MINUTES
of the
SECOND MEETING
of the
ECONOMIC AND RURAL DEVELOPMENT COMMITTEE

July 13-14, 2016
Grants
Village of Milan

The second meeting of the Economic and Rural Development Committee was called to order by Representative Rick Little, chair, on July 13, 2016 at 9:11 a.m. at the Cibola County Convention Center in Grants.

Present	**Absent**
Rep. Rick Little, Chair	Sen. Benny Shendo, Jr., Vice Chair
Sen. Jacob R. Candelaria (7/13)	Sen. Richard C. Martinez
Sen. Ron Griggs (7/13)	Sen. Michael Padilla
Rep. D. Wonda Johnson	Rep. Patricia Roybal Caballero
Sen. John Pinto	Sen. Pat Woods
Rep. Debbie A. Rodella	
Rep. Bob Wooley (7/13)	
Rep. John L. Zimmerman	

Advisory Members

Rep. Eliseo Lee Alcon (7/13)	Sen. Craig W. Brandt
Rep. Bealquin Bill Gomez (7/13)	Sen. Lee S. Cotter
Rep. Patricia A. Lundstrom (7/13)	Rep. George Dodge, Jr.
	Rep. Nora Espinoza
	Rep. Jimmie C. Hall
	Sen. Carroll H. Leavell
	Sen. Mark Moores
	Sen. Mary Kay Papen
	Rep. Dennis J. Roch
	Rep. Nick L. Salazar
	Sen. William E. Sharer

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

Staff
Shawna Casebier, Staff Attorney, Legislative Council Service (LCS)
Celia Ludi, Staff Attorney, LCS
Anna Martin, Intern, LCS

Guests

The guest list is in the meeting file.

Handouts

Copies of all handouts are in the meeting file.

Wednesday, July 13 — Cibola County Convention Center, Grants

Call to Order — Introductions

Representative Little welcomed members of the committee, staff and guests to the meeting. Committee members and staff introduced themselves.

Welcoming Remarks

Mayor Martin "Modey" Hicks welcomed the committee to Grants, expressed concern about the local economy and said the community needs help. He said that there had been 150 layoffs in the last month and a half from the only coal mine remaining, and he said that the population had dropped to 8,500 people from 18,500 when he was growing up in Grants. He also noted there are currently 22 empty buildings on Main Street. He said that paving the road to the top of Mount Taylor to provide better access for Native Americans for ceremonies, for tourists and for logging offers hope of some economic improvement, but more needs to be done.

The Energy Economy: Where We've Been and Where We're Going; Briefing — Mining: State and National Perspectives

David Catanach, director, Oil Conservation Division (OCD), Energy, Minerals and Natural Resources Department (EMNRD), referring to his handout, "An Update on Oil & Gas Status in New Mexico" at item (2), reviewed the OCD's duties and responsibilities and provided some background on the industry. He emphasized New Mexico's position as the nation's third-largest net energy supplier, which includes oil, natural gas, coal, solar and wind, and he noted that New Mexico oil and gas production is limited to 10 counties; the largest oil and gas producing areas are the San Juan Basin in the northwest corner of the state and the Permian Basin in the southeast corner. Mr. Catanach commented that the statistics presented in his handout are a little dated, but they are the best available. Referring to his handout, he noted that crude oil production had been steady since 1981 before dramatically increasing, beginning in 2012, and dropping again in 2015-2016. Natural gas production has seen more moderate changes, rising from 1991 to 1996 and maintaining fairly steady production until 2006, at which point it began declining until 2011; since 2011, it has remained relatively steady. Mr. Catanach stated that production of both oil and gas has dropped because the price has dropped precipitously. The rig count dropped dramatically between January 2015 and May 2016; there are currently 18 rigs in the Permian Basin and one or two in the San Juan Basin. Applications to drill have also dropped during that time period, but Mr. Catanach explained that there are still more applications than there are rigs because companies will file applications and stockpile them in readiness to reinstate production when and if the prices come back up. He said that producers have told him that if oil prices come back up to $60.00 per barrel, it will be profitable again to produce oil. Mr.

Catanach reiterated the importance of the oil and gas industry to New Mexico's revenue and private-sector employment. He reviewed training opportunities for careers in the oil and gas industry at San Juan College in Farmington, New Mexico Junior College in Hobbs and the New Mexico Institute of Mining and Technology in Socorro.

