

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

**October 26
Ballroom B, Fidel Center
New Mexico Institute of Mining and Technology
Socorro**

**October 27-28
Roswell Convention Center
Roswell**

The fourth meeting of the Water and Natural Resources Committee was called to order by Representative Candy Spence Ezzell, chair, on October 26, 2016 at 9:25 a.m. in Ballroom B of the Fidel Center at the New Mexico Institute of Mining and Technology (NMIMT) in Socorro.

Present

Rep. Candy Spence Ezzell, Chair
Sen. Peter Wirth, Vice Chair (Oct. 26)
Rep. Paul C. Bandy (Oct. 26)
Sen. Joseph Cervantes (Oct. 26)
Rep. Randal S. Crowder
Rep. Javier Martinez (Oct. 27)
Rep. Matthew McQueen
Sen. Cliff R. Pirtle
Rep. Jeff Steinborn (Oct. 26)
Rep. James R.J. Strickler (Oct. 28)
Sen. Pat Woods

Advisory Members

Sen. Ted Barela (Oct. 26)
Sen. Lee S. Cotter
Rep. David M. Gallegos (Oct. 27-28)
Rep. Bealquin Bill Gomez
Sen. Ron Griggs
Rep. Idalia Lechuga-Tena
Sen. Stuart Ingle (Oct. 28)
Rep. Bill McCamley
Rep. Don L. Tripp (Oct. 26)
Rep. Bob Wooley (Oct. 27-28)

Absent

Rep. Dona G. Irwin
Rep. James Roger Madalena
Rep. Andy Nunez
Sen. Sander Rue
Sen. Benny Shendo, Jr.
Sen. Mimi Stewart

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. Jimmie C. Hall
Rep. D. Wonda Johnson
Sen. Gay G. Kernan
Rep. Larry A. Larrañaga
Sen. Carroll H. Leavell

Rep. Tim D. Lewis
Rep. Rick Little
Sen. Linda M. Lopez
Sen. Cisco McSorley
Sen. Steven P. Neville
Sen. Gerald Ortiz y Pino
Sen. Mary Kay Papen
Sen. Nancy Rodriguez
Rep. G. Andrés Romero
Sen. John C. Ryan
Rep. Tomás E. Salazar
Sen. William E. Sharer
Sen. John Arthur Smith
Rep. James G. Townsend
Rep. John L. Zimmerman

Guest Legislator

Rep. Debbie A. Rodella (Oct. 26)

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

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.

Wednesday, October 26

Representative Ezzell began the meeting by having members of the committee and staff introduce themselves.

Welcoming Remarks

Representative Tripp welcomed the committee to Socorro and noted that the previous meeting had been canceled due to a special session of the legislature.

Ravi Bhasker, mayor of the City of Socorro, welcomed the committee to Socorro and discussed three water projects currently under way in the area.

NMIMT Report on Aquifer Mapping and Other Research Projects

Nelia Dunbar, director and state geologist, New Mexico Bureau of Geology and Mineral Resources, NMIMT, provided the committee with an overview of her bureau, explaining that its core mission is to conduct research, distribute accurate information and create accurate, up-to-date maps. She also noted that some of the research conducted has proven critical to the state's petroleum industry and has helped with exploration of New Mexico's mineral wealth, both of which contribute significantly to New Mexico's economy. Dr. Dunbar also provided the committee with overviews of the laboratories used by the bureau, its public outreach efforts and some of its various publications.

J. Michael Timmons, deputy director, New Mexico Bureau of Geology and Mineral Resources, NMIMT, outlined the bureau's geologic mapping program. He explained that the program's mission is to provide state-of-the-art, digital geologic maps for the State of New Mexico, in part to help address state-defined needs in natural resources. Dr. Timmons provided the committee with examples of the program's geologic map series and discussed some of the interactive web maps available on the program's website, which include mineral resource and petroleum pool maps.

