

**MINUTES  
of the  
SECOND MEETING  
of the  
WATER AND NATURAL RESOURCES COMMITTEE**

**July 12-13, 2021  
Student Services and Technology Center 200  
University of New Mexico-Gallup  
705 Gurley Avenue  
Gallup**

The second meeting of the Water and Natural Resources Committee was called to order by Senator Elizabeth "Liz" Stefanics, chair, on July 12, 2021 at 9:35 a.m.

**Present**

Sen. Elizabeth "Liz" Stefanics, Chair  
Rep. Matthew McQueen, Co-Vice Chair  
Rep. Gail Armstrong  
Sen. Pete Campos (7/12)  
Sen. Joseph Cervantes  
Rep. Susan K. Herrera  
Rep. Tara L. Lujan  
Rep. Larry R. Scott  
Sen. Benny Shendo, Jr.  
Rep. James R.J. Strickler  
Rep. Candie G. Sweetser  
Sen. Pat Woods

**Advisory Members**

Rep. Jack Chatfield  
Sen. Crystal R. Diamond  
Sen. Linda M. Lopez  
Rep. William "Bill" R. Rehm  
Sen. Antoinette Sedillo Lopez  
Sen. Peter Wirth

**Absent**

Rep. Derrick J. Lente, Co-Vice Chair  
Sen. David M. Gallegos  
Sen. Stuart Ingle  
Rep. Marian Matthews  
Rep. Kristina Ortez  
Sen. Jeff Steinborn  
Rep. Martin R. Zamora

Rep. Rebecca Dow  
Rep. Candy Spence Ezzell  
Sen. Ron Griggs  
Sen. Carrie Hamblen  
Rep. T. Ryan Lane  
Rep. Raymundo Lara  
Rep. Rod Montoya  
Rep. Roger E. Montoya  
Rep. Greg Nibert  
Sen. Gerald Ortiz y Pino  
Sen. Shannon D. Pinto  
Rep. Andrea Romero  
Rep. G. Andrés Romero  
Rep. Patricia Roybal Caballero  
Rep. Angelica Rubio

Sen. Joshua A. Sanchez  
Rep. Debra M. Sariñana  
Rep. Nathan P. Small  
Sen. Mimi Stewart

**Guest Legislators**

Rep. Pamelya Herndon  
Sen. George K. Munoz

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

**Staff**

Shawna Casebier, Legislative Council Service (LCS)  
Tom Kricka, LCS  
Ariel MacMillan-Sanchez, LCS  
Christian Carrillo, LCS  
Samantha DeLap, 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 legislature's website.

**References to Webcast**

The time reference noted next to each agenda item in this document is cross-referenced to the webcast of the committee meeting, which can be found at [www.nmlegis.gov](http://www.nmlegis.gov), under the "Webcast" tab. The presentations made and committee discussions for agenda items can be found on the recorded webcast for this meeting. Please note that the webcast of this meeting is only available for Tuesday, July 13, 2021.

**Monday, July 12**

**Welcome and Introductions**

Senator Stefanics welcomed everyone to the meeting, and the members of the committee and the LCS staff introduced themselves. Louie Bonaguidi, mayor, City of Gallup, and Dr. Dan Primoic, acting chancellor, University of New Mexico-Gallup, welcomed the committee to Gallup.

**Navajo-Gallup Water Supply Project**

Patrick Page, manager, Four Corners Construction Office, United States Bureau of Reclamation; Marc DePauli, DePauli Engineering and Surveying on behalf of the City of Gallup;

Natanya Garnenez, senior hydrologist, Water Management Branch, Department of Water Resources, Navajo Nation; Brian T. Yazzie, chapter president, Tooh' Haltsooi (Sheep Springs) Chapter, Navajo Nation; Kevin Begay, chapter manager, Tooh' Haltsooi (Sheep Springs) Chapter, Navajo Nation; Rhonda Herbert, commission president, Naschitti Community Governance, Navajo Nation; Sonny Moore, president, Tohatchi Chapter, Navajo Nation; Debra A. Yazzie, vice president, Shiprock Chapter, Navajo Nation; and Willamena Smith, vice president, Newcomb Chapter, Navajo Nation, discussed the Navajo-Gallup Water Supply Project.

Mr. Page provided the committee with general background information about the Navajo-Gallup Water Supply Project and discussed the status of construction projects at the Cutter Lateral Water Treatment Plant and the San Juan Generating Station Intake Alternative. Mr. Page explained that \$870 million has been authorized for the project and that the cost ceiling for October 2020 was \$1.348 billion. The beneficiaries of the project are the Navajo Nation, the City of Gallup and the Jicarilla Apache Nation. Mr. Page stated that the need for access to water to maintain a healthy community during the COVID-19 pandemic has increased the interest in and urgency of the project. Regarding the status of construction at the Cutter Lateral Water Treatment Plant, Mr. Page stated that construction on the eastern side is complete and that the first water deliveries began in October 2020 to eight Navajo communities. The presentation can be found here:

<https://www.nmlegis.gov/handouts/WNR%20071221%20Item%201%20Bureau%20of%20Reclamation%20NGWSP%20Update.pdf>.

