

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

**June 14, 2016
Room 322, State Capitol
Santa Fe**

The first meeting of the Water and Natural Resources Committee was called to order on June 14, 2016 at 9:00 a.m. in Room 322 of the State Capitol by Representative Candy Spence Ezzell, chair.

Present

Rep. Candy Spence Ezzell, Chair
Sen. Peter Wirth, Vice Chair
Rep. Paul C. Bandy
Rep. Dona G. Irwin
Rep. James Roger Madalena
Rep. Javier Martínez
Rep. Matthew McQueen
Rep. Andy Nunez
Sen. Sander Rue
Rep. Jeff Steinborn
Sen. Mimi Stewart
Rep. James R.J. Strickler
Sen. Pat Woods

Absent

Sen. Joseph Cervantes
Rep. Randal S. Crowder
Sen. Cliff R. Pirtle
Sen. Benny Shendo, Jr.

Advisory Members

Sen. Lee S. Cotter
Rep. Bealquin Bill Gomez
Sen. Ron Griggs
Rep. Jimmie C. Hall
Rep. D. Wonda Johnson
Rep. Larry A. Larrañaga
Sen. Linda M. Lopez
Rep. Bill McCamley
Sen. Cisco McSorley
Sen. Gerald Ortiz y Pino
Sen. Mary Kay Papen
Sen. Nancy Rodriguez
Rep. Tomás E. Salazar
Rep. James G. Townsend
Rep. Don L. Tripp
Rep. Bob Wooley

Sen. Ted Barela
Rep. Cathrynn N. Brown
Sen. Pete Campos
Sen. Carlos R. Cisneros
Rep. Sharon Clahchischilliage
Rep. George Dodge, Jr.
Rep. Brian Egolf
Rep. Nora Espinoza
Rep. David M. Gallegos
Sen. Stuart Ingle
Sen. Gay G. Kernan
Sen. Carroll H. Leavell
Rep. Idalia Lechuga-Tena
Rep. Tim D. Lewis
Rep. Rick Little
Sen. Steven P. Neville

Rep. John L. Zimmerman

Rep. G. Andrés Romero

Sen. John C. Ryan

Sen. William E. Sharer

Sen. John Arthur Smith

Staff

Jon Boller, Legislative Council Service (LCS)

Gordon Meeks, LCS

Jeret Fleetwood, LCS

Guests

The guest list is in the 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, June 14

Status Reports — Office of the State Engineer and Interstate Stream Commission

Tom Blaine, state engineer, provided the committee with an update on the operations of the Office of the State Engineer (OSE). He explained that the OSE has spent the past year trying to engage water stakeholders on various issues. For example, Mr. Blaine noted that he had made trips to most of the tribes and pueblos in the state, as well as many of the acequias, to try to become better acquainted with their issues.

Mr. Blaine also discussed the OSE's efforts to reduce the backlog of water rights applications and protests, noting that applications are now reviewed within 10 days of their submission. He also explained development of a triage system in the office to identify which protests may be likely to settle without a hearing.

Mr. Blaine went on to discuss development of well drilling regulations, a draft of which should be available by July 20. He also noted that the office plans to hold a series of meetings in late August to address concerns over the proposed regulations.

Mr. Blaine provided the committee with an update on litigation between New Mexico and Texas. He explained that the special master assigned to the case was expected to issue a ruling in late 2015 or early 2016, but had not yet done so. However, Mr. Blaine noted that New Mexico and Texas have communicated with each other and have developed a framework for sharing the costs of the special master's work. He also noted that many of the parties involved in litigation with the state communicate better with each other now than they did before.

Mr. Blaine went on to discuss what he characterized as attempts by the federal government to control New Mexico's water. For example, he told the committee about an

attempt by the United States Forest Service to regulate ground water on federal lands, which was challenged by New Mexico and several other states. Mr. Blaine also noted a 2015 lawsuit between New Mexico and the federal Environmental Protection Agency regarding the federal Clean Water Act of 1977, and he described actions taken by the United States Forest Service to protect the meadow jumping mouse, which limited the ability of grazing animals to access water.

Mr. Blaine also discussed the status of various adjudications in the state. He explained that a working group had been formed to try to streamline the process and that the group's recommendation of using already adjudicated rights in some parts of the state should help save time and money. Mr. Blaine said that the OSE is trying to expedite stock well adjudications by using GPS data submitted to the office by well owners. He also updated the committee on the status of the Taos, Aamodt and Navajo settlements.

Deborah Dixon, director, Interstate Stream Commission (ISC), provided the committee with an update on the ISC's activities. She noted that in mid-winter, New Mexico's snowpack looked promising, but that most of the state is abnormally dry with a forecast calling for dry conditions through next winter.

As a result of dry conditions, Ms. Dixon explained, the ISC has begun to rely on creative ways of managing the state's compact obligations and endangered species management. For example, she mentioned that water was temporarily stored in El Vado Reservoir to delay peak flows until peak flows in the Rio Grande occurred, thus creating a better springtime environment for the Rio Grande silvery minnow.

Ms. Dixon also discussed recovery of the Pecos bluntnose shiner, explaining that the biological opinion on the fish had expired. She noted that flows are needed along about 60 miles of critical habitat and that water is being stored at Sumner Reservoir to meet that demand. Ms. Dixon said that a new biological opinion is being negotiated.

Ms. Dixon went on to discuss endangered species issues on the San Juan River, explaining that the ISC is hoping that the Colorado pikeminnow and razorback sucker are delisted by 2023. She noted that Colorado River water is being used for the fish and that New Mexico's cost share of the water use and capital projects is \$2.7 million, with \$1.8 million of that already paid.

Next, Ms. Dixon discussed regional water planning. She explained that a 2013 review of the water planning process recommended a wholesale update to water plans and dozens of meetings have been held to gather input on the planning process. Ms. Dixon said that regional plans are almost complete and should be done by fall 2016, with a complete statewide water plan finished in 2018.

Questions and comments from the committee included:

- that a permit is required for each well drilled in a declared basin;

- protests and public meetings regarding an application for an in-stream permit near Tucumcari;
- in-stream permits, which should help maintain base river flow rates, are new to New Mexico, and the OSE is moving forward carefully;
- an attorney general opinion that states that a statutory change is not required for in-stream permits;
- the ISC currently has an acting chair, but election of a new one is on the commission's next agenda;
- regional water plans do not absolve the ISC and the OSE of their constitutional and statutory duties and authority; they just help the agencies plan;
- the Navajo settlement will require about \$6 million in additional funding;
- there are at least 24 additional future water settlement funding needs;
- ditch owners are generally responsible for repair to ditches and lines;
- the definition of beneficial use of water;
- whether provisions in the Constitution of New Mexico could be strengthened to help protect New Mexico's water, particularly for agricultural use;
- the distinction between ground water and surface water in the Rio Grande Project;
- that the courts have ruled that ground water has not been appropriated as part of the Rio Grande Project; and
- the status of water cases involving the pueblos of Jemez, Zia and Santa Ana.

Michaelene Kyrala, director, strategic initiatives and legislative coordinator, Department of Environment, provided the committee with a brief presentation regarding the Water Infrastructure Team and a survey the team is conducting.

Discussion of 2016 Interim Work Plan and Itinerary

The committee developed a work plan and the following meeting schedule:

- July 14-15 Alamogordo
- August 25-26 Clovis; Tucumcari
- September 29-30 Socorro
- October 27-28 Roswell
- November 21 Santa Fe

Adjournment

There being no further business, the committee adjourned.