that there is no guarantee, but some of the program money has been appropriated by the federal government and the administrators of the programs so that it does not revert. He explained that the local governments in each state can apply for the federal dollars through federal agencies like the USDA. He said that the application process is so overwhelming that many of the local governments are unable to identify and then apply for the funds available to them. Mr. Martinez explained that both local and state government agencies need to be educated about the federal programs available. He said that the NMFA has invited representatives from federal agencies to meet with the NMFA staff to provide in-depth information and guidance about the agencies' programs and application processes.

Committee members discussed how state agencies and local governments can tap into available federal dollars. Representative Powdrell-Culbert said that she is familiar with a for-profit grant writing group based in Baltimore that specializes in assisting public sector agencies and local governments in identifying and applying for grants and loans pursuant to federal programs. She said that the organization charges a fee tied to the amount of the grant requests.

Mr. Martinez said that a good source of matching funds in applications for federal dollars is the state's capital outlay money. Mr. Martinez said that the New Mexico Legislature, the executive branches and the appropriate federal agencies can work together to develop a process for applying for federal matching funds using the state's capital outlay dollars for leverage.

Many members voiced concerns about using capital outlay money as a means of matching federal dollars. Members said that the state already has difficulties finding money to fund projects throughout the state. Because capital outlay money typically funds specific projects in a legislator's district, many legislators worry about the funds becoming unavailable for those projects.

Mr. Martinez updated the members on the NMFA's plans for community outreach targeting local governments. He said that the NMFA hosted the first Federal Funders Summit on May 17, 2011. Numerous federal agencies attended, including the Small Business Administration, the USDA, the Department of Housing and Urban Development, the USDA's Natural Resources Conservation Service, the Army Corps of Engineers and the Border Environment Cooperation Commission. Many state agencies were also represented, including the Department of Finance and Administration (DFA), the Department of Environment, the Energy, Minerals and Natural Resources Department, the Economic Development Department,

the Office of the State Engineer and the Legislative Finance Committee. Additional attendees included representatives from the Mid-Region Council of Governments, the New Mexico Municipal League and the New Mexico Association of Counties. Representatives from New Mexico's congressional delegation also attended the summit. Mr. Martinez said that the summit was a huge success. He added that the NMFA has taken the lead in leveraging federal and state dollars to serve all of New Mexico's communities.

The NMFA has defined specific goals, including:

- (1) getting federal program representatives to work collectively to fund projects;
- (2) using state and local dollars to match federal dollars and using NMFA programs for further leveraging of dollars;
- (3) requiring the use of the Infrastructure Capital Improvement Plan (ICIP) as a tool to leverage federal funds;
- (4) working with local governments to help them restructure their debts and build capacity to address critical community needs;
- (5) using the NMFA's triple-A rating to save local governments money and shorten the length of their debt obligations; and
- (6) financing capital outlay needs for all of New Mexico's communities and special districts.

Mr. Martinez said that the NMFA is taking a proactive approach to assisting the state's communities by working with the DFA at statewide ICIP training meetings, promoting NMFA programs to assist local governments with infrastructure and other high-priority capital needs, working with multiple state agencies to combine funds and fully finance projects and working with federal agencies to learn about available funding and matching fund requirements. Mr. Martinez noted that helping local governments leverage their dollars with federal matching funds will save state taxpayers money.

Mr. Martinez said that a Quick Program Reference Guide contains a sampling of the federal programs available to states and local governments. He noted that the NMFA plans to put together similar guides and that he hopes to develop tools to educate small city and county governments about the programs offered by the federal government. He said that the NMFA plans to partner with the Council of State Governments and some of the federal agencies to find ways to cut some of the red tape associated with applying for program dollars.

John Duff, chief executive officer for the NMFA, said that the NMFA has redefined the role of its financial advisors, who educate smaller governments about ways to plan for their

needs. The training focuses on how local governments can identify potential federal programs and dollars that are well-suited for their needed projects.