Stacy Timmons, manager Aquifer Mapping Program (AMP), New Mexico Bureau of Geology and Mineral Resources, NMIMT, provided the committee with a status report on the AMP. She explained that there is a high demand for aquifer mapping, particularly as a part of the regional water planning process. Ms. Timmons went on to note some of the specifics regarding the AMP, explaining that the program uses a nonregulatory approach and collects impartial data to make unbiased interpretations and that results can be used to inform decision-making. She also pointed out that funds appropriated by the state are leveraged into additional funding. Ms. Timmons also discussed an interactive water quality map, as well as ground water monitoring as a result of the Gold King Mine spill.

Questions and comments from the committee included:

- work with the Department of Transportation to identify areas where there might be potential ground shifting that could damage highways;
- well core samples are donated to NMIMT by drillers;
- if aquifer mapping funding continues, it should take between three and five years to develop new data sets;
- core samples housed at NMIMT are mostly from oil and gas wells, as the Office of the State Engineer (OSE) has data about water wells;
- data quality on the interactive maps improves as the user zooms in on specific areas of the state;
- the OSE, particularly the Hydrology Bureau, works closely with the AMP;
- aquifer lifetime maps are built, in part, on mathematical models; and
- aquifer models with good data play an important role in decision-making.

Regional Water Planning Status and Governance Study Group Report

Deborah Dixon, director, Interstate Stream Commission (ISC), provided the committee with an update on the regional water planning process. She explained the process of beginning with a common technical approach that uses similar assumptions, then putting each of the 16 regions on a schedule for completion of its plan. She also listed several of the shared interests of the various regions, such as watershed restoration, water and wastewater project financing and aquifer mapping. Ms. Dixon also discussed development of a state water plan charter, which includes research on other states, as well as dialogue with various New Mexico stakeholder groups.

Bob Wessely, a representative of the Governance Study Group, explained that the group formed after a July 2015 statewide regional water planning meeting, during which several flaws in the process were identified. He explained that the Governance Study Group was an all-volunteer group of nine water planners from around the state. Mr. Wessely noted that the group met 10 times and identified six areas that need improvement:

- governance and institutional arrangements;
- strengthening linkages;
- public participation;
- tribal participation;
- technical information; and
- water rights adjudication.

Mr. Wessely noted that the legislature could help the process by supporting grassroots regional collaborations, recognizing and supporting regional water planning entities and establishing statewide working groups.

Questions and comments from the committee included:

- regional water plans should be aimed at implementation;
- mapping of brackish water resources;
- planning currently serves more of an advisory role and tends to be ignored by policymakers;
- other means than priority administration of administering water;
- the importance of water planning as part of a larger conversation about water;
- restructuring of the ISC to include some input from the legislature through legislative appointments;
- active water resource management as it applies to the lower Rio Grande;
- New Mexico is living in a fiction, as it does not follow prior administration;
- most watersheds have been adjudicated;
- tribal entities have the earliest water rights;
- notification to stakeholders of regional water planning meetings; and
- location of regional water planning meetings.

Forest and Watershed Restoration Projects and Funding

Susan Rich, coordinator, forest and watershed health, Forestry Division, Energy, Minerals and Natural Resources Department (EMNRD), provided the committee with testimony regarding treatment of forests and watersheds as a means of mitigating the damage caused by wildfires. She explained that many areas of the state have already been treated, and while there is evidence that the treatments have helped, there are still millions of acres left to treat in New Mexico.

Bob Davis, director of planning, Southwestern Region, United States Forest Service, discussed the importance of watershed restoration work and the critical importance of collaboration among state, local and federal agencies, as well as private landowners and businesses, to do it. He pointed out the large amount of federal acreage in New Mexico, noting that about 40 percent of it is at high risk for catastrophic wildfire. Mr. Davis also noted that state funds for water restoration are matched on a one-to-one basis with federal funds. He also emphasized that there is a huge need to continue forest and watershed treatments, as well as the need for cooperation.

Donald Auer, assistant chief for habitat and lands, Department of Game and Fish, explained that land restoration is a priority for both watershed health and wildlife habitat, as well as to mitigate fire danger. He explained that one of the current goals is to develop both public and private partnerships, particularly as a means of leveraging funding. Mr. Auer said that the Department of Game and Fish is dedicated to working with other agencies and private landowners to build a collaborative forest restoration program.

