

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

**June 4, 2019**  
**State Capitol, Room 307**  
**Santa Fe**

The first meeting of the Water and Natural Resources Committee was called to order by Senator Joseph Cervantes, chair, on June 4, 2019 at 12:43 p.m. in Room 307 of the State Capitol in Santa Fe.

**Present**

Sen. Joseph Cervantes, Chair  
Rep. Derrick J. Lente, Co-Vice Chair  
Rep. Matthew McQueen, Co-Vice Chair  
Rep. Gail Armstrong  
Sen. Craig W. Brandt  
Rep. Angelica Rubio  
Rep. Larry R. Scott  
Sen. Benny Shendo, Jr.  
Rep. Melanie A. Stansbury  
Sen. Mimi Stewart  
Sen. Pat Woods

**Absent**

Rep. Abbas Akhil  
Rep. Paul C. Bandy  
Rep. Christine Chandler  
Rep. Joanne J. Ferrary  
Sen. Sander Rue  
Rep. Nathan P. Small  
Sen. Jeff Steinborn  
Rep. James R.J. Strickler  
Rep. Candie G. Sweetser

**Advisory Members**

Rep. Jack Chatfield  
Sen. Carlos R. Cisneros  
Rep. Susan K. Herrera  
Sen. Linda M. Lopez  
Rep. Rodolpho "Rudy" S. Martinez  
Sen. Gerald Ortiz y Pino  
Sen. Mary Kay Papen  
Rep. Jane E. Powdrell-Culbert  
Sen. Nancy Rodriguez  
Rep. Patricia Roybal Caballero  
Rep. Tomás E. Salazar  
Rep. Debra M. Sariñana  
Sen. Antoinette Sedillo Lopez  
Sen. William E. Sharer  
Rep. Martin R. Zamora

Rep. Anthony Allison  
Sen. Pete Campos  
Rep. Randal S. Crowder  
Rep. Candy Spence Ezzell  
Sen. Gregg Fulfer  
Sen. Ron Griggs  
Sen. Stuart Ingle  
Sen. Gay G. Kernan  
Rep. Tim D. Lewis  
Rep. Javier Martínez  
Sen. Steven P. Neville  
Rep. Greg Nibert  
Rep. William "Bill" R. Rehm  
Rep. G. Andrés Romero  
Sen. John Arthur Smith  
Rep. James G. Townsend  
Sen. Peter Wirth

**Staff**

Shawna Casebier, Legislative Council Service (LCS)

Pam Stokes, LCS

Jeret Fleetwood, LCS

Sara Wiedmaier, LCS

**Guests**

The guest list is in the meeting file.

**Handouts**

Handouts and other written testimony are in the meeting file and on the New Mexico Legislature's website at [www.nmlegis.gov](http://www.nmlegis.gov).

**Tuesday, June 4****Welcome and Introductions**

Senator Cervantes welcomed everyone to the meeting and invited committee members, staff and audience members to introduce themselves.

**Drought Status, Reservoir Levels, Outlook**

Dr. Dave DuBois, state climatologist, discussed the current drought status, reservoir levels and seasonal drought outlook across New Mexico. As a member of the American Association of State Climatologists, New Mexico collaborates with other states, tribes and federal agencies to compile data and track drought across the country. Dr. DuBois described the role of the New Mexico Drought Monitoring Work Group in surveilling rainfall, leading monthly meetings and making reports to the United States Drought Monitor and the New Mexico Drought Task Force.

Dr. DuBois provided highlights of snow melt in the Rio Grande, San Juan and Pecos basins, noting that this year's snow water equivalent in each basin is above the median levels measured from 1981 through 2010 and is a sharp increase from last year, which largely followed the minimum levels. He provided a list of water year precipitation data for all of the basins across the state, showing that all basins have experienced above-average rainfall and snowfall this year, with the exception of the Gila and Mimbres river basins. Although the average temperatures across most of New Mexico are below average this year, he stated that the overall trend since 1895 shows an increase in statewide temperature and drought.

As a contributor to the United States Drought Monitor, Dr. DuBois shared that his team collects empirical data on drought conditions across the state but also looks at photos and talks to locals about their experiences to gain a better understanding of the impacts of climate change. He stated that his team is seeing recovery across the state, with the exception of the northwest corner, with conditions moving out of drought into the less serious classification of abnormally dry. In the past 20 months, New Mexico has recovered greatly from drought as a result of El Niño weather patterns bringing cooler, wetter weather. Dr. DuBois emphasized that currently only 19 percent of the state is under drought conditions, with zero percent under exceptional

drought, compared to last year with 99 percent in drought and 18 percent in exceptional drought. The current forecast predicts that El Niño patterns have a 50 percent chance of continuing through the year. The outlook in New Mexico for the next three months is expected to demonstrate below-average temperatures and above-average precipitation, and even the northwest corner of the state is expected to have the drought classification removed.

John R. D'Antonio, Jr., P.E., state engineer, 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, compact deliveries, reservoir storage levels and the ongoing Active Water Resource Management (AWRM) initiative.

Although he confirmed that El Niño conditions brought above-average precipitation this year, Mr. D'Antonio noted that the reservoir storage volumes in the Middle Rio Grande Conservancy District are improving but are still below average. He discussed the role of the New Mexico Drought Task Force, which was created through executive order to evaluate the status of drought throughout New Mexico and to use state emergency funding from the Federal Emergency Management Agency (FEMA) to implement a drought recovery plan with help from the United States Department of Agriculture. He also noted a partnership with the National Aeronautics and Space Administration to collect real-time evapotranspiration rates.

