

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

**September 3, 2020
Video Conference**

The second meeting of the Water and Natural Resources Committee was called to order by Representative Matthew McQueen, co-chair, on September 3, 2020 at 9:04 a.m. by video and audio conference via an online platform.

Present

Rep. Matthew McQueen, Co-Chair
Sen. Joseph Cervantes, Vice Chair
Rep. Abbas Akhil
Rep. Gail Armstrong
Rep. Paul C. Bandy
Rep. Christine Chandler
Rep. Joanne J. Ferrary
Rep. Angelica Rubio
Sen. Sander Rue
Rep. Larry R. Scott
Sen. Benny Shendo, Jr.
Rep. Nathan P. Small
Rep. Melanie A. Stansbury
Sen. Jeff Steinborn
Sen. Mimi Stewart
Rep. Candie G. Sweetser

Absent

Rep. Derrick J. Lente, Co-Chair
Sen. Craig W. Brandt
Rep. James R.J. Strickler
Sen. Pat Woods

Advisory Members

Rep. Anthony Allison
Sen. Pete Campos
Rep. Jack Chatfield
Rep. Randal S. Crowder
Rep. Candy Spence Ezzell
Sen. Gregg Fulfer
Sen. Roberto "Bobby" J. Gonzales
Sen. Ron Griggs
Rep. Susan K. Herrera
Sen. Stuart Ingle
Sen. Gay G. Kernan
Rep. Tim D. Lewis
Sen. Linda M. Lopez

Sen. Elizabeth "Liz" Stefanics

Rep. Tara L. Lujan
Rep. Javier Martínez
Rep. Rodolpho "Rudy" S. Martinez
Sen. Steven P. Neville
Rep. Greg Nibert
Sen. Gerald Ortiz y Pino
Sen. Mary Kay Papen
Rep. Jane E. Powdrell-Culbert
Rep. William "Bill" R. Rehm
Sen. Nancy Rodriguez
Rep. G. Andrés Romero
Rep. Patricia Roybal Caballero
Rep. Tomás E. Salazar
Rep. Debra M. Sariñana
Sen. Antoinette Sedillo Lopez
Sen. William E. Sharer
Sen. John Arthur Smith
Rep. James G. Townsend
Sen. Peter Wirth
Rep. Martin R. Zamora

Staff

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

Handouts

Handouts and other written testimony are in the meeting file and posted on the legislature's website.

Thursday, September 3

Oil and Gas Market Update (9:06 a.m.)

Gabe Wade, deputy director, Oil Conservation Division (OCD), Energy, Minerals and Natural Resources Department (EMNRD), discussed the impact of the oil and gas market on the OCD, and Danny Martinez, director, Royalty Management Division, State Land Office (SLO), provided an update on the oil and gas market, including a comparison of oil and gas distributions in 2002 and 2020 and oil and gas royalty production levels, prices and distributions for fiscal year 2020. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=WNR&Date=9/3/2020&ItemNumber=1>.

Answers to questions and comments from committee members followed the presentation (9:30 a.m.) and included the following.

- If there is an accident with fracking fluids, the company responsible has to self-report.
- The OCD regulates waste of natural resources, not air quality.
- The OCD does not track the number of rigs in Texas.
- The OCD has asked at each legislative session for more funding for staff and operations. There has been in the past, and will be in the future, a request for more inspectors in the field. In addition, the OCD will be looking to build out its business and information technology systems.

Methane Regulation (10:08 a.m.)

Tiffany Polak, deputy director, OCD, EMNRD, and Sandra Ely, director, Environmental Protection Division, Department of Environment (NMED), discussed a joint strategy of the EMNRD and the NMED to develop a framework to regulate methane emissions and prevent waste. Mr. Martinez, using the final slide from his handout for the first presentation, presented royalty revenue from vented and flared gas on state trust wells for fiscal year 2020. Patrick Padilla, director, Regulatory and Government Relations, EOG Resources, Inc., talked about the role EOG Resources, Inc. can play in methane reduction. Jon Goldstein, director, Regulatory and Legislative Affairs, Environmental Defense Fund, provided measurements of oil and gas pollution and methane waste in the state and the potential improvements that could be realized by reducing emissions. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=WNR&Date=9/3/2020&ItemNumber=2>.

Answers to questions and comments from committee members followed the presentation (11:02 a.m.) and included the following.

- The NMED monitors air quality and has not done any public health studies regarding methane, as that is not something the NMED normally does nor does it have the resources to do so, but other studies state that there are expected to be more public health impacts related to methane emissions.
- Regarding exemptions from methane emissions rules, agencies are looking at a reasonable threshold for entering the program. Does the cost of controls make sense, or would it be too burdensome, considering the volume of emissions that may come from that source? It is an open question, and that is why the NMED is having public comment right now. The NMED wants to find out if that threshold is the right threshold.
- Exemptions under current rules for stripper wells and wells that fall under a potential to emit a threshold of 15 tons per year leave approximately 95% of the wells in the state unchecked. Eliminating the exemptions would allow all wells in the state to be checked and maximize the benefits of the rules.

Bonding Requirements and Abandoned Wells (11:42 a.m.)

