

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

**August 26-27, 2024**  
**New Mexico Institute of Mining and Technology**  
**Fidel Center, Ballroom B and C**  
**801 Leroy Place**  
**Socorro**

The third meeting of the Water and Natural Resources Committee was called to order by Senator Elizabeth "Liz" Stefanics, vice chair, on August 26, 2024 at 9:38 a.m. at the New Mexico Institute of Mining and Technology (NMIMT) in Socorro.

**Present**

Rep. Matthew McQueen, Chair  
Sen. Elizabeth "Liz" Stefanics, Vice Chair  
Rep. Gail Armstrong  
Sen. Pete Campos  
Rep. Kathleen Cates  
Rep. Joanne J. Ferrary (8/26)  
Rep. Tara L. Lujan  
Rep. Marian Matthews  
Rep. Kristina Ortez  
Rep. Andrea Romero  
Rep. Debra M. Sariñana  
Rep. Martin R. Zamora

**Advisory Members**

Sen. Linda M. López  
Rep. William "Bill" R. Rehm  
Sen. Antoinette Sedillo Lopez  
Sen. Mimi Stewart (8/26)

**Absent**

Sen. Joseph Cervantes  
Rep. Miguel P. García  
Rep. Susan K. Herrera  
Sen. Steven McCutcheon II  
Rep. Larry R. Scott  
Sen. Pat Woods  
  
Sen. Crystal Brantley  
Rep. Christine Chandler  
Rep. Jack Chatfield  
Rep. Candy Spence Ezzell  
Rep. Jenifer Jones  
Rep. Rod Montoya  
Sen. Gerald Ortiz y Pino  
Rep. Cristina Parajón  
Sen. Shannon D. Pinto  
Sen. Cliff R. Pirtle  
Rep. G. Andrés Romero  
Rep. Patricia Roybal Caballero  
Sen. Benny Shendo, Jr.  
Rep. Nathan P. Small  
Sen. Jeff Steinborn  
Sen. Peter Wirth

## **Guest Legislators**

Rep. Micaela Lara Cadena

Rep. Willie D. Madrid

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

## **Staff**

Sara Wiedmaier, Researcher, Legislative Council Service (LCS)

Tom Kricka, Staff Attorney, LCS

Angela Dakan, Staff, 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 recorded 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.

## **Monday, August 26**

### **Welcome and Introductions (9:38 a.m.)**

Senator Stefanics thanked the NMIMT for hosting the meeting, and Michael Jackson, Ph.D., provost and vice president for academic affairs, NMIMT, welcomed the committee and spoke about the institute's academic and research programs. Senator Stefanics then asked committee members and staff to introduce themselves.

### **Introduction of New State Engineer (10:00 a.m.)**

Elizabeth Anderson, state engineer, Office of the State Engineer (OSE), introduced herself as New Mexico's first female state engineer and discussed her background and the experience she will bring to the state.

### **50-Year Water Plan: Overview and Funding (10:26 a.m.)**

Rebecca Roose, infrastructure advisor, Office of the Governor, and Tanya Trujillo, deputy state engineer, OSE, discussed how the state can manage the anticipated freshwater shortage over the next 50 years, including water conservation, developing new water supplies and recruiting a strong water workforce. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=WNR&Date=8/26/2024&ItemNumber=3>.

### **"Strategic Water Supply": Brackish and Produced Water (11:22 a.m.)**

Ms. Roose and James Kenney, secretary, Department of Environment (NMED), provided an overview of the governor's Strategic Water Supply initiative that includes a target of 100,000 acre-feet of new water for clean energy production by 2028 and 50,000 acre-feet of treated brackish water for aquifer and surface water augmentation by 2035.

Tricia Snyder, program director, Rivers and Waters, New Mexico Wild, discussed concerns about where brackish water exists, how difficult it would be to extract and desalinate and the impacts of those activities on shallow aquifers and surface waters.

Tannis Fox, senior attorney, Western Environmental Law Center, discussed the known contaminants in and stated the need for more research on the use of produced water. She recommended developing water quality standards, limiting the use of freshwater in oil and gas operations and diversifying the composition of the New Mexico Produced Water Research Consortium.

Norm Gaume, P.E. (retired), president, Water Advocates for New Mexico and the Middle Rio Grande, discussed improving the vetting of proposed water projects and recommended enforcement of existing environmental permit requirements and regulations for off-oil-field uses of produced water. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=WNR&Date=8/26/2024&ItemNumber=4>.

### **Approval of Minutes (1:19 p.m.)**

On a motion made and seconded, and without opposition, the minutes of the July 22-23, 2024 meeting were approved as submitted.