Mr. DePauli provided the committee with the City of Gallup's perspective on the Navajo-Gallup Water Supply Project. He explained that Gallup does not have access to surface water and has had to rely on ground water from deep confined aquifers, such as the Gallup Sandstone Aquifer and the Dakota/Westwater Aquifer. Mr. DePauli stated that over the past 120 years, Gallup has constructed or acquired more than 45 wells, and only 15 of those wells are in service or operational today. Mr. DePauli reported that Gallup faces a number of challenges concerning water, including: a major drop in the water level of underground aquifers that has resulted in reduced pumping; sedimentation and other water quality problems; increased demand that is only partially offset by an aggressive water conservation initiative; and financing the cost of construction, maintenance and replacement of wells. Mr. DePauli presented summaries in several areas for the City of Gallup, including annual ground water production, the status and pumping rates of wells and water rights. The presentation documents can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=WNR&Date=7/12/2021&ItemNumber=1>.

Ms. Garnenez discussed water issues affecting the Navajo Nation, including the scarcity of water in some areas and aging water infrastructure. She also discussed the funding gap for

water projects, the regionalization of water projects and how the Navajo Nation and the City of Gallup are working together. The presentation can be found here:

<https://www.nmlegis.gov/handouts/WNR%20071221%20Item%201%20Navajo%20Nation%20DWR%20Presentation%20Outline.pdf>.

Mr. Yazzie, Mr. Begay, Ms. Herbert, Mr. Moore, Ms. Yazzie and Ms. Smith discussed the experiences of the Sheep Springs, Naschitti, Tohatchi, Shiprock, Newcomb and Mexican Springs chapters of the Navajo Nation with regard to the Navajo-Gallup Water Supply Project and provided information on demographics, existing water demands, the need for a water project, the design and construction of the project and the coordination efforts concerning the regionalization of the lateral projects. The presentation documents can be found here:

<https://www.nmlegis.gov/handouts/WNR%20071221%20Item%201%20Navajo%20Nation%20Chapters%20Presentation%20Outline.pdf>; and

<https://www.nmlegis.gov/handouts/WNR%20071221%20Item%201%20Navajo%20Gallup%20Project%20Newsletter.pdf>.

Questions and comments from committee members included the following topics:

- declining water levels in confined aquifers increase the cost to pump water and often result in the need to replace existing wells;
- declining water levels pose great problems for people operating a single well for smaller farms;
- one of the six apprentices in the United States Bureau of Reclamation's apprenticeship program for the Navajo-Gallup Water Supply Project is a woman;
- the connection between the surface water of the San Juan River and ground water;
- the projected total demand for the Navajo-Gallup Water Supply Project water;
- how the Navajo-Gallup Water Supply Project is being funded, the availability of American Rescue Plan Act of 2021 (ARPA) funding for the project and how the Navajo Nation is using available ARPA funds; and
- construction materials for the Navajo-Gallup Water Supply Project and the type of pipe being used.

### **Approval of Minutes**

On a motion made, seconded and duly passed, the minutes of the committee's June 15, 2021 meeting were approved as submitted.

### **Bonding and Capping for Oil and Gas Wells**

Adrienne Sandoval, director, Oil Conservation Division (OCD), Energy, Minerals and Natural Resources Department (EMNRD), and Tarin Nix, deputy commissioner of public affairs, State Land Office, presented on bonding and capping for oil and gas wells.

Ms. Sandoval discussed the Oil and Gas Act, which gives the OCD its statutory jurisdiction to protect the rights of owners of oil and gas wells, prevent the waste of oil and gas resources and protect human health and the environment. She stated that the Oil and Gas Act requires the OCD to collect financial assurance to plug wells and remediate orphaned well sites. In addition, that act requires the OCD to create a reclamation fund that is administered by the OCD and used for well plugging and the remediation of orphaned well sites. Ms. Sandoval explained that operators of production, injection and service wells are required to post a financial assurance for well plugging and remediation in the form of a cash bond, surety, letter of credit or plugging insurance. Ms. Sandoval discussed how bonding amounts were increased by the legislature in 2018, and she also discussed orphan wells, explaining that: there are approximately 312 orphan wells on state and private land; it costs an average of \$35,000 to plug an orphan well; the total liability to plug orphan wells is approximately \$10.9 million; the OCD has approximately \$2.2 million available in financial assurance to plug orphan wells without the inclusion of remediation; and there are an additional 293 orphan wells on federal land.

