

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

November 29-30, 2010
Room 307, State Capitol
Santa Fe

Present

Rep. Andy Nuñez, Chair
Sen. Phil A. Griego, Vice Chair
Rep. Paul C. Bandy (11/29)
Rep. Ray Begaye
Rep. Joseph Cervantes
Sen. Mary Jane M. Garcia (by phone)
Rep. Thomas A. Garcia (11/29)
Rep. William J. Gray
Sen. Clinton D. Harden, Jr.
Rep. Larry A. Larrañaga
Rep. Kathy A. McCoy
Sen. George K. Munoz (11/30)
Sen. Gerald Ortiz y Pino
Sen. Mary Kay Papen
Sen. Sander Rue

Advisory Members

Sen. Vernon D. Asbill
Rep. Anna M. Crook
Rep. Brian F. Egolf, Jr. (11/30)
Rep. Candy Spence Ezzell
Sen. Dede Feldman (11/29)
Rep. Ben Lujan (11/30)
Rep. James Roger Madalena (11/29)
Sen. Cisco McSorley
Rep. Danice Picraux (11/29)
Sen. Nancy Rodriguez
Rep. James R.J. Strickler
Rep. Don L. Tripp

Guest Legislators

Rep. Miguel P. Garcia
Rep. Dennis J. Roch (11/29)

Sen. Rod Adair

Absent

Rep. Dona G. Irwin
Sen. Steven P. Neville
Rep. Mimi Stewart

Sen. Carlos R. Cisneros
Rep. Nora Espinoza
Sen. Timothy Z. Jennings
Sen. Gay G. Kernan
Rep. Henry Kiki Saavedra
Rep. Jeff Steinborn
Sen. Peter Wirth

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

Staff

Jon Boller
Kim Bannerman
Jeret Fleetwood

Minutes Approval

Because the committee will not meet again this year, the minutes of this meeting have not been officially approved by the committee.

Monday, November 29

New Mexico Forest and Watershed Restoration Institute

Dr. Andrew Egan, director, New Mexico Forest and Watershed Restoration Institute (NMFWRI), explained that the NMFWRI is one of three institutes chartered under the federal Southwest Forest Health and Wildfire Prevention Act of 2004, which was enacted in response to catastrophic fires in the western states. Dr. Egan noted that the NMFWRI has been engaged in nearly 100 projects across New Mexico and the southwest and that it provides practical knowledge and technical assistance in forest and woodland restoration to reduce the threat of catastrophic wildfire and to restore healthy and sustainable forest ecosystems. The program is funded on both state and federal levels, with three and one-half full-time-equivalent employees funded by the state, he said. Dr. Egan described several projects the NMFWRI is working on, including the development of restoration-based businesses and jobs in partnership with the Alamo Navajo community and the facilitation of partnerships and collaboration with soil and water conservation districts, land grants, local governments and state and federal agencies to reduce the threat of wildfires and improve watershed health on public and private lands in the state.

Fix a Leak Week

Miguel Suazo, Wellford Energy Advisors, and Charles Fricke, Echologics, noted that there are over 240,000 water main breaks in the United States annually, and that the vast majority of leaks go undetected, which results in up to 30% of the water being lost in water systems. Mr. Suazo went on to describe leak detection technology that uses sound to determine the location of leaks without the necessity of digging up pipes. The technology, he said, costs about \$30,000, which includes training in the use of the equipment. He urged the committee to promote federal legislation to fund leak detection programs throughout the United States.

The committee approved the minutes of the October meeting without objection.

Off-Highway Vehicle Licensing and Regulation

David Chester, head of the Off-Highway Vehicle (OHV) Program for the Department of Game and Fish, outlined the program and rule changes that have been adopted to implement the changes in laws governing OHV use and licensing. Major changes include new rules on the

placement and display of identification plates or decals on OHVs, implementation of online safety training programs and various outreach and grant programs. Mr. Chester noted that there has been a significant increase in compliance with OHV rules; for example, he said, out-of-state OHV users increased compliance from between 40% to 50% to between 80% to 95%.