Referring to slide 19, Mr. Catanach outlined the principles of a new New Mexico energy plan that will include all energy sources and will not promote specific technologies, with economic growth and creation of well-paying private sector jobs as its core value. He informed the committee that the entire 2015 New Mexico Energy Policy and Implementation Plan can be found online at http://www.emnrd.state.nm.us/EnergyPolicy.

Finally, Mr. Catanach informed the committee that the EMNRD formed a Gas Capture Committee in 2015 to develop plans to reduce flaring and venting of natural gas for all new drilling permits and well recompletions. In response to a committee member's question about whether the OCD had done a cost/benefit analysis of methane capture, Mr. Catanach said that a lot of flaring is necessary because the gas has too much nitrogen to be pipeline quality, but the OCD had not done a cost/benefit analysis, preferring to leave it to the industry.

A member remarked that the figure for oil and gas production value in McKinley County in slide 8 looked erroneous and requested Mr. Catanach to provide a corrected figure.

A member asked which counties had passed ordinances to ban oil and gas production. Mr. Catanach answered that Mora County had tried to ban hydraulic fracturing, but a court struck down the ordinance. He added that Santa Fe County has made it so difficult to get permits to drill in the Galisteo Basin that no drilling is taking place there.

A member referenced the incidence of earthquakes related to hydraulic fracturing in Ohio, Pennsylvania and Oklahoma and asked whether earthquakes had happened in New Mexico for that reason, specifically in Socorro County. Mr. Catanach replied that there has been some minor earthquake activity in Raton and Roswell, but, overall, New Mexico's geology is very different from Ohio's, Pennsylvania's and Oklahoma's. Regarding earthquakes in Socorro, that happens naturally because Socorro sits on a geologic fault.

A member commented that the federal Bureau of Land Management (BLM) is slow to permit construction of oil and gas pipelines across tribal lands. Mr. Catanach agreed, adding that the Gas Capture Committee has seen the BLM take one to two years to approve pipeline applications. He remarked that the state's ability to affect the BLM's process is limited.

A member asked how many new wells had been drilled on federal land in the past five years. Mr. Catanach replied that new wells in the last five years had been about 50-50 on federal and state land, and the BLM is also slow in processing drilling applications. He added that the BLM has, for environmental reasons, highly restrictive drilling rules in the Galisteo Basin in Santa Fe, on Otero Mesa in Otero County and in Sierra County, except for Mescalero.

A member asked whether new permit applications and drilling are down because of the market, i.e., the price of oil is down, and not because of burdensome regulations; Mr. Catanach confirmed that production and applications are down because the price is down.

A member reported observing rigs drilling in Texas just across the border from New Mexico and speculated that the rigs were drilling into New Mexico and that New Mexico is losing a lot of resources. Mr. Catanach replied that there is some drilling activity on the southern border with Texas, but it is illegal to drill horizontally under a state border and extract resources from another state; drillers are required to file and get approval of a map that shows exactly where they plan to drill. The member asserted that if Texas wells are producing and New Mexico wells are not, it must be because of New Mexico's more restrictive regulations because the price of oil is the same regardless of where it is drilled.

Louise Martinez, director, Energy Conservation and Management Division, EMNRD, referring to her handout, "The Energy Economy" at item (2), reviewed the 2015 New Mexico Energy Policy and Implementation Plan, "Seizing Our Potential: Creating a More Diverse Economy in New Mexico". She reiterated that the focus of the plan is to increase state revenue and the creation of private-sector jobs. Referring to slide 7, she noted that residential energy consumption is down even though new home construction is up because of federal and state tax incentives for energy-efficient homes. Slide 8 shows a savings of approximately $2 million annually because of energy-efficient public buildings, with more savings expected as a greater number of public buildings are built or remodeled to be more energy efficient. Slide 10 shows dramatic increases in New Mexico residential solar installed capacity between 2009 and 2016, which Ms. Martinez attributed to federal and state solar tax credits. She informed the committee that the available state solar tax credits for 2016 were exhausted in June. Referring to slide 18, Ms. Martinez said that all of the energy industries, including oil and gas, renewables and coal and other mining, had been invited to participate in developing an "Energy Roadmap" to build on the 2015 New Mexico Energy Policy and Implementation Plan.