Ms. Sandoval discussed the OCD-administered remediation fund that, as of June 23, 2021, had a balance of \$7,434,424. She explained that the OCD evaluates wells based on the available bonding provided by the well operator, the proximity of the well to other wells, the history of issues with noncompliance, the age of the well and how long the well has been abandoned. The OCD prioritizes wells that pose a threat to human health or the environment. Ms. Sandoval stated that there are many challenges regarding the plugging of orphan wells, including locating the wells, getting the operator to comply with agency-issued directives, gaining access to the well site and environmental contamination of the well site. She discussed the plugging of wells on state and private land and explained that, since 2015, the OCD has plugged 185 wells on state land and spent approximately \$6.6 million of the reclamation fund. Ms. Sandoval stated that the OCD receives grants from the federal Bureau of Land Management to plug orphan wells and remediate well sites and that the OCD has spent \$1,746,761 to plug 49 wells on federal land. The presentation can be found here:

<https://www.nmlegis.gov/handouts/WNR%20071221%20Item%202%20OCD%20Bonding%20and%20Plugging.pdf>.

In relation to the bonding and plugging of oil and gas wells, Ms. Nix discussed: a bonding working group; an analysis of the adequacy of financial assurance requirements for oil and gas infrastructure on state trust and private lands; and the State Land Office's enforcement and accountability program. She stated that the bonding working group, which completed its work in November 2020, consisted of major and independent producers from the Permian Basin and northwest oil and gas fields, midstream and produced water operators and three nongovernmental bonding experts, all of which worked in collaboration with the State Land Office, the OCD and the Center for Applied Research. Ms. Nix presented the findings of the financial assurances study on the costs, financial assurances and estimated financial assurances gap for well plugging, downhole abandonment, surface facility decommissioning and well site surface reclamation. Regarding the findings of the study, Ms. Nix said that: the \$8.37 billion

cleanup figure is an estimate of total liability, not necessarily the state's liability; the current financial assurance requirement structures are regressive; the overlapping regulatory authority complicates requirements; the data pertaining to pipelines is particularly lacking, especially for produced water and small-diameter pipelines; and most oil and gas infrastructure that is not located within a well site has no financial assurance requirements. She explained that the next steps involve forming a statewide working group, holding statewide public meetings, initiating rulemaking and expanding the State Land Office's enforcement and accountability program. The presentation can be found here:

<https://www.nmlegis.gov/handouts/WNR%20071221%20Item%202%20State%20Land%20Office%20Bonding.pdf>.

Questions and comments from committee members included the following topics:

- there is a gap in funding to plug orphan wells and remediate the well sites;
- reclamation funds were previously being used to pay for the general operations of the OCD;
- the number of wells that need to be plugged or remediated on state, private and federal land; and
- the rules related to bonding and plugging when leases are transferred.

### **Methane Capture Practices and Implementation of the Natural Gas Waste Rule**

Ms. Sandoval and Ms. Nix presented on methane capture practices and the implementation of the natural gas waste rule.

Ms. Sandoval provided the committee with an overview of the process that resulted in the adoption of the methane rule. She explained that the pre-hearing process included robust stakeholder and public engagement with the EMNRD over a two-year period and the formation of the Methane Advisory Panel, which consisted of representatives from the EMNRD and the Department of Environment and a cross section of stakeholders and technical experts. The Methane Advisory Panel produced a technical background report related to specific oil and natural gas equipment and processes for consideration in moving forward with an enforceable methane regulatory strategy. Ms. Sandoval talked about pre-proposal stakeholder engagement for the methane rule and a time line from the first hearings to the effective date of the rule. She summarized the methane rule, stating that phase one of the rule initiates a robust natural gas loss reporting program and phase two, which begins in 2022, establishes enforceable targets for operators to reduce natural gas waste, starting from the level of natural gas waste identified in phase one. Ms. Sandoval stated that the methane rule prohibits routine venting and flaring and regulates upstream and midstream sectors. She presented the key effective dates for the methane rule and discussed opportunities for continued engagement that include geographical information system mapping, quarterly reporting and guidance documents. The presentation can be found here:

<https://www.nmlegis.gov/handouts/WNR%20071221%20Item%203%20OCD%20Natural%20Gas%20Waste%20Rules.pdf>.