Kent Reid, director, New Mexico Forest and Watershed Restoration Institute, discussed a landscape assessment tool, consisting of a website and database developed by the Forest and Watershed Restoration Institute. He explained that the tool can serve as a one-stop shop for finding and viewing information on forests, watersheds and treatments. To illustrate, Mr. Reid showed the committee an interactive map with eight layers, including water sources, fuel load, treatments, past fires, insects and disease. He also noted that the assessment tool contains a database of treatment methods, such as chemical and mechanical treatment.

Laura McCarthy, director of conservation programs, The Nature Conservancy, began by acknowledging the difficult financial times the state is currently facing, noting that getting the most return on investment is even more important now. She provided the committee with the results of a study regarding attitudes toward fire and watershed restoration. Ms. McCarthy noted that drought was identified as one of the top concerns of New Mexicans, with forest fires viewed as one of the top threats to water supply. She also noted that most study participants supported the establishment of a fund to pay for a 20-year, large-scale restoration of forests and lands around other water sources, which would require \$20 million per year in state funding.

Kim Kostelnik, New Mexico Forest Industry Association, explained that the industry needs long-term projects to make investment in watershed restoration and the resulting timber economically viable. She discussed the southwest Jemez forestry project as an example of a local contractor partnering with the Pueblo of Jemez and the timber industry to work together to

treat watersheds and produce enough lumber-related products to make the effort profitable. Ms. Kostelnik said that in her 30 years in the industry, she has never seen as much collaboration between agencies and industry as is currently happening.

Questions and comments from the committee included:

- millions of acres need to be treated, and the current rate of treatment appears to be insufficient;
- the compensation that will be available for victims of the Doghead fire;
- private industry needs to be involved, but a market for the small-diameter timber produced by watershed thinning treatments must be found;
- characteristics of healthy versus overgrown forests;
- decline of the timber industry in New Mexico; and
- ways the legislature can help with the process, particularly through long-term funding.

Minutes

On a motion made, seconded and approved, the minutes of the committee's August meeting were approved as submitted.

San Augustin Plains Proposed Appropriation Update

Chris Lindeen, deputy general counsel, OSE, provided the committee with background information on the initial application from Augustin Plains Ranch (APR) for appropriation of ground water, which was rejected by the OSE as being incomplete. He noted that the OSE ruling was appealed in court and upheld at the same time another application was filed. Mr. Lindeen explained that the new application was published in early September 2016, and it is currently in the publication and protest phase. He also noted that the 900 parties who filed protests on the original application were added as protests to the new one, in addition to 150 new protestants.

Brett Bruton, San Augustin Water Coalition, explained that many residents of Catron and Socorro counties, particularly those associated with agriculture, fear that approval of the APR application, and the large amount of ground water that will then be pumped from the aquifer, will dry up the relatively shallow wells most ranchers and landowners in the area have, forcing them to dig deeper wells at tremendous expense and potentially putting their way of life at risk. He noted that some estimates suggest that the aquifer does not recharge at the rate contemplated by the application and that large-scale ground water pumping and export of that ground water will deplete the aquifer completely within 10 years.

Henry Edwards, San Augustin Water Coalition, began by noting that opposition to the APR application is the first time that all of the demographic groups in Catron County have agreed on something. He also noted that the annual rainfall in Catron County is not sufficient to recharge the aquifer to compensate for the amount of water the APR intends to withdraw from it, based upon available information on the aquifer.

Anita A. Hand, county commissioner, Catron County noted that the state empowers counties to develop water policy at some levels. She also emphasized that the new APR

application still does not meet all of the criteria required for approval, pointing out that several of the end users identified in the application are actually protesting it. Ms. Hand also said that the application runs contrary to the statutory and constitutional requirements of conservation of water resources and not impairing other users.