Mr. Martinez said that there are about nine states that are good at identifying and obtaining federal dollars through federal agency programs. Committee members asked Mr. Martinez if he were aware of model legislation to help states get access to federal dollars that could be reviewed by the committee. He responded that the NMFA staff is looking into possible legislative ideas.

Examples of a Rural Economic Development Project

Representative Dodge, a business owner in Santa Rosa and a representative of Aquatic Consultants, Inc. (ACI), gave a presentation on economic development in rural areas and described a proposed joint venture for fish production in Santa Rosa. Representative Dodge explained the "Branding Santa Rosa" concept to develop a public-private fish hatchery business in Santa Rosa. Santa Rosa is known as the "City of Lakes" because of its spring-fed lakes and the man-made Santa Rosa Lake. He described the city as "truly an oasis in an otherwise dry region", noting that even the Pecos River and El Rito Creek flow perennially through Santa Rosa. Representative Dodge noted that Santa Rosa is probably best known for the Blue Hole, an 81-foot-deep "lake" created by a limestone sink hole, and its associated springs. Divers from all over the world visit Santa Rosa for the opportunity to dive in this unique setting.

Representative Dodge said that, because of the popularity of the Blue Hole, city officials are searching for ways to "brand" Santa Rosa and its abundant water supply. They feel that a positive branding could create a destination opportunity for visitors and create an economic boost to the city resulting in employment opportunities for its residents. Due to the abundance of water rights, Santa Rosa city officials have begun exploring the idea of using the water for fish production.

Representative Dodge said that there is currently a cold water and warm water fish production facility in Santa Rosa operated by the Department of Game and Fish. However, fish bred in that facility are for public waters only. There was a cold water facility operated by the federal government that was closed and dismantled in the 1960s. An estimated 3,000 gallons per minute (gpm) of spring water flows out of the Blue Hole and into El Rito Creek. This water was used by the federal hatchery to produce trout, but now it is essentially "lost". More than 4,000 gpm of water is unused in various other locations around Santa Rosa that could be used for fish production.

Providing an overview of fish production and imports in New Mexico, Representative Dodge told members that, currently, more than 800,000 trout are imported into New Mexico to meet the demands of private and tribal water resource managers. He added that only five commercial hatcheries are approved to import trout into New Mexico. As a result, clients' needs are not fully met in terms of species availability, size and timing of stock. In addition, the fish commodity is subject to approval by the Department of Game and Fish in the form of

importation permits. An in-state source for these fish would ensure that clients receive quality fish in a timely manner without the burden of importation permits. Additional demands from out-of-state clients could also be met with a new fish production facility in Santa Rosa.

Representative Dodge explained that ACI is the largest construction and management company of private lakes and streams in the Southwest. ACI has expressed a strong desire to partner with the city to operate the Santa Rosa fish hatchery. This partnership will provide technical expertise and a built-in large internal market. City officials have been working with ACI to help explore the possibility of starting a cold water fish production facility in Santa Rosa. ACI employs aquatic and fisheries biologists, as well as construction personnel that specialize in program and project development for aquatic resources and fish production. ACI has designed and built a number of lakes and streams throughout the Southwest, as well as fish-holding and production facilities for several private clients.

ACI manages a variety of fishing lakes, purchasing and transporting large quantities of trout from Idaho and Louisiana to stock the lakes. In New Mexico, ACI manages lakes at the Pueblo of Sandia, the Pueblo of Isleta, Angel Fire, Chama, Pecos and Ute Park. Additionally, the company manages private lakes on ranches across the Southwest. ACI has expressed an interest in providing a substantial amount of investment capital to help build the proposed Santa Rosa fish hatchery. ACI has agreed not only to purchase all of the fish that a new Santa Rosa hatchery can produce but also to partner with the city in the business venture. Representative Dodge believes that the commitment by ACI to partner with the City of Santa Rosa adds greatly to the viability and sustainability of the project over the long term. The private-public hatchery will have state-of-the art equipment and operational efficiencies. The hatchery will also have the capacity to sell fish to the state.