Ms. Nix explained that the State Land Office worked with the OCD and the EMNRD to strengthen the methane rule by helping to increase reporting requirements for low-producing wells, guaranteeing third-party verification of data and ensuring the State Land Office's legal authority to collect royalty payments from vented and flared gas. She stated that the methane rule matters to the State Land Office because it requires royalty payments on all vented and flared gas production, and the office can use the data during lease reassignments to ensure greater environmental protections. The presentation can be found here:

<https://www.nmlegis.gov/handouts/WNR%20071221%20Item%203%20State%20Land%20Office%20Methane%20Capture.pdf>.

Questions and comments from committee members included the following topics:

- with respect to how the methane rule will affect low-volume well operations, Ms. Sandoval stated that there is flexibility incorporated into the rule that allows the OCD room to work with low-volume operations to ensure that they are able to stay operational;
- in response to a question from the committee, Ms. Sandoval summarized her qualifications; and
- health problems may occur for people living in areas with oil and gas drilling.

#### **Update from Red Willow Farming Group**

Elvis Bitsilly, president, Red Willow Farm Board, Tohatchi Chapter, Navajo Nation; Geneva Begay, secretary and treasurer, Red Willow Farm Board, Tohatchi Chapter, Navajo Nation; and Sam Natonabah, Jr., vice president, Red Willow Farm Board, Tohatchi Chapter, Navajo Nation, provided the committee with an update on the Red Willow Farming Group and the Chuska Lake Reservoir.

The panel explained that the Red Willow Farm was established in 1869 and, since 1934, has relied on water from the Chuska Lake Reservoir. Recently, the farm used \$400,000 in funds allocated by the state to drill an irrigation well and install a water storage tank to supply water to the 50 currently active farmers. The panel stated that the farm still needs \$297,000 to complete the power line, power drop, electrical control panel, pump house and security fencing around the well. The panel recommended that the following projects be added to the ARPA projects for 2021: a diversion dam canal to connect the farm to the Chuska Lake Reservoir (\$300,000 project cost estimate) and an evaluation and inspection of the Chuska Lake Dam (\$200,000 project cost estimate). The presentation can be found here:

<https://www.nmlegis.gov/handouts/WNR%20071221%20Item%204%20Tohatchi%20Red%20Willow%20Farm%20Project.pdf>.

Questions and comments from committee members included the following topics:

- it is good to hear about some of the smaller farm operations that may not get as much attention as the bigger farms;

- the history of Chuska Lake and how it has come to be empty;
- whether the Navajo-Gallup Water Supply Project will serve the Red Willow Farm and the aim of that project being to supply water for domestic uses; and
- the United States Army Corps of Engineers constructed the diversion dam.

### **Recess**

The committee recessed at 4:39 p.m.

### **Tuesday, July 13**

#### **Reconvene (9:05 a.m.)**

Senator Stefanics reconvened the meeting, and Dr. James Malm, chancellor, University of New Mexico-Gallup, welcomed the committee to the university.

#### **State of Drought in the State and Long-Term Considerations (9:10 a.m.)**

Dr. David DuBois, state climatologist, Office of State Climatologist, and Dr. David Gutzler, professor emeritus, Earth and Planetary Sciences Department, University of New Mexico, discussed the drought in New Mexico and its long-term considerations. The presentation documents can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=WNR&Date=7/12/2021&ItemNumber=5>.

#### **Acequia Observations: Drought and Climate Change and Community-Based Responses (11:06 a.m.)**

Paula Garcia, executive director, New Mexico Acequia Association, discussed drought, climate change and community-based responses in relation to acequias. The presentation can be found here:

<https://www.nmlegis.gov/handouts/WNR%20071221%20Item%206%20New%20Mexico%20Acequia%20Association.pdf>.

#### **State Water Planning in the Face of Drought Conditions (11:41 a.m.)**

Rolf Schmidt-Petersen, director, Interstate Stream Commission, presented on state water planning during drought conditions. The presentation can be found here:

<https://www.nmlegis.gov/handouts/WNR%20071221%20Item%207%20State%20Water%20Planning%20in%20Face%20of%20Drought.pdf>.

#### **The Future of the San Juan Generating Station (12:23 p.m.)**

Nate Duckett, mayor, City of Farmington; Hank Adair, director, Farmington Electric Utility System, City of Farmington; Cindy Crane, chief executive officer, Enchant Energy; Peter Mandelstam, chief operating officer, Enchant Energy; Arvin Trujillo, chief executive officer, Four Corners Economic Development; Matthew Jaramillo, Government and Public Affairs,



Public Service Company of New Mexico; and Mike Eisenfeld, San Juan Citizens Alliance, discussed the future of the San Juan Generating Station. The presentation can be found here:

<https://www.nmlegis.gov/handouts/WNR%20071221%20Item%208%20City%20of%20Farmington%20and%20Enchant%20Energy%20Corporation.pdf>.

**Adjournment**

There being no further business before the committee, the meeting adjourned at 2:47 p.m.