Mr. Wade described the OCD's bonding requirements for wells, what an orphan well is, what happens when an operator orphans a well and the number of wells plugged on state and federal land. Tarin Nix, deputy commissioner of public affairs, SLO, provided the SLO's bonding requirements on oil and gas wells in the state and the cost of plugging wells. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=WNR&Date=9/3/2020&ItemNumber=3>.

Answers to questions and comments from committee members followed the presentation (12:05 p.m.) and included the following.

- No legislative action is required for the SLO bonding rule. Legislative action is needed to require bonding for companies that operate on private land.
- While some private landowners require companies to be bonded to operate on their land, there likely would not be any remediation or reclamation unless it was mandated.

Approval of Minutes

On a motion made, seconded and duly passed, the minutes of the August 6, 2020 meeting were approved as submitted.

Produced Water Rules In and Out of the Oil Field (1:32 p.m.)

In a presentation focused on produced water and the impact of House Judiciary Committee Substitute for House Energy, Environment and Natural Resources Committee Substitute for House Bill 546 (2019) (HB 546) on the administration of reusing produced water, Bill Brancard, general counsel, EMNRD, explained produced water and described the EMNRD's administrative and regulatory authority over the reuse of produced water within the oil and gas industry. Rebecca Roose, director, Water Protection Division, NMED, described the NMED's jurisdiction over the treatment and use of produced water for purposes outside the oil and gas sector and current rulemaking efforts. Jennifer Bradfute, senior attorney, Marathon Oil Corporation, summarized the primary intent of HB 546. Daniel Timmons, staff attorney, WildEarth Guardians, discussed uncertainties with the risks associated with produced water and provided legislative solutions to ensure the legislature's objective of protecting public health and the environment. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=WNR&Date=9/3/2020&ItemNumber=4>.

Answers to questions and comments from committee members followed the presentation (2:35 p.m.) and included the following.

- While there is no specific prohibition on spilling produced water, if there is a spill, there are requirements to report the spill and take further actions by specific deadlines. Failure to meet those deadlines could result in a \$2,500 penalty per day, up to \$200,000, pursuant to the penalties imposed by HB 546.
- The statewide public engagement process for rulemaking will continue, with adjustments to protect public health during the COVID-19 pandemic. The NMED will again engage in a public outreach campaign on the Phase 1 draft rules for public input before proposing anything to the Water Quality Control Commission. The public involvement plan is being updated and will be posted to the website by the fall, and there have been recent conversations within the New Mexico Produced Water Research Consortium managed by New Mexico State University about increasing public engagement and opportunities for the public to understand what the consortium is doing.
- During the past year, Marathon Oil has engaged with a number of companies interested in different uses of side products and byproducts created from produced water. Some have built models around selling salt once the water is removed and the salt is dried. Others want to focus on lithium and rare minerals that can be extracted.

Oil and Gas Act Reform (3:30 p.m.)

Erik Schlenker-Goodrich, executive director, Western Environmental Law Center, provided recommendations for reforming the Oil and Gas Act. Mario Atencio, board member, Diné Citizens Against Ruining Our Environment, discussed the need for local Navajo communities to have a voice in determining the number of wells granted in their areas and the issue of the state granting exemptions for setbacks. James Jimenez, executive director, New Mexico Voices for Children, provided a recent history of unsustainable economic reliance on the oil and gas industry in the state and made recommendations for a more sustainable economy. Nick King, pastor, Carlsbad Mennonite Church, and member, Citizens Caring for the Future, provided additional recommendations. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=WNR&Date=9/3/2020&ItemNumber=5>.

Answers to questions and comments from committee members followed the presentation (3:57 p.m.) and included the following.

- One of the more important things the oil and gas industry has provided over time is an immense amount of money to invest in basic infrastructure. The executive and legislative branches have been culpable of not using those nonrecurring dollars in the most effective way to do one of the most important things that government can do, which is to provide the basic infrastructure the private economy needs to be successful: water, sewer, drainage, roads, bridges and broadband access.
- If the executive and the legislature could get together on these long-term investments, it could go a long way toward building the pathway to the future that this state needs.

New Mexico Clean Energy Workforce Development Study (4:07 p.m.)

Dr. Gabriel R. Sanchez, executive director, Center for Social Policy, University of New Mexico, provided an overview of the New Mexico Clean Energy Workforce Development Study. Bill McCamley, secretary, Workforce Solutions Department, discussed how his department will use the results of that study to further promote the clean energy sector in the state. The presentation can be found here:

<https://www.nmlegis.gov/handouts/WNR%20090320%20Item%206%20Clean%20Energy%20Workforce%20Study.pdf>.

Answers to questions and comments from committee members followed the presentation (4:21 p.m.) and included the following.

- It is surprising to hear the findings regarding the public's limited knowledge of the Energy Transition Act.
- There is misunderstanding of the Energy Transition Act. When the details of the bill are discussed, they are aspirational but should be requirements. If there are no consequences stipulated, then it is not a law, it is a memorial.

Adjournment

There being no further business before the committee, the meeting adjourned at 4:41 p.m.