Questions and comments from the committee included:

- a process exists for all applications filed with the OSE, which allows for protest of the application, places the burden of proof on the applicant and stresses the importance of adhering to that process;
- existing data on the aquifer are limited — some studies have been done, but not as many as in other areas of the state;
- rates of recharge and depletion on the aquifer are still relatively uncertain;
- the timetable for an application with significantly fewer protests is about 12 months from application to approval or denial — additional protests lengthen the timetable;
- the OSE considers several factors in the application process, including impairment, conservation of water and the detriment to public welfare;
- the approach of other western states to similar issues;
- the first APR ranch application was about seven pages, while the second one is about 200 pages, which requires significantly more research; and
- several other western states have enacted statutes that set conditions for transfer of water rights, particularly across basins.

Lower Rio Grande Alternative Administration and Ground Water Management

Mike Greene, Public Service Company of New Mexico (PNM), explained that several entities, which along with their members account for 90 percent of the surface and ground water use in the lower Rio Grande region, have entered into a memorandum of understanding to develop adaptive water management tools for sustainable use of ground water in the lower Rio Grande region. These entities include agricultural, municipal, educational and commercial interests, he said, and they hope to develop a homegrown solution to a local problem. He explained the need for development of a robust model of surface and ground water interaction and tools like water banking and expedited transfer of water uses. He said that PNM uses both air and water cooling at its plant in Afton and cannot afford to be cut off in the case of a priority call, which could happen due to the junior status of its ground water rights. PNM is involved in the process as a means of ensuring water availability to all users in the region.

Jay Stein, water counsel for the City of Las Cruces, noted that the Las Cruces water system currently serves 100,000 users and is projected to have up to 160,000 users in the next 40 years, all supplied by ground water. Ground water users in the lower Rio Grande began meeting in 2014, he explained, to develop management tools to ensure a stable supply of ground water for use in the region and in response to the state engineer's development of active water resource management policies. The group developed and agreed to a settlement framework in June 2016, which Mr. Stein said addresses several issues, including calling for revision of the 2008 operating agreement, implementation of a ground water management program, methods to offset surface depletions and the securing of agreements not to seek priority enforcement against each

other. Asked about the difference between the 2008 operating agreement and the group's settlement framework, Mr. Stein said the operating agreement changed the allocation of surface water between New Mexico and Texas from 57/43 to 50/50 or 38/62, depending on conditions. The attorney general, as well as the City of Las Cruces, challenged that agreement, he explained, in part because the U.S. Bureau of Reclamation (BOR) did not conduct an environmental impact assessment on the effect the agreement would have on ground water supply over the next 50 years, which is of great concern to all the ground water users in the region.

Clayton Bradley, director of real estate and water development, New Mexico State University, explained that the group is attempting to resolve water users' differences in a nonlitigious way. He also acknowledged Texas' threat to long-standing New Mexico water rights and emphasized the importance of agriculture in the lower Rio Grande valley and the importance of working with each other to protect those interests.

Alvin Jones, Southern Rio Grande Diversified Crop Farmers Association, also discussed the settlement framework, explaining that it represents an effort by various groups to manage their own water destiny. He said that agriculture uses over 80 percent of the water in the lower Rio Grande, with a 50/50 split between open crop growers, such as chile and onion growers, and permanent crop growers, such as pecan growers. It has taken years of effort to get to this agreement, he explained, which memorializes stakeholders' desire to avoid the "buy-and-dry" approach used to help New Mexico satisfy its compact delivery obligations on the Pecos River, as well as avoid any kind of priority call on the Rio Grande. Working together, he said, users could use rotational fallowing of cropland to respond quickly to dry conditions and avoid priority calls, which will protect all water users in times of drought.

Tessa Davidson, New Mexico Pecan Growers Association, explained that permanent crops, such as pecan orchards, cannot be fallowed in times of shortage, and therefore pecan growers do not want strict priority enforcement. Consequently, water users in the area are seeking to reduce ground water pumping and need to develop mechanisms for moving water around in times of shortage. She characterized the framework as an agreement between area stakeholders to stop fighting and to seek mutually beneficial solutions to water shortages.

Sue Padilla, Camino Real Regional Utility Authority, noted that drought has placed most water users in the area in litigation with one another but that this agreement is an example of how water users can learn to share water resources with one another.