Representative Dodge said that the City of Santa Rosa and ACI are working together to secure a USDA grant for an initial design of the fish-producing facility and a feasibility study to determine if an existing nine acres are suitable for the hatchery. The study will also determine potential revenues from the hatchery. Representative Dodge said that they expect that the study will show that the resources are suitable for hatching and growing trout and that such a venture would also prove to be profitable. Representative Dodge said that once the feasibility of the project is determined, the city would like to secure funding to pay for ACI to design and build the fish hatchery using various opportunities such as capital improvement bonds, state funding through the Statewide Economic Development Finance Act (SWEDFA) or private investment. ACI would hire local employees. Revenues from the facility would be used to pay back the funding source.

Representative Dodge said that, in addition to private capital, the city can provide the land. He said that there is potential capital through the USDA's rural enterprise grant and rural business opportunity grants programs for planning, design, development and capital costs, depending upon the ownership structure. An Economic Development Administration grant could also be pursued if the project is included in the regional Comprehensive Economic Development

Strategic Plan and is supported by the local Council of Governments. Because this project is also listed as part of the ICIP, it may be possible to help fund it through state capital outlay and the legislative process. Representative Dodge noted that an innovative way to help fund this project may be through a new markets tax credit (NMTC) strategy.

Emphasizing the importance of branding the city's fish hatchery venture, as well as the fish it will produce, Representative Dodge stressed that Santa Rosa wants to be declared as the home of New Mexico's first and only public-private fish hatchery that is locally owned and operated. He said that Santa Rosa could become the "fish production capital of the Southwest". Proponents of the hatchery are reviewing branding terms for the fish produced by the hatchery such as "natural" or "Santa Rosa Rainbow", then pushing the brand so consumers will specifically ask for the fish by name.

There are also plans to stock local lakes and ponds with the "Santa Rosa Rainbow" and create trophy ponds, game fish tournaments and other fishing events to promote the brand. One possible event name is "Santa Rosa's Over-the-Rainbow Festival". Ideally, each restaurant in Santa Rosa would offer some form of the Santa Rosa Rainbow on its menu. People could catch the fish in one of Santa Rosa's lakes and take them into one of the city's restaurants, and the restaurant would cook the fish for them. There could also be a small business entity that would filet and package the fish.

Representative Dodge likened the Santa Rosa fish hatchery proposal to the Anderson's Split Pea Soup in central California, where people drive for hundreds of miles to eat the famous soup. He compared it to a big steak house in Amarillo, Texas, where, if a customer can eat the 72-ounce steak served at the restaurant, the steak is free of charge. He also compared the venture to the existing Salman's Raspberry Ranch in Mora, where people drive out of their way for the "hands-on" experience of picking raspberries.

Representative Dodge said there is significant community support for the endeavor, noting that the people of Santa Rosa are familiar with the fish production industry and want to work with the state and private sectors to make the vision of a private fish production facility a reality. He added that for years, Santa Rosa has been home to fish hatcheries and a trout rearing station, which supply New Mexico's residents with cold water fishing opportunities. In 1965, Rock Lake Trout Rearing Station opened. In 2008, a warm water hatchery, the only one in New Mexico, opened, and the first warm water stock was delivered in July 2008.

Representative Dodge said that the Santa Rosa economic development strategic plan contains a roadmap for the future overall development of the community of Santa Rosa and that economic development is the backbone for additional strategies, including downtown development and beautification, increased tourism, new housing and community growth and recreational activities. All elements must move forward in a "synergistic" fashion for the community to realize its development goals. Saying that economic development is primarily dependent upon market forces, Representative Dodge suggested that those forces can be

substantially influenced by the actions of a progressive community in which city government, the not-for-profit sector, the private sector, outside strategic partners and community members work together to achieve the same goals.

Representative Dodge noted that economic development encompasses business development, particularly business start-ups; business retention, by fostering the growth of existing businesses; and business recruitment, by encouraging businesses to locate to Santa Rosa. He said that the fish hatchery business plan addresses all of these strategies and resulted from interviews with community leaders, developers, business owners and committed citizens. Information from similar communities was researched, including best practices, and showed that the incentives that matter most to companies considering locating in New Mexico are payments to help train employees, tax credits that reward hiring of high-wage workers, public funds that help pay for infrastructure or construction of a company's facilities, industrial revenue bonds and tax credits for investment manufacturers.