Levee Task Force Report

Joe Quintana, regional planning manager for the Mid-Region Council of Governments, reported that the Mid-Rio Grande Levee Task Force held quarterly meetings over the past year concerning issues raised by the committee at its last meeting of the 2009 interim. Those issues included whether the Federal Emergency Management Agency (FEMA) would be moving toward a more risk-based standard for the issuance of flood insurance; the possibility of changing vegetation standards for levees to avoid having to remove trees from the bosque in the Corrales and Albuquerque areas; whether economic impact and cost-benefit studies will be done to help determine if any or all of the levees and spoil banks need to be rebuilt; and what sources of funding for projects could be expected from federal sources, local government bodies tasked with flood control or levee maintenance and state agency sources.

Janet Jarratt, chair of the Middle Rio Grande Conservancy District (MRGCD) board, said that the FEMA is moving toward a risk-based management model for flood insurance and that a study on the vegetation variance issue is forthcoming in December. She also reported that there has been a delay in construction of levees to replace existing spoil banks in the middle Rio Grande.

Deb Foley, United States Army Corps of Engineers, said that the corps must do an economic analysis of projects, which must produce at least \$1.00 in benefits for every \$1.00 spent, and that there must be an independent external peer review of all projects. As for the funding of projects, she reported that the corps is currently operating under a continuing resolution, so there is no budget for 2011 as yet. Current cost-sharing arrangements for the various proposed projects range from a 50% to 75% federal share, depending on the project, she noted.

MRGCD Election Options

Frank Chavez, environment director for the Pueblo of Sandia, briefly outlined the preliminary findings of a task force that was established, pursuant to a request in Senate Memorial 21 (2010), to come up with alternatives to the present election procedures for the MRGCD. Mr. Chavez said there are 19 members on the task force and that they hoped to have a final report to submit to the committee and the legislature sometime in December.

Landfill Permitting Process

Mark Miller and Keith Gordon, National Solid Waste Management Association, and Marline Foyer, Waste Management, Inc., requested the committee to support legislation that would give privately owned landfills the same 20-year permits for which public sector landfills are eligible. Ms. Foyer noted that other than the permit renewal process, public and private sector landfills are subject to the same regulations and that having to renew a permit every 10

years unnecessarily increases costs to the consumer. Representatives from the New Mexico Municipal League and the New Mexico Association of Counties expressed support for the proposal, while Doug Meiklejohn of the New Mexico Environmental Law Center said he opposes it.

Tuesday, November 30

Proposed Legislation for the 2011 Legislative Session

The committee reconvened at 9:15 a.m. on Tuesday, November 30, 2010, to consider endorsement of legislation. The committee endorsed the following pieces of legislation:

- a bill to create the Utton Transboundary Resources Center and the Joe M Stell Water Ombudsman Program at the University of New Mexico School of Law;
- a bill amending the Wastewater Facility Construction Loan Act to include mutual domestic water consumers associations in the definition of "local authority". Enactment of the bill would make mutual domestic water consumers associations eligible to receive financial assistance for the installation and operation of wastewater facilities;
- a bill expanding the scope of in-state purchasing preferences by state and local government agencies;
- a bill to appropriate \$85,000 to the New Mexico Department of Agriculture to promote and develop the state's farmers' markets; and
- a house joint memorial recognizing that revitalization and development of local and regional food systems are critical to promoting the health, well-being and economic vitality of rural and underserved urban communities.

The committee failed to endorse the following proposed legislation:

- a bill appropriating \$1.7 million for soil and water conservation district programs;
- a bill requiring senate approval of appointees to the Soil and Water Conservation Commission;
- a bill making employees of mutual domestic water consumers associations eligible for public employee retirement;
- a bill requiring state and local agencies that purchase food to purchase a certain amount of food that is either produced or processed in New Mexico;
- a bill that would establish a fund to assist small water and wastewater systems to pay for certified operators, administration expenses and connection expenses to connect to other systems;
- a bill to allow a public utility to increase rates without hearings if the increase is necessary to cover the costs of water rights purchases; and
- a bill providing for the ownership and conveyance of pore space.

The committee adjourned at 12:15 p.m.