In response to a question by a member, Ms. Martinez said that the EMNRD received a federal grant in the last fiscal year to study the feasibility of adding small nuclear reactors to the New Mexico energy mix; she said a report should be issued within the next three months.

Responding to a member's question, Ms. Martinez clarified that the 2015 New Mexico Energy Policy and Implementation Plan is a state plan for science-based environmentally responsible economic development that is focused on helping New Mexico continue to be an energy exporter and to keep and increase the good jobs provided by the energy sector. She added that the EMNRD did use a federal "roadmap" because the state does not have the resources to develop its own.

James Smith, P.E., program manager, Coal Mine Reclamation Program (CMRP), Mining and Minerals Division (MMD), EMNRD, explained that the CMRP was created in the early 1980s as part of New Mexico's enactment of surface coal mine reclamation regulations under the federal Surface Mining Control and Reclamation Act of 1977 (SMCRA). With a mandate to protect the public health and safety and the environment in and around surface coal mining operations, the CMRP permits, inspects and enforces laws applicable to coal mines on all federal, state and private lands within New Mexico, except tribal lands, in accordance with SMCRA regulations. Mr. Smith reported that coal production is up even though there are fewer mines and miners than in the past.

Mr. Smith said that a controversial current issue is self-bonding for coal mine reclamation. He explained that coal mine permits include a reclamation plan for approved post-mining land use and topography. The purpose of reclamation is to return the mined area to a condition that permits a beneficial use; in New Mexico, this usually means land is returned to grazing capability. The reclamation plan addresses replacement of topsoil, the type of vegetation (seed mix) needed to meet post-mining land uses and any special mitigation that may be needed to prevent toxic or acid-forming materials from mining from affecting the long-term viability of the final reclamation. If a permit application meets all other requirements, the operator must submit a bond that is based on a calculation of what it would cost the MMD to complete reclamation should the operator go out of business or not meet the requirements of the permit. The regulations specify that a bond adequate to carry out reclamation must be held for no less than 10 years after the last seeding is performed and that specific performance standards have been met based on the post-mining land use. Bonds are usually obtained from insurance agencies, but, in recent years, companies have proposed funding reclamation bonds themselves instead of through the financial markets. Mr. Smith said that there had been only one default on coal mine reclamation in New Mexico. He added that New Mexico is partnering with Colorado and Wyoming to develop modifications to reclamation bonds that would reduce the cost to the mining companies while still protecting the state's interest in not being left to pay for reclamation in the event of a default. One possibility is allowing companies to establish a trust account, with money that could be used to supplement a lower bond amount, if necessary, but that would be returned to the company upon satisfactory reclamation performance.

Mr. Smith remarked that another topic generating current interest is the pending Chapter 11 bankruptcy proceedings of Peabody Energy. He said that the Peabody mines in New Mexico will still be viable for at least 20 years and producing even though they have shed half their jobs, and reclamation is proceeding as required.

Mr. Smith informed the committee that the CMRP just received a $1.3 million grant from the BLM for reclamation of abandoned uranium mines in New Mexico. He said that there are three current uranium mining permits in New Mexico, but permit holders are not currently planning to actively mine because there is no uranium mill in New Mexico. It takes six to eight years to build a mill once an application is approved, and there is no point to mining if there is no mill on site or close by. Fernando Martinez, director, MMD, EMNRD, added that the closest uranium mills are in Utah and Colorado and that potential uranium mine operators are getting the permits in place in case the price of uranium increases enough to make mining profitable.

Answering a committee member's question, Mr. Smith said that the amount of the surety bond is calculated based on estimates of the cost to return the disturbed area to its undisturbed state; it does not require a calculation of the economic effect in the surrounding communities of not mining or an estimate of the amount of usable coal that will be produced by mining.

In response to another committee member's question, Mr. Smith said that all of the coal mined in San Juan County is used at the Four Corners Generating Station power plant, and the coal mined at the El Segundo Mine in Cibola County goes to power plants in Arizona.