Questions and comments by the committee included:

- the Elephant Butte Irrigation District (EBID) will not agree to the Ground Water Users' Group's (GWUG) proposal to modify the 2008 operating agreement;
- Texas is suing New Mexico because the attorney general sued the BOR over the 2008 operating agreement;
- whether the GWUG represents 90 percent of the water users in the lower Rio Grande;
- the GWUG is committed to the notion that the state, not the BOR, is in control of the state's ground water and that the state's sovereignty is being challenged on this issue;

- there is not enough surface water available to sustain all crops currently being grown in the lower Rio Grande region;
- the goals of the settlement framework fit with active water resource management principles; and
- the option of transferring surface water to the City of Las Cruces to supplement its ground water supplies is no longer a viable option due to the effects of the 2008 operating agreement.

Texas v. New Mexico Update

David Roman, a contract attorney working as special counsel to the attorney general, began by providing the committee with a summary of the draft report issued by the special master assigned by the United States Supreme Court regarding *Texas v. New Mexico and Colorado*, No. 141, Original, including the case's history, New Mexico's position and the projected time line as the case moves forward. Mr. Roman stressed that the draft report contained many mischaracterizations of New Mexico's position, and until the special master issues his final report, the state will not have a chance to make legal arguments to the contrary. The draft report, he said, only deals with two issues: whether to grant New Mexico's motion to dismiss and whether to allow the EBID and El Paso County Water Improvement District No. 1 (EPD#1) to intervene in the case. The draft report, he noted, recommended that the motion to dismiss be denied and that the EBID and EPD#1 not be allowed to intervene. The committee requested that the attorney general, state engineer and director of the ISC be invited to the final meeting of the committee to more thoroughly brief the committee on the litigation.

Questions and comments from the committee included:

- the background of the special master assigned to the case;
- legal representation of New Mexico depends on the approach of the attorney general; and
- expectations of counsel as the case moves forward.

On a motion made, seconded and approved, the committee requested Mr. Roman to inform Attorney General Hector Balderas that the committee requests an update from Attorney General Balderas on the case at its November meeting.

Thursday, October 27

Dennis Kintigh, mayor, City of Roswell, welcomed the committee, thanked the committee for coming to Roswell and briefly discussed some of the economic development initiatives under way in the area.

Members of the committee and staff introduced themselves.

Electric Industry Report on Energy Infrastructure and Balanced Energy Mix

Carlos Lucero, state and federal government affairs, PNM, provided the committee with an overview of PNM's operations and infrastructure.

Matthew Jaramillo, State and Government Affairs, PNM, provided the committee with an overview of PNM's alternative energy programs, particularly solar. He also discussed misleading sales tactics employed by some companies in the Albuquerque area offering solar panels and financing to residential customers.

Bernarr Treat and Mike McLeod, Excel Energy, provided the committee with an overview of the company's operations, which include about 100,000 customers in New Mexico and three million users nationwide. They also discussed wind and solar projects in New Mexico, including a \$260 million solar project near the Roswell area.

Steve Kowalik, NextEra Energy Resources, explained that the 1,400-acre solar farm the company built near Roswell produces 140 megawatts, which is enough to power 40,000 homes.

Questions and comments from the committee included:

- how cost-per-customer estimates are developed;
- participation in energy audit programs;
- time-of-use rates versus traditional rate structures;
- implications of the proposed rate increase by PNM;
- the status of solar energy rewards programs; and
- tracking of consumer complaints regarding solar panel sales.

Laun-Dry Spill Status and Ground Water Regulations

Michelle Hunter, chief, Ground Water Quality Bureau, Department of Environment (NMED), provided the committee with a brief history of the Laun-Dry spill, which involves a dry cleaning business in Albuquerque. She explained the source of the spill, the primary contaminant involved, its migration and cleanup and monitoring efforts. Ms. Hunter also discussed ongoing contact with affected residents and ongoing plans for cleanup.

Ms. Hunter discussed proposed updates to ground water regulations in New Mexico. She provided the committee with a summary of the proposed changes, which include introduction of vapor intrusion protections, and discussed their importance. Ms. Hunter also pointed out that ground water standards have not been updated since 1982, noting that available science has increased since their promulgation. She also discussed involvement in development of the proposed rules, which include public meetings.

