

MINUTES
of the
FIRST MEETING
of the
WATER AND NATURAL RESOURCES COMMITTEE

May 15, 2018
State Capitol, Room 322
Santa Fe

The first meeting of the Water and Natural Resources Committee was called to order by Representative Matthew McQueen, co-chair, on May 15, 2018 at 9:35 a.m. in Room 322 of the State Capitol in Santa Fe.

Present

Rep. Bealquin Bill Gomez, Co-Chair
Rep. Matthew McQueen, Co-Chair
Rep. Gail Armstrong
Rep. Paul C. Bandy
Sen. Craig W. Brandt
Rep. Randal S. Crowder
Rep. Derrick J. Lente
Rep. Rodolpho "Rudy" S. Martinez
Rep. Nathan P. Small
Rep. James R.J. Strickler
Sen. Pat Woods
Rep. Bob Wooley

Advisory Members

Sen. Pete Campos
Sen. Carlos R. Cisneros
Rep. Harry Garcia
Sen. Ron Griggs
Rep. Rick Little
Sen. Linda M. Lopez
Rep. Bill McCamley
Rep. William "Bill" R. Rehm
Rep. Debbie A. Rodella
Sen. Nancy Rodriguez
Rep. Tomás E. Salazar

Absent

Sen. Joseph Cervantes, Vice Chair
Sen. Sander Rue
Sen. Benny Shendo, Jr.
Sen. Jeff Steinborn
Sen. Mimi Stewart
Rep. Carl Trujillo

Rep. Sharon Clahchischilliage
Rep. George Dodge, Jr.
Rep. Rebecca Dow
Rep. Brian Egolf
Rep. Candy Spence Ezzell
Rep. Yvette Herrell
Sen. Stuart Ingle
Rep. D. Wonda Johnson
Sen. Gay G. Kernan
Rep. Larry A. Larrañaga
Sen. Carroll H. Leavell
Rep. Sarah Maestas Barnes
Rep. Javier Martínez
Sen. Cisco McSorley
Sen. Steven P. Neville
Rep. Greg Nibert

Sen. Gerald Ortiz y Pino
Sen. Mary Kay Papen
Rep. Angelica Rubio
Rep. Patricio Ruiloba
Sen. William E. Sharer
Sen. John Arthur Smith
Sen. Peter Wirth

Staff

Shawna Casebier, Legislative Council Service (LCS)
Pam Stokes, LCS
Jeret Fleetwood, LCS

Guests

The guest list is in the original meeting file.

Handouts

Handouts and other written testimony can be found in the meeting file or on the New Mexico Legislature's website at www.nmlegis.gov.

Tuesday, May 15

Welcome and Introductions

Representative McQueen invited committee members, staff and audience members to introduce themselves.

Discussion of 2018 Interim Work Plan and Itinerary

The committee developed a work plan focused on three main areas — energy, wildlife and water — with the co-chairs expressing a desire to build an agenda for three meetings devoted to each area of focus. The committee discussed inclusion of various items to the committee's proposed work plan.

On a motion duly made, seconded and passed, the committee directed staff to send a letter to the New Mexico Supreme Court urging the court to undertake a review of the issues presented by the Navajo water rights settlement. A member asserted that without first securing statutory approval from the legislature, approval of the settlement could potentially constitute a separation of powers issue, which would appropriately be addressed by the New Mexico Supreme Court. However, staff cautioned that such a letter might constitute ex parte communication, and the committee directed staff to study this concern.

Updates from Executive Agencies

John T. Romero, director, Water Rights Division, Office of the State Engineer (OSE), provided the committee with an overview of various water management issues in New Mexico, including drought, water rights adjudications, dam safety and implementation of the Active Water Resource Management initiative and basin-by-basin management of water in New Mexico.

Mr. Romero noted that according to the most recent data, most of New Mexico is facing some level of drought, including exceptional drought (the worst characterization) in many regions. He also cautioned that forecasts do not suggest that conditions will improve over the next few months. Mr. Romero went on to outline steps the OSE is taking to mitigate the effects of the drought, including internal meetings, coordination with other state agencies and a request to the Office of the Governor to declare parts of the state a disaster area and to reconvene the New Mexico Drought Task Force.