Representative Dodge explained that the development of Santa Rosa's lakes is an important catalytic project that will serve to differentiate Santa Rosa and transform it into a destination city. So far, Santa Rosa's resources have been minimally developed. The Blue Hole Dive and Training Center will serve to put Santa Rosa on the "national convention circuit", albeit in a niche area. The development of Santa Rosa's lakes for recreational activities, including swimming, boating, fishing and diving, will establish Santa Rosa as a regional tourist destination for water sports.

Committee members sought clarification of who will own the hatchery. Representative Dodge said that the City of Santa Rosa would be the owner, and ACI would operate and maintain the facility. Overall, members seemed genuinely pleased about the proposed business venture.

ACI has been working with Santa Rosa city officials for quite some time on the fish hatchery concept. Ninety-nine percent of rainbow trout from cold water stock are imported into New Mexico, and Missouri, Arkansas and Louisiana provide 100 percent of warm water fish imports. The proposed fish hatchery would be well-poised to compete on the production level, as well as on the transportation side of the market, particularly in selling fish to a large market like Phoenix. The Arizona Game and Fish Department has drafted a letter in support of the proposed hatchery.

ACI anticipates producing 250,000 pounds of fish annually. Representative Dodge estimated that the hatchery would employ five to 15 full-time employees, noting that for a small city like Santa Rosa, 15 jobs are significant.

Representative Lundstrom said that the fish hatchery project is a prime example of a smaller community trying to get funds from a variety of sources for a local project. She asked Mr. Duff if the NMFA is interested in the proposed project. Mr. Duff replied that the fish hatchery is an excellent example of the types of business ventures with which the NMFA is

dedicated to work. Representative Lundstrom asked Representative Dodge and ACI to work closely with the NMFA on the project, and she asked Mr. Duff to report back to the committee on the progress of the fish hatchery and other projects with which the NMFA assists.

Public Project Revolving Fund Reporting

Mr. Duff reminded committee members that for the last two legislative sessions, the NMFA has recommended the elimination of the statutory requirement for legislative authorization of Public Project Revolving Fund (PPRF) loans. He said that the NMFA has abandoned its pursuit of changes to the statute and views the statutory restriction as a disadvantage because a more effective process could be created. A few of the significant defects that the NMFA identifies in the current process are that:

(1) many potential borrowers submit letters of interest (the basis for the authorization list) based on the possibility that they will want to borrow during the next fiscal year, but there is no guarantee that the borrower will submit an application. If the borrower submits an application, there is no guarantee that the borrower or the project will meet the PPRF's criteria for approval. Consequently, the authorization list contains projects that will never be funded or considered by the NMFA's board;

(2) the one-time authorization mandated in the statute does not address the possibility that a borrower will develop an unforeseeable need at the authorization date. The \$1 million emergency exception permits the NMFA to address some such situations but not all; and

(3) the one-time authorization does not address the possibility that adverse information concerning a project may not be available at the time of the authorization, but it could become available at a later date. While the NMFA would consult with the NMFA Oversight Committee on an application, there is no systematic process assuring that an application about which the committee has concerns is being actively considered by the NMFA.

Mr. Duff said that the NMFA believes that a process that provides a regular monthly communication with committee members will contribute significantly to the oversight process. As such, the NMFA plans to begin the following reporting activities on July 1, 2011:

(1) the NMFA will provide a "loan activity report" early each month for the preceding month. A report for June 2011 is in the handouts and allows committee members to see the flow of the loan application process, including new applications and applications approved by the NMFA board;

(2) when an application is received by the NMFA, NMFA staff will notify via email the legislators in whose districts the project is located;

(3) upon approval of a project by the NMFA board, the NMFA will issue a press release describing the project and its approval and will contact the appropriate legislators to ask if they would like to add comments to the press release; and

(4) the NMFA will provide a quarterly report on total financing by county on a per capita basis, as well as other pertinent data.