### **Strategic Water Reserve (SWR): Funding and Proposed Changes (1:20 p.m.)**

Hannah Riseley-White, director, Interstate Stream Commission (ISC), presented updates on the SWR, which allows the ISC to acquire water rights for interstate compact compliance and efforts to protect local endangered species. She said that the state needs to prepare for 25% less water in rivers and aquifers by 2070, that the SWR is critical to supporting future stream flows and that sufficient and sustained funding is needed to support successful water rights purchases.

Martha Schumann Cooper, freshwater program director, The Nature Conservancy-New Mexico, shared an update on how the SWR and other public and private funding is being used for compact compliance, to address water scarcity and to protect endangered fish species in the Colorado River Basin.

Anjali Bean, senior policy analyst, Healthy Rivers, Western Resource Advocates, discussed improving the effectiveness of the SWR, including creating a permanent fund for the

reserve, lifting administrative burdens on willing sellers and expanding the reserve's purpose to allow water rights acquisitions for outdoor recreation. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=WNR&Date=8/26/2024&ItemNumber=5>.

### **Indian Water Rights Litigation and Settlements (2:07 p.m.)**

Ms. Trujillo and Nathaniel "Nat" Chakeres, general counsel, OSE, provided an overview of settled Indian water rights claims, federal and state future funding commitments, current negotiations and the implementation of existing settlements.

Larry Phillips, Jr., governor, Ohkay Owingeh, and Darel Madrid, president, Rio de Chama Acequia Association, discussed resolving water rights issues with the state and federal governments and expressed a need for infrastructure restoration projects to address the impacts of climate change. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=WNR&Date=8/26/2024&ItemNumber=6>.

### **Low Flow Conveyance Channel (LFCC) (2:46 p.m.)**

Jennifer Faler, manager, Albuquerque Area Office, United States Bureau of Reclamation (USBR), provided an overview of projects within the Rio Grande's San Acacia Reach, including river realignments near the Bosque del Apache National Wildlife Refuge (NWR), and discussed the LFCC's current purpose, operations and goals.

Jason Casuga, chief engineer and chief executive officer, Middle Rio Grande Conservancy District (MRGCD), talked about what should happen with the water the USBR controls near Elephant Butte, how the Rio Grande Compact limits the ability to store water and how the LFCC should feed back into the Rio Grande the same as other tributaries.

Ms. Riseley-White talked about the LFCC being one of many tools, including leveraging federal and state funding, to address the state's water challenges and the critical nature of examining the entire San Acacia Reach to find where conveyance and habitat could be improved.

Gina Dello Russo, Friends of Bosque del Apache, spoke about the LFCC's relationship to the Bosque del Apache NWR and the importance of identifying thresholds where negative impacts to riparian habitats could be irreversible.

Daniel Timmons, Rio Grande waterkeeper and wild rivers program director, WildEarth Guardians, discussed alternatives to using the LFCC, including the SWR, incentives to shift to low water-use crops, improvements in irrigation infrastructure and adequate staffing to support regional water planning. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=WNR&Date=8/26/2024&ItemNumber=7>.

### **Compact Compliance: Rio Grande and Colorado River (3:51 p.m.)**

Ms. Riseley-White discussed the state's obligations under the Rio Grande and Colorado River compacts, how prepared the state's regulatory framework is for the management of surface and ground waters and the potential transformative impact of the Water Security Planning Act on regional water planning. Estevan Lopez, commissioner, Upper Colorado River Commission, provided updates on the Colorado River conditions for upper division states, including anticipated actions to take after interim guidelines for lower basin shortages expire in 2026.

Mr. Casuga said that complying with the Rio Grande Compact is in the state's best interest in order to avoid sustained curtailments and be able to store more native water. He also asked what the incentive for water conservation is when water that is conserved does not end up back in the river.

Samantha Barncastle, general counsel, Elephant Butte Irrigation District (EBID), discussed the importance of reducing the depletion of ground water, how pumping ground water negatively impacts the availability of surface water and ways in which the EBID has been studying and implementing sustainable infrastructure improvement and conservation programs, including harnessing storm water and creating and enhancing existing flood control structures.

Ms. Bean explained how artificially low river flows and persistent drought creates a snowball effect with the buildup of silt and flooding and ultimately results in the inability to release water downstream. She stated that healthy, flowing rivers provide direct benefits to habitat and compact compliance. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=WNR&Date=8/26/2024&ItemNumber=8>.

### **Recess**

The meeting recessed at 5:20 p.m.

### **Tuesday, August 27**

### **Reconvene**

The meeting reconvened at 9:05 a.m.