Questions and comments from the committee included:

- pollution plumes and clean-up efforts in other areas of the state;
- public hearings regarding cleanup of contaminated sites;
- testing of wells on private land;
- the time line of discovery and clean-up efforts to this point; and
- determination methods for chemicals that require immediate versus long-term cleanup.

Instream Flow Rights

Mr. Lindeen provided the committee with a brief overview of the concept of instream flow rights, noting the basic legal requirements of "dominion and control" and the various legal theories regarding how to satisfy those requirements. In short, Mr. Lindeen said, an instream flow right must be administrable.

Questions and comments from the committee included:

- the status of lawsuits filed regarding instream flow;
- attorney general opinions regarding instream flow; and
- the use of instream flows to protect endangered species while maintaining compact delivery obligations.

Colorado River Drought Contingency Planning

Amy Haas, general counsel, ISC, provided the committee with an overview of the Colorado River Basin, including its upper and lower basins, and the interstate and international compacts that allocate water between the upper and lower basins. She explained that the Colorado River Compact is a consumptive-use-based compact, which apportions 7.5 million acre-feet of consumptive use per year each to the upper and lower basins. New Mexico, she said, was allocated 11.25 percent of the upper basin allocation, which is a larger share than it would otherwise have been allocated, to account for Navajo and Jicarilla Apache claims in the state. San Juan-Chama water accounts for 96,200 acre-feet per year of the state's allocation, she explained, and given that New Mexico's compact allocation is more or less fully used, any reductions in delivery could have severe consequences. Accordingly, the ISC is engaged in contingency planning with the other upper basin users to address the effects of long-term drought in the region.

Kevin Flanigan, Colorado River bureau chief, ISC, provided the committee with an overview of water use in the Colorado River Basin, noting that 40 million people depend on it for water. He also discussed New Mexico's use of water in the basin, both in terms of surface water that flows through New Mexico in the San Juan and Animas rivers, and the San Juan/Chama diversion, which diverts water under the Continental Divide and helps provide water to other users in the state, such as the cities of Albuquerque and Santa Fe. He also discussed the basin's hydrology, noting that water levels in Lake Powell and Lake Mead are already low and that continued depletion of those reservoirs could actually result in a national emergency, meaning that the federal government could assume management of water in the upper basin.

Mr. Flanigan and Ms. Haas discussed the implications of a federal takeover of the upper Colorado River Basin, and they emphasized that contingency planning is under way to avoid water shortages in the event of such a development.

Questions and comments from the committee included:

- the status of tribal and international stakeholders in contingency planning;
- storage of water by Mexico in U.S. reservoirs; and
- requirements of the upper basin compact and tribal obligations.

Cooperative Water Management Operations in the Middle Rio Grande

Ms. Dixon discussed issues that have arisen on the Rio Grande over the past six years, including below-average snowpack, drought and endangered species issues. She explained that New Mexico, Colorado and Texas are currently working together within the framework of the Rio Grande Compact to develop creative solutions to these issues. For example, she discussed a resolution passed by the Rio Grande Compact Commission allowing storage of additional water in El Vado Reservoir to delay spring runoff, which helped maintain a minimum flow in the river over a longer period of time to provide the Rio Grande silvery minnow additional time to spawn.

Jennifer Faler, area manager, Albuquerque Area Office, BOR, noted that there are about 337 reservoirs and 53 hydropower plants in the Colorado River Basin, most of which contain aging infrastructure. She said that the federal funding stream for maintenance of infrastructure has remained the same for many years, while demands on the agency have increased over that time. Consequently, she said, the agency is relying more and more on cooperation and collaboration with state agencies and other stakeholders to address water problems in the West.

Mike Hamman, chief engineer, Middle Rio Grande Conservancy District (MRGCD), emphasized the need for all water users to work together, particularly as realities continue to evolve. He emphasized the need for cooperation among state, federal and local agencies and water users and said that no one can solve water shortage problems alone. Mr. Hamman also outlined the priorities of the MRGCD, including its role in ensuring that New Mexico meets its compact obligation, compliance with the federal Endangered Species Act of 1973 and improving opportunities for agriculture in the middle Rio Grande.