Members asked Mr. Duff if he thinks the NMFA is competing with private lenders in New Mexico. Mr. Duff said that in his five-year tenure with the NMFA, he has never received a complaint from anyone at a bank about the work of the NMFA. He attributed that to the fact that banks have little interest in tax-exempt lending. Mr. Duff then asked committee members to notify him at once if they are aware of a private lender that has issues with the NMFA's programs.

There was a brief discussion regarding the NMFA's authority to market bonds for the Department of Transportation. Staff was asked to provide copies of the legislation that authorized the NMFA to market the bonds.

New Mexico Renewable Energy Transmission Authority (RETA)

Jeremy Turner, executive director, RETA, and Angela Gonzales-Rodarte, project coordinator, RETA, provided an overview and update of the RETA. The RETA was statutorily created in 2007 for the purpose of addressing energy transmission issues in New Mexico and is tasked with planning for and financing transmission lines within the state. Pursuant to the RETA's statutory mandate, 30 percent of the power it plans for must be from renewable sources.

Referring to the RETA's organizational chart, Ms. Gonzales-Rodarte noted that the RETA is a small organization, with only three full-time employees.

The RETA's primary function is to finance transmission and storage projects by issuing revenue bonds payable from the revenues generated by the projects. The first project for which the RETA issued revenue bonds was the High Lonesome Mesa project, for which it issued \$50 million in development bonds in November 2010.

She said that the RETA has entered into three memoranda of understanding (MOUs) and one letter of support (LOS) with potential projects. The MOUs are with Clean Line Energy; Lucky Corridor, LLC; and GS Global Infrastructure Partners, II. The LOS is with Blue Mesa Energy, LLC.

Ms. Gonzales-Rodarte said that the RETA has the power of eminent domain and is currently making rules for exercising its eminent domain powers. The RETA expects to have the final rules by August 2011.

Mr. Turner directed members to a handout that provides a breakdown of the projected FY 2011 through FY 2013 budget. He said that the RETA reduced its budget by \$100,000 for FY 2011 and that with the closing of the High Lonesome Mesa bonds sale, the RETA is fully funded for the next two years.

Ms. Gonzales-Rodarte explained the effects of the passage of Senate Bill 60 (Laws 2011, Chapter 33), sponsored by Senator Harden and Representative Stapleton, which provides that the RETA's bonding and operational funds be moved from the state treasurer to the RETA, noting that this is how quasi-agency funds are typically handled. The legislation also allows for the creation of separate accounts within the RETA's bonding fund and allows bonds to be issued above, below or at par. It also allows the RETA to hold proprietary, technical or business information confidential and not subject to the Inspection of Public Records Act.

Ms. Gonzales-Rodarte summarized other legislation that was passed during the 2011 session, including Senate Bill 82 (Laws 2011, Chapter 51), which removed the state investment officer from several boards, including the RETA board. Senate Joint Memorial 8 requires the RETA and the Energy, Minerals and Natural Resources Department to collaborate with White Sands Missile Range and other military installations when developing renewable energy programs and corridors for transmission lines in New Mexico and to create a report on this collaboration for the interim Military and Veterans' Affairs Committee, the NMFA Oversight Committee and the chair of the RETA board. Another senate memorial provides additional responsibilities for the RETA, including developing a map and supporting documents to identify existing generation and transmission lines and renewable energy resource zones to support development, coordinating with other agencies to prioritize regions with low or minimal land development conflicts and identifying and prioritizing the best options for potential transmission corridors.

Ms. Gonzales-Rodarte said that the RETA does not have statutory authority to obligate any developer to build a transmission line within an identified corridor. The intent of the RETA is to help mitigate potential environmental, wildlife, military and cultural damage through the identification of corridors, with the help of various stakeholders, to determine areas best suited for development. Several independent transmission projects are currently in various stages of development and routing. To provide future developers with available resources, the RETA provides links to known transmission line projects in its report but omits the exact routing of the transmission lines. Consequently, the transmission lines of these projects are not included in the corridor map.

Ms. Gonzales-Rodarte directed members' attention to a time line reflecting the work that the RETA has accomplished from October 2009 to July 2011, when the corridor map was completed and presented to Senator Timothy M. Keller.