A committee member asked if the cost of mining was increased by the burden of meeting regulatory requirements. Mr. Martinez responded that it is hard to quantify the cost of regulatory compliance because the cost to produce varies from location to location, primarily because of the geology of each site, and from operator to operator, adding that operators closely guard information about their production costs. He added that New Mexico is the second-largest copper producer in the country now, and the copper mining industry is governed by the same regulations as the uranium industry, but the price of copper is higher than the price of uranium right now, so it is profitable to produce copper and not profitable to produce uranium.

Mr. Smith answered a member's question about the extent of New Mexico's coal reserves, explaining that the San Juan Basin has a huge supply that has been mapped, but the actual minable amount is unknown. He said that New Mexico is ranked ninth in the country in recoverable deposits and twelfth in production. The member asked why coal production is down, and Mr. Smith responded that the demand for coal-fired power is down because the price of natural gas has dropped, in large part because of the huge increase in production from hydraulic fracturing, so it is cheaper to produce power with natural gas than with coal.

A member asked how much of the reclamation work is done by New Mexico contractors, and Mr. Martinez replied that many mines use their own workers for reclamation work.

In response to a member's question, Mr. Smith explained that the severance tax on coal is measured per ton.

A member commented that it is unlikely that uranium mining will be viable again in New Mexico because it is easier and cheaper to mine higher-grade ore in other countries because of the geology of the uranium deposits.

A member asked how a mountain taken down for mining or for sand and gravel would be reclaimed. Mr. Martinez responded that any holes are filled for safety and to protect ground water supplies, and the flattened area is planted with native grass seed. He noted that the CMRP is only responsible for reclamation of mines, and sand and gravel operations are regulated by the counties in which they are located or by the federal government if the extraction operation is on federal land.

The Copper Flat Mine Project in Sierra County

Jeffrey Smith, P.E., chief operating officer, THEMAC Resources Group, Ltd.-New Mexico Copper Corporation, working through his handout at item (3), described the Copper Flat Mine Project in Sierra County in detail. He noted that the current price of copper is approximately $2.15 per pound and compared it with the prices of molybdenum ($10.00 per pound), gold ($1,400 per ounce, or $22,400 per pound) and silver ($15.00 per ounce, or $240 per pound). Jeffrey Smith explained that since there are only three operational copper smelters in the United States (one in Utah and two in Arizona), copper concentrate from the Copper Flat Mine Project will be shipped by rail to Guaymas, Mexico, and then overseas. Referring to slide 8, he told the committee that the concrete foundations for the old Quintana Mine, which were covered when the mine ceased production in the 1980s, were uncovered and inspected and will be repurposed for major structures at the Copper Flat Mine Project. Referring to slide 12, he noted that the current use of the land where the project is located is wildlife habitat and grazing, so reclamation will return the land to that purpose. Referring to slides 13 through 17, Jeffrey Smith explained the project's water use and water rights issues in detail. He concluded that the critical path for the project now is the completion of the federal and state permitting processes.

There was general discussion about projected salaries, availability of workers and housing for the project.

Status of and Need for Utility Infrastructure in Rural New Mexico

Terry Brunner, state director, United States Department of Agriculture (USDA) Rural Development, informed the committee that the USDA has a $1.5 billion investment in New Mexico. Referring to his handouts at item (4), he reviewed USDA investments in New Mexico between 2009 and 2015. He reminded the committee that the USDA has money available for grants and 0% interest loans for infrastructure, not including things like highways and health care, and he noted the widespread need in the state for broadband capability and for water and wastewater projects. Mr. Brunner said that, every year, USDA money goes unspent because projects are not coordinated among the various agencies involved, and he suggested that a strategic infrastructure development plan be developed by bringing all interested parties to the table to determine and prioritize needs and identify funding sources and time lines.

Responding to questions from the committee regarding USDA funding of projects on tribal lands, Mr. Brunner explained that former U.S. Senator Jeff Bingaman had spearheaded the creation of a pool of dedicated USDA money to fund development and expansion of water and wastewater distribution systems on tribal lands; it is a national pool but, in fact, the money has only been used in New Mexico. This year's pool amount is $24 million, which is doled out in grants of $1 million to $2 million per project; in places where a distribution system exists but the water itself is not owned by the tribe, the grants may be used to purchase water rights for the tribe. Mr. Brunner said that only certified Navajo chapter houses are eligible for the grants; if a chapter is not certified, the grant is managed by the Navajo Nation.