Mr. D'Antonio explained that the AWRM initiative was created by the state engineer in 2003 to provide uniform statewide rules to manage resources during times of drought, protect existing water rights and meet local agreement and compact requirements. He mentioned that the state has spent about \$7 million on metering since 2002 in order to provide greater transparency of water use.

Responses to questions and comments from the committee included:

- the term "drought" can refer to meteorological drought, which is more short-term and can be relieved by snowfall and rainfall, or can refer to agricultural and ground water droughts, which are more long-term, and can also generally refer to warmer temperatures;
- the OSE also collects water data on the Canadian River watershed;
- conservation and reuse of water should be a priority;
- instruments to monitor water use and calculate soil moisture would be helpful in ensuring that water rights are being upheld and would more accurately determine if drip irrigation or flood irrigation is more consumptive;
- the OSE only monitors the seven major basins in the state, many of which still require metering infrastructure in order to determine water use by owners and overall;
- ideal storage of water is underground to avoid evaporative loss;
- in the past, the OSE has been limited in its ability to manage water throughout the state and instead can only meter reservoir levels and provide data;
- due to varying district-specific regulations, the OSE must actively work with stakeholders; and

- a bill that was intended to authorize the state engineer to manage and prioritize water use throughout the state during times of drought lacked clarity and led to millions of dollars being spent and many years of litigation before the New Mexico Supreme Court ruled in favor of the OSE in 2012.

### **Status Report — OSE**

Mr. D'Antonio provided the committee with a status report on the OSE. He began by discussing funding for the agency, which currently comes from two trust funds: the New Mexico Irrigation Works Construction Fund and the Improvement of Rio Grande Income Fund, both of which are intended to be used for infrastructure projects but are instead depleted by day-to-day operations, overhead and adjudications. In anticipation of the upcoming 30-day budgetary session next year, Mr. D'Antonio suggested that the agency be included in General Fund appropriations.

Mr. D'Antonio shared that the OSE has a vast range of duties, such as permitting, metering, adjudications, water rights settlements, dam safety, hydrologic surveys, planning and environmental compliance enforcement. Although the vacancy rate in the OSE has improved slightly, it is still at 25 percent, and Mr. D'Antonio expressed the need for visionary leaders and additional staff to fulfill the agency's many duties. He stated that the OSE is implementing cross-training opportunities and mentoring from senior staff for new hires and is actively working on building staff in core competencies, including information technology (IT), real-time monitoring, data collection and action planning.

Regarding the state water plan, Mr. D'Antonio said that the goal is to actively manage the state's water resources by ensuring fair, transparent and equitable use of water through tracking metrics, increasing staff and providing more time for the public to protest or voice concerns. The state water plan will be used as a basis to develop a 50-year plan, and it must be more inclusive of Indian water rights settlements, dam safety inspections and basin studies, he said.

Mr. D'Antonio listed some of the bills from the 2019 legislative session that created projects, such as forest and watershed restoration and advanced aquifer mapping, as well as the Water Data Act, which will allow data collected throughout the state to be shared in an integrated database. He noted the need for additional resources and staff to implement the mandates in each bill as well as to improve IT storage and infrastructure, conduct performance appraisals, tackle the backlog of over 500 water rights applicants, look at water use and conservation practices, conduct over 100 dam inspections annually and review district-specific regulations before projects commence.

Mr. D'Antonio next discussed the emergency action plans in place for some dams and FEMA funding for rehabilitation of certain high-risk dams. He informed the committee of 11 ongoing water rights adjudications, including those with various pueblos, the Navajo Nation and Texas, and emphasized the need for more resources or another team of staff to focus specifically on adjudications. He briefly mentioned diversion tactics for the Gila River; drought contingency plans for the Colorado River; the importance of the San Juan-Chama deliveries and interstate collaboration; and the status of discovery in *Texas v. New Mexico*.

In response to questions and comments from the committee, Mr. D'Antonio stated that:

- the OSE currently has enough funding to decrease the vacancy rate to 16 percent, but the General Fund appropriations would need to be increased for additional hires;
- New Mexico owes almost \$200 million in water rights settlements, and the OSE is asking Congress for \$137 million because the state has increased funding but the federal government has not; a legislative fix would be to increase the cost ceiling;
- the OSE is trying to improve salaries, especially for engineering and technology positions, but funding is limited and it is difficult to compete with other sectors;
- the OSE requests emergency funding for dam safety and improvements through the governor and the legislature, but it might be more prudent to create a specific dam safety response fund;
- in regard to diversion of the Gila River, the governor has expressed that she does not support diversion and has tasked the Interstate Stream Commission with finding alternatives, although the federal environmental impact statement process is already under way, millions of dollars have already been allocated to Central Arizona Project entities for various diversion projects and over 200 public meetings have already taken place to explore alternative possibilities; and
- capital outlay from the 2019 legislative session allocated \$9 million for over 60 acequia projects, but there needs to be a better system for prioritization of projects.

#### **Discussion of 2019 Interim Work Plan and Meeting Schedule**

The committee provided feedback and suggestions for the 2019 work plan and meeting locations. The chair explained 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.

#### **Adjournment**

There being no further business, the meeting adjourned at 3:55 p.m.