Ms. Gonzales-Rodarte said that the RETA is studying the following projects:
(1) Centennial West — the line from New Mexico to California;

- (2) Lucky Corridor — a line in northern New Mexico;
- (3) Southline — a line from New Mexico to Arizona;
- (4) the SunZia — a line from New Mexico to Arizona;
- (5) High Plains Express — a line from Wyoming to New Mexico; and
- (6) Tres Amigas Superstation — the interconnection of three grids.

Depictions of lines and grids are located on pages 13 through 19 of the handout.

Mr. Turner said that the purpose of a study that the RETA commissioned, which was completed by the Los Alamos National Laboratory, was to evaluate transmission concepts, economic benefits and cost allocation methodologies. The study analyzed two potential systems — looped versus radial line upgrades — necessary to export 5,200 megawatts of generation. The study looked at upgrades on a five-year, 10-year and 20-year planning cycle. Economic benefits and cost recovery options were analyzed, including direct and indirect job creation, the potential tax implications of each plan and the energy tax required to support each potential plan. The RETA has entered into two MOUs that advance the build-out of the system identified by the study for the Lucky Corridor, LLC, and the GS Global Infrastructure Partnership, II, L.P. (GSIP). Mr. Turner further said that the RETA entered into an MOU with GSIP on March 30, 2011. The MOU provides for a partnership for jointly developing a collector system in central New Mexico, with GSIP acting as an equity partner in the project.

Mr. Turner explained that the project will involve a 345-kilovolt line approximately 200 miles long, with an initial carrying capacity of 1,200 megawatts to 1,400 megawatts. The RETA anticipates a two-year construction period, with approximately 200 construction jobs created. The project is estimated to cost between \$350 million to \$400 million for the line. Financing will be secured through transmission agreements. The RETA estimates that the renewable development has the potential to exceed \$1.8 billion. In phase two of the project, the RETA hopes to transport 2,300 megawatts out of the state.

Mr. Turner stressed that the RETA hopes not to exercise its eminent domain powers, but it is in the process of determining how it would exercise those powers should it become necessary. A draft of the procedures was released for a 45-day public comment period on March 30, 2011. On May 25, 2011, the public comment period was extended for an additional 30 days, and on June 21, 2011, the public comment period was extended for an additional 21 days, to July 12, 2011 at 5:00 p.m. M.S.T. Mr. Turner expects the RETA general counsel to respond to the individuals who submitted comments by July 19, 2011. Included in the general counsel's response will be an allowance for additional comments, to end on July 29, 2011. The RETA general counsel will prepare a final proposal for consideration by the RETA Projects Committee and a hearing will be scheduled at a RETA board meeting, when the eminent domain rules will be officially adopted.

Some members asked if input from the NMFA Oversight Committee would be considered. Committee staff was asked to provide copies of the proposed rules to committee

members. Mr. Turner explained that input from the committee members would be gladly accepted for consideration.

When asked what types of public concerns materialized through the public comment period, Mr. Turner said that a number of landowners asked if the RETA could enter into long-term leases to avoid exercising its eminent domain powers. Mr. Turner explained that the RETA's authority pursuant to statute does not provide for long-term leases. He also noted that the attorney general and the Public Regulation Commission will provide comments to the RETA regarding its eminent domain powers.

Approval of Minutes

Upon a motion made and seconded, the minutes of the June meeting were approved. With no further business for the day, the meeting recessed at 4:00 p.m.

Tuesday, July 12

Representative Lundstrom welcomed the committee members and guests back for the second meeting day. She noted that Mr. Arsenault and John Presto, the facilities director for the Gallup-McKinley County School District, had additional information they wished to share with the members. Mr. Presto provided a brief update of schools that are being refurbished and updated. He reminded the members that, despite the work proceeding at numerous schools within the district, no tax increases have been imposed on taxpayers.