There was a discussion about the upcoming regionalization of mutual domestic water associations (MDWAs), and there was a consensus that it is important to inventory the existing MDWAs.

There was a discussion on the lack of a statewide infrastructure capital improvement plan and consensus that Legislative Finance Committee staff, state agencies, such as the Economic Development Department and the Department of Finance and Administration, and local governments need to work together to identify and prioritize infrastructure projects.

Environmental Regulatory Impacts on the Energy Economy

Butch Tongate, acting secretary, Department of Environment (NMED), working through his handout at item (5), related that a recent KPMG and Forbes survey of 400 U.S. chief executive officers across all major industries had revealed that "regulatory environment", i.e., all applicable regulations at both the federal and state levels, is the single greatest issue affecting their companies today; additionally, the survey found that consistency among the different regulators was the most important factor in whether the regulatory impact is positive or negative.

Michaelene Kyrala, director, Strategic Initiatives, NMED, briefly noted for the committee that the vast majority of regulations are set at the federal level in the Federal Code of Regulations but that the state has responsibility for enforcement of the air and surface and drinking water standards. Secretary Tongate said that the NMED's emphasis as a state regulator is to help companies comply with applicable regulations rather than punish them for noncompliance. He then referred to his handout to highlight two controversial environmental regulatory issues in New Mexico — copper and ozone. During a discussion of the copper rule, a member of the committee raised concern that New Mexico has some of the most stringent ground water regulations in the country. Secretary Tongate responded that ground water regulations are controlled by the states, and Mike Bowen, executive director of the New Mexico Mining Association, added that his members do not object to the copper rule, and, in fact, the rule will save the companies money because it will not change in five years and adds a level of certainty to their operations; he said that having to change operations to respond to regulatory changes is very expensive.

Motion

Representative Zimmerman made a motion, seconded by Representative Rodella, for the committee to approve the minutes from its June 3, 2016 meeting. The motion passed without opposition.

Public Comment

There was no public comment.

Recess

The committee recessed at 3:21 p.m.

<u>Thursday, July 14</u> — Community Meeting Room, Village of Milan

Representative Little reconvened the committee and welcomed members of the committee, staff and guests to the meeting.

Coal Mining in New Mexico

Mitch Knapton, P.E., operations manager, Lee Ranch and El Segundo Mines, Peabody Energy, reviewed his handout at item (7). He updated the committee on the current status of the mines: Peabody Energy Corp., the country's largest mining company and the world's largest private coal company, went into Chapter 11 bankruptcy in April 2016 as a result of declining revenues from coal production. Mr. Knapton said that demand for coal has declined primarily because the price of natural gas has dropped so low that it is much cheaper to produce electricity from natural gas than from coal. As a result of the bankruptcy filing, El Segundo Mine has experienced a reduction in force, losing 127 jobs, which is 39% of its workforce; coal production has dropped to a projected 4.8 million tons in 2016 from 8.1 million tons in 2015.

Responding to questions from committee members, Mr. Knapton said that:

- El Segundo coal has a high British thermal unit (BTU) value, but it also has a high sulfur content, which requires coal-fired power plants to use "scrubbers" to remove the sulfur particulates produced when the coal is burned for electricity. El Segundo's biggest competitor is coal from the Powder River Basin in Wyoming; the Powder River coal also has a high BTU value, but it has less sulfur and is closer to the surface than the coal in El Segundo, so it is less expensive to extract. Accordingly, Powder River coal has an extraction cost advantage, but transporting the coal from Powder River is more expensive. El Segundo has a niche market to supply power plants in the Southwest based on its lower transportation costs. El Segundo coal is not shipped out of the country because there are no ports on the West Coast that ship coal, and it is too expensive to ship it to ports in Houston; the closest port is Guaymas, Mexico;
- the federal Clean Air Act restricts carbon emissions, which restriction results in an increase in power generation costs because the power plants need special equipment to reduce emissions of carbon and particulates; because of that, coal, which has higher emissions than other sources, is more expensive to use to generate power; and
- New Mexico's environmental regulations are some of the best in the country, from a coal mining perspective, and New Mexico's staff is the most reasonable to work with on compliance, in particular, regarding the reclamation and release of reclamation bonds. Reclamation around El Segundo Mine returns the land to grazing, so it requires seeding of native grasses; Peabody times the seeding process for the annual monsoon season, which the state regulators approve, but sometimes that season is later than the federal regulations prescribe, so the federal regulators want the company to seed before the rains, which is futile. Peabody does not object to seeding, but it is expensive, and it is frustrating to be required to seed at a time when it will be futile because the rains have not started yet. In addition, drainage ways are classified as

"ephemeral streams" until proven otherwise and, as streams, are subject to additional regulations.