### **Surface Water Permitting and Water Quality Act Revisions (9:09 a.m.)**

Shelly Lemon, chief, Surface Water Quality Bureau, NMED; Rachel Conn, deputy director, Amigos Bravos; and Vidal Gonzales, community planner and governance specialist, New Mexico Acequia Association (NMAA), discussed the impact of the *Sackett v. Environmental Protection Agency* (EPA) decision, which likely removes many of the state's waters from protections under the federal Clean Water Act. Ms. Lemon discussed the development of a state surface water discharge permitting program and the need to enact a new state statute that meets EPA requirements for point source discharges. Ms. Conn presented on worst-case scenarios for the state waters that are under threat of losing federal protections and echoed the importance of a state permitting program. Mr. Gonzales spoke about his service on the NMED's Surface Water Advisory Panel in benefit of acequias and the important role clean

acequias play in the traditions and culture of New Mexico. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=WNR&Date=8/26/2024&ItemNumber=9>.

### **Regional Water Planning (10:20 a.m.)**

Ms. Riseley-White and Sara Fox, P.E., senior water planner, ISC, gave an update on the implementation of the Water Security Planning Act, including public engagement campaign highlights and a time line that projects drafted rules and adoption of guidelines by spring of 2025. Ms. Riseley-White highlighted investments in water projects in the Southwest region through the New Mexico Unit Fund.

Paula Garcia, executive director, NMAA, and member, Protect New Mexico Waters Coalition, discussed the major role acequias play in local-level water management and the NMAA's approach to water planning, including building capacity for acequia associations with decision support tools and a guidebook for acequia representation in regional water planning.

Bill Connor, executive director, New Mexico Rural Water Association, discussed issues with small rural public water systems, including representation in the water planning process and getting volunteer stakeholders involved. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=WNR&Date=8/26/2024&ItemNumber=10>.

### **Water Data Act and Aquifer Mapping Program (11:22 a.m.)**

Stacy Timmons, associate director, Hydrogeology, Bureau of Geology and Mineral Resources, NMIMT, presented on water data collection challenges, including the complexity of the state's geology that makes ground water hard to map and the lack of sufficient wells for monitoring the characterization and level of ground water around the state.

Katie Zemlick, chief, Hydrology Bureau, OSE, discussed the OSE's role in the development of administrative hydrologic models to study the characterization and levels of ground water over time and the need for improved models to enhance consistency of water rights application evaluations.

Phil King, P.E., technical advisor, OSE, and ambassador, New Mexico Water Ambassadors, spoke about his various roles in water planning and consultation over the years, the bleak outlook from a climate study report that he co-authored in 2022 and his assertion that major action is needed by the state to better manage ground water systems. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=WNR&Date=8/26/2024&ItemNumber=11>.

### **Production Strategies: Cloud Seeding and Water Harvesting (1:24 p.m.)**

Rick Ledbetter, Roosevelt Soil and Water Conservation District (RSWCD), and George Bomar, meteorologist, RSWCD, discussed a current rain enhancement project in Roosevelt County, how cloud seeding works and data that suggests that cloud-seeded storms generate more rainwater than natural storms.

Phoebe Suina, commissioner, ISC, talked about the importance of including Indigenous voices and traditional ecological and hydrological knowledge from Indigenous communities as the state makes decisions regarding the approach to water planning and other climate issues.

Scott Lopez, New Mexico advisor, Source, and Colin Goddard, vice president, Business Development, Source, discussed solar atmospheric water harvesting to bring drinking water to rural areas and raised issues with the Anti-Donation Clause of the Constitution of New Mexico that could affect the ability of Source to partner with the state. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=WNR&Date=8/26/2024&ItemNumber=12>.

### **Conservation Policies and Water Management in Agriculture (2:28 p.m.)**

Mr. Casuga discussed the MRGCD's partnerships that optimize water for agriculture and ecosystems in the middle Rio Grande, including voluntary fallowing, irrigation efficiency, infrastructure upgrades and optimized water conveyance systems.

Ms. Barncastle talked about the EBID's federally funded Depletion Reduction and Offset Program, which enables municipal and industrial water users to apply innovative technologies and farming practices to create and enhance production of water-saving commodities while reducing ground water use.

Don Bustos, member, NMAA and owner, Santa Cruz Farm and Greenhouses, discussed development of a restoration plan to facilitate local water-sharing economic opportunities and address the threats of catastrophic climate events, aquifer depletion and other impacts to the Santa Cruz River watershed.

Chili Yazzie, member, New Mexico Food and Agriculture Policy Council, shared the policy council's water statement that included support of funding conservation easements to ensure that lands remain in agricultural production and farmers retain their water rights. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=WNR&Date=8/26/2024&ItemNumber=13>.

### **Public Comment (3:31 p.m.)**

A list of individuals who made public comment is available in the meeting file.

### **Adjournment**

There being no further business before the committee, the meeting adjourned at 4:35 p.m.