New Market Tax Credits Update

Marquita Russel, chief of programs for the NMFA, spoke to the committee members regarding the NMTC program, explaining that the NMTC was created in 2000, during the Clinton administration and implemented during the George W. Bush administration. The program is managed by the U.S. Department of the Treasury. She explained that the NMTC program awards federal tax credits for economic development in low-income communities nationwide. The program is administered through a Community Development Financial Institution Fund, an arm of the U.S. Department of the Treasury, in an annual competitive process. Only certified community development entities (CDEs) may compete for the available tax credits. Award-winning CDEs can invest the NMTC credit in qualifying projects, ranging from business creation and expansion of community facilities to commercial real estate. Credits are not awarded to "sin" businesses or projects that earn more than 80 percent of their annual income from residential rentals. Allocation of funds is directed to areas considered "highly depressed".

Ms. Russel said that an allocation of tax credits does not equal cash. Rather, selling the tax credit will turn the credits into a cash asset. An allocation of credit to a project provides for \$.39 for each dollar of investment tax credits. The credit is taken over a seven-year period at five percent in the first three years and six percent in the remaining years. The tax credits are amortized to bring additional capital to the project in order to fund business expansion or debt

refinancing. Flexible, low-cost capital provides the critical final pieces of financing a project, along with longer amortization and higher loan-to-value ratios than those permitted with traditional debt. Ms. Russel explained that at the end of the seven-year compliance period, the debt may be acquired for cents on the dollar, depending on the structure of the transaction.

Ms. Russel said that Finance New Mexico is the for-profit entity created by the NMFA in 2007, specifically to function as a CDE to participate in the NMTC program. She noted that Finance New Mexico focuses on projects that will create jobs, such as projects involving historic real estate renovations. Finance New Mexico is required to use 75 percent of its tax credits in highly distressed areas designated as such by the 2000 census. She emphasized that no state money goes toward these projects; the allocations are strictly federal tax credits.

Ms. Russel directed the members attention to a handout depicting the flow of a typical NMTC transaction. She noted that the NMFA has worked with several banks in New Mexico, including Los Alamos National Bank, U.S. Bank and Bank of Albuquerque. Because NMTCs are fairly new to New Mexico, there are not yet a lot of banks participating in the program. However, she pointed out that once a bank has participated in a project, it tends to remain interested in further participation.

Ms. Russel provided an overview of the basic borrower eligibility requirements for the NMTC program, including that the project must be located in a highly distressed, low-income community as determined by the census tract and that projects involving "sin" businesses — e.g., race tracks, golf courses, gambling facilities, liquor stores, certain farming businesses and massage businesses — are not permitted.

The proposed project must provide a tangible community benefit. An ideal project would be part of an existing economic revitalization plan coupled with a "but for" component; i.e., but for the NMTC program, the project would not otherwise come to fruition.

Lastly, the project must be ready to go. The leverage lender must be committed and prepared for the NMTC documentation process, and necessary approvals must be in place.

Some members asked for clarification regarding whether the state is losing money because of the NMTC program. Mr. Duff said that the credit is lost tax revenue to the federal government only.

Members inquired as to what types of companies are eligible for the NMTC, specifically whether start-up businesses are eligible. Ms. Russel explained that, typically, companies awarded the tax credits are existing companies that are capable of leveraging capital, a requirement not often attainable by a start-up business. She also mentioned that potential companies need capital and collateral to meet the requirements of the NMTC.

Members also asked about the time frame for the NMTC award. John Brooks, director of commercial lending for the NMFA, said that the process can average from six to nine months, but if a company is ready to move forward quickly, the process can be completed in as little as three months.

Economic Development Revolving Fund Update

Mr. Brooks provided an update on the Economic Development Revolving Fund (EDRF), reminding committee members that the SWEDFA was enacted in 2003 to help stimulate the state's economy, particularly in rural and underserved areas, by creating financing tools that, prior to the act's enactment, New Mexico lacked but that neighboring states, like Colorado and Texas, offered.

Mr. Brooks further reminded the members that the EDRF was created pursuant to the SWEDFA. The EDRF is connected to four of the five SWEDFA-authorized programs:

- (1) loan participations purchased with smart money funds held in the EDRF;
- (2) direct loans made with funds in the EDRF;
- (3) conduit bonds, which could be purchased using funds in the EDRF; and
- (4) loan bond guarantees, which could be made from the EDRF.