Steve Grey, government and external relations director, Navajo Transitional Energy Company (NTEC), Navajo Mine, reviewed his handout at item (6). Mr. Grey explained that the NTEC is a corporation created by the Navajo Nation to keep jobs in the region, and in October 2013, the Navajo Nation, through the NTEC, became the natural owner of the Navajo Mine. Stating that being a stakeholder equals power, Mr. Grey said that the NTEC has plans to obtain a 7% ownership interest in the Four Corners power plant by July 2017. Through these operations, $2.45 billion will be provided to the local economy. Referring to his handout, Mr. Grey reviewed with the committee the Navajo energy policy and challenges for the future.

Responding to questions from committee members, Mr. Grey said that NTEC operations still provide 800 jobs in the Navajo Nation, but that number will drop if coal production slows. The NTEC is in talks with Arizona Public Service Company and Bisti Fuels Company (a wholly owned subsidiary of North American Coal Company that is contracted to mine the Navajo Mine) to try to maximize production.

Briefing on the Partnership for Opportunity and Workforce and Economic Revitalization Initiative

David Hinkle, program manager, Northwest New Mexico Council of Governments (NWNMCOG), reviewed his handout at item (7), "Economic Diversification for Northwest New Mexico Funding Request for Regional Economic Development Programs". He particularly stressed that energy production used to be national and now it is global, but impacts in shifting resources are local; communities throughout northwest New Mexico are suffering the loss of well-paying jobs because of the global transition from coal to natural gas and other sources of electric power production, and those jobs will be extremely difficult to replace. For example, starting pay for new-hire truck drivers at the El Segundo Mine is $30.00 per hour ($62,400 per year). Mr. Hinkle said that the last five power plants that closed nationally were coal-fired, and the last five power plants built nationally are natural gas-fired; natural gas-fired plants only require half as many workers as coal-fired plants. He added that, while natural resources such as coal, oil and gas and uranium will always have value, extraction may not always be economically feasible. Under Mr. Hinkle's direction, the NWNMCOG contracted with an Oklahoma firm to perform a study of the current economic picture in San Juan, McKinley and Cibola counties and to make economic development recommendations. He said that all three counties have economic development plans, but they are underfunded; he remarked that the City of Amarillo, Texas, spends more on economic development than the entire State of New Mexico. Mr. Hinkle added that solutions are dependent on cooperation between local and state governments, and he was very complimentary about the current staff of the Economic Development Department, particularly the regional coordinator for the Gallup office of the northwest sector, Fred Shepherd.

Public Comment

Mr. Bowen noted that mines are not found up and down the Rio Grande Valley but, rather, are located in rural areas, so they are a major factor in rural economic development.

Robert Castillo, P.E., chief executive officer, Continental Divide Electric Cooperative (CDEC), informed the committee that the CDEC is exploring installation of a solar unit, but the price for solar-generated power has to be competitive with power generated from other natural resources. He noted that the government is currently subsidizing development of the solar power industry, which has to grow to make up for the subsidy when subsidies terminate. He also stated that price elasticity of the energy industry is something that the industry expects and knows how to deal with; special interest groups and permitting time lines are the primary impediments to the development of energy industry companies.

Senator Clemente Sanchez, speaking as a private citizen, made general comments about energy production and the effects on local economies of shifts in sources for power generation. He noted that, often, decisions of people who live in urban areas have profound impacts on those who live and make a livelihood in rural areas; and tribes are losing their culture because there are no jobs in the rural communities and people are increasingly moving to urban areas. Acknowledging this urban/rural divide, he urged all stakeholders to be included in the conversations about energy industry development.

Adjournment

There being no further business before the committee, the second meeting of the Economic and Rural Development Committee for the 2016 interim adjourned at 10:44 a.m.