Mr. Romero also discussed efforts by the OSE to lessen the backlog of applications for various water rights transfers and permits. He noted that about 1,400 applications were pending before the OSE in 2017, and while approximately 434 applications had been processed, additional applications remain stalled, in part because of unfilled vacancies within the agency. Mr. Romero said that some vacancies had been filled, but that recent hires still require significant training before they can begin to effectively address the backlog.

Mr. Romero went on to discuss efforts to improve dam safety across the state. He explained that recent reports have identified several dams in need of critical repair, and repairs are under way at most of them.

Mr. Romero also discussed the implementation of the Active Water Resource Management initiative in parts of the state, particularly as it relates to priority administration of water rights and compact deliveries.

John Longworth, acting director, Interstate Stream Commission, identified three major water issues facing New Mexico:

- the state water plan;
- compact compliance; and
- hydrologic conditions statewide.

Mr. Longworth explained that development of a state water plan is proceeding according to schedule, with all of the necessary components in place. Mr. Longworth went on to explain that challenges regarding compact compliance involve sufficient delivery of water in three basins: the Upper Colorado River, the Rio Grande and the Pecos. He explained that while New Mexico is in compliance with the Colorado River Compact, drought contingency studies are ongoing, as are identifying shortage-sharing opportunities in both the upper and lower basins of

the river. Mr. Longworth also said that, in part because of investments made by the legislature, New Mexico still has compact delivery credits on the Pecos River.

Mr. Longworth said that while New Mexico initially faced a debit of about 700 acre-feet on deliveries to Texas on the Rio Grande, coordination among various entities brought the state's debit closer to zero acre-feet. Mr. Longworth went on to discuss language in the Rio Grande Compact, specifically Article 7, which limits storage of water in certain New Mexico reservoirs should storage in Elephant Butte Reservoir fall below prescribed levels.

Finally, Mr. Longworth went on to discuss hydrologic levels across the state. He noted that most of the reservoirs in New Mexico are well below capacity.

Questions and comments from the committee included:

- fire season began earlier than usual across the state;
- the specifics of Article 7 of the Rio Grande Compact that relate to limits on storage in certain reservoirs;
- surface water and well metering requirements under both the Active Water Resource Management initiative and the Aamodt settlement;
- ownership of produced water and cross-contamination issues between produced water and aquifers;
- use of both artesian and shallow aquifers for irrigation;
- storage of water in northern reservoirs to mitigate evaporative loss; and
- the balancing of recreation demands in southern reservoirs with storage needs in northern ones.

Alexa Sandoval, director, Department of Game and Fish, provided the committee with an overview of Department of Game and Fish priorities for fiscal year 2019. She explained that renovation and upgrading fish hatcheries; recruitment, retention and reactivation of participants in the department's programs and activities; and large-scale habitat restoration are the department's top priorities.

Ken McQueen, secretary, Energy, Minerals and Natural Resources Department (EMNRD), provided the committee with an overview of the EMNRD's areas of focus for the near future. He noted that work is continuing on designations of the Rio Grande Trail, with several additional miles of trail in northern New Mexico recently designated. A dedication ceremony is scheduled for October 2, 2018, he said. Secretary McQueen also discussed various rulemaking efforts that the EMNRD is currently involved with, including rules on spills and water releases; Oil Conservation Division financial assurances; and the use of produced and treated water for oil and gas exploration.

Questions and comments from the committee included:

- the status of Department of Game and Fish land transfers;
- wildfire mitigation and watershed restoration efforts;
- hunting licenses awarded to out-of-state versus in-state residents;
- the number of landowner hunting permits issued by the Department of Game and Fish;
- the balance between the elk population and cattle and the dependence on cattle for the livelihood of ranchers in New Mexico;
- that additional elk permits have been issued in areas of the state with increasing elk populations; and
- that the EMNRD is working with the Department of Transportation to limit the deer population in the Silver City area and to reduce collisions between deer and vehicles.

Work Plan and Meeting Schedule

The co-chairs explained to committee members that meeting dates and locations for future meetings would be worked out with staff prior to presenting the work plan and meeting schedule to the New Mexico Legislative Council for approval.

Adjourn

There being no further business, the committee adjourned at 12:45 p.m.