Mr. Brooks noted that the NMTC program does not use funds from the EDRF.

Mr. Brooks told members that, to date, the EDRF has received two appropriations. It was initially seeded in 2005, with \$10 million from the state's general fund, and then it received a \$2 million appropriation in 2007. He added that \$1.9 million from the fund reverted to the general fund in 2011. Consequently, the fund's portfolio stands at \$5.1 million, with approximately \$1.9 million available for projects.

Mr. Brooks noted that, to date, the EDRF has been used solely for the Smart Money Loan Participation (SMLP) program. Since the SMLP program's inception in 2006, the NMFA board has approved \$16.9 million in loans, which would have leveraged about \$43 million in bank funds, for a total of \$59 million in expansion capital. An added benefit has been the creation or retention of nearly 1,100 jobs.

Mr. Brooks next directed the members' attention to a handout with an overview of SMLP board-approved loans and noted that the following pages of the handout contained more in-depth information regarding the approved loans, including loans that failed to close.

Ms. Russel said that in June 2011, the NMFA signed an MOU with the Economic Development Department to administer the \$13.2 million state small business credit initiative (SSBCI) funds that the state is expected to receive over the next two years. The SSBCI money comes pursuant to the federal Small Business Jobs Act of 2010, created to help increase the availability of credit for small businesses. The program is operated by the U.S. Department of the Treasury and provides that funds may be used for capital access programs (CAPs) and other collateral support programs, such as loan participations, state-sponsored venture capital programs and loan programs. The SSBCI program requires that by 2016, each state must leverage \$10.00 of private capital for each dollar of federal funds provided. Ms. Russel said that the NMFA intends to use the money for loan participations.

Ms. Russel explained that CAPs provide participating banks with separate loan loss reserves that act as portfolio insurance for "enrolled" business loans. To enroll a loan, the participating bank, the borrower and the state each pay an insurance premium into the participating bank's CAP reserve. The reserve is used to fund losses incurred by the participating bank for each enrolled loan. The U.S. Department of the Treasury strongly encourages each state to use some of its SSBCI funds for the CAP program because the program provides the greatest leverage of the SSBCI funds.

Ms. Russel told the members that 100 percent of the state's SSBCI funding will go to a new loan participation program called the Collateral Support Loan Participation program. The program will be directed exclusively to businesses that create quality full-time jobs. Additionally, the NMFA will continue to emphasize lending to rural and underserved businesses by providing greater participation percentages to rural businesses and providing revolving lines of credit, a much needed product, particularly in metropolitan areas of the state.

Ms. Russel spoke to the members regarding Senate Bill 454 (Laws 2011, Chapter 150), the provisions of which took effect on July 1, 2011. The provisions provide a two-year suspension of the legislative authorization requirement provisions added to the SWEDFA in 2005. Consequently, the NMFA will be able to meet the rigorous time demands of the SSBCI funding process. During the two-year period, the NMFA will report to the legislature regarding projects that have been approved and closed.

There was a general discussion regarding the NMFA's programs, with interest by members about applicants that have been denied funding. Mr. Brooks noted that applicants turned down by the NMFA are typically referred to other appropriate agencies or resources. Members asked for a list of applicants turned down by the NMFA.

NMFA Systems to Integrate Loan Operations

Mr. Duff briefly explained that the chief objective of the systems to integrate loan operations (SILO) is to connect numerous manual processes primarily associated with the PPRF programs to improve consistency and accuracy. The SILO software is modeled on similar software used by major banking institutions. Mr. Duff anticipates that SILO will help the NMFA staff generate reports quickly and efficiently. The goal is for an overall improvement in

efficiency and control. He advised the members that the NMFA has issued a request for proposals seeking firms that specialize in banking software.

Representative Lundstrom noted that the NMFA Oversight Committee will likely tour the NMFA during the committee's October or November meeting. With no further business, the meeting adjourned at 11:10 a.m.