Questions and comments from the committee included:

- the role of the BOR in operating and maintaining El Vado Reservoir;
- the MRGCD has reduced net diversion by one-third since the 1990s;
- there are approximately 60,000 acres under cultivation in the MRGCD;
- whether land from water rights that have been severed could still be irrigated with leased water; and
- whether there are unused water rights in the MRGCD.

Water Well Drilling Regulations

Mr. Lindeen summarized the proposed changes to the 2005 well drilling standards, which have now been published and are open for comment. He said the new rules will establish industry-wide standards consistent with nationwide standards, address definitions, exclude other kinds of wells and cover monitoring wells. The rules will also address licensure standards, well construction, continuing education and "notice of intent" wells.

Chaves County Economic Development

John Mulcahy, president, Roswell Chaves County Economic Development Corporation, provided the committee with an overview of economic development efforts in the Roswell area, including development of renewable technology. He discussed development of solar and wind

energy facilities near Roswell. Mr. Mulcahy noted that the Roswell International Air Center offers both air service and pilot training for nearby partner schools. Mr. Mulcahy also discussed the presence of a private company specializing in aircraft painting, emphasizing that while the facility offers many benefits, such as a trained workforce, deterioration of the company's hangar, particularly its ceiling is a major drawback. He acknowledged that while the state is facing difficult financial times, investment in renovation of the air center, particularly its hangars, will allow the company to expand its operation in New Mexico.

Questions and comments from the committee included:

- the solar farm near Roswell is currently the largest in New Mexico; and
- the cost of electricity from the solar farm is less than that produced by natural gas.

Friday, October 28

State Land Office Watershed Restoration Proposal

Aubrey Dunn, commissioner of public lands, presented the committee with proposed legislation that would establish a fund that could be used for restoration of caliche pits, plug abandoned wells and conduct watershed restoration on state lands. Mr. Dunn outlined how the fund would be used and why there is a need to commit funding to the restoration of state lands.

Reclamation/Reuse of Produced Water Regulations

David Catanach, director, Oil Conservation Division (OCD), EMNRD, and Jim Griswold, chief, Environmental Bureau, OCD, EMNRD, explained how OCD rules were amended in 2015 to encourage the reuse of produced water. The OCD is solely responsible for regulating the disposition of produced water, they explained, though other agencies may be involved once the water leaves the oil fields.

Questions and comments from the committee included:

- the possibility of using treated produced water in lieu of fresh water for certain non-food crops or construction;
- the OCD requires a \$10,000 bond on oil and gas wells, but if a company abandons a well, it may cost \$33,000 to plug the well, which leaves it up to the state to cover the difference; and
- 200 wells were recently abandoned by a company that went bankrupt.

Agri-Tourism in New Mexico

Kim and Patricia Chesser, owners of Burnt Well Guest Ranch, explained how they came to establish the guest ranch and detailed the difficulties and rewards in doing so over the past 13 years. Mr. Chesser reported that the ranch has hosted nearly 1,600 guests in that time and that guests have come from 45 states and several foreign nations. He said he would like to see an environment in which agri-tourism is protected, if not encouraged, because many small farms and ranches cannot survive unless they diversify. One of his biggest concerns is the cost of liability insurance, he explained, and that without such insurance, his business and the ranch could be lost.

Andrew Graves of Graves Farm and Garden echoed the Chessers' concerns about liability insurance. He explained that his liability insurance is in the same category as a county fair, carnival or amusement park and costs \$45,000 per year. Though he has to carry \$1 million in coverage for his farm, he said, he has to double that coverage for the tourism part of his business. Mr. Graves requested that the committee consider legislation limiting the liability of agri-tourism businesses as 23 other states have already done.

Report on Oil and Gas Industry Job Loss and Economic Outlook

Michael D'Antonio, director of government relations, New Mexico Oil and Gas Association, gave an overview of the current state of the oil and gas industry in New Mexico, noting that the current rig count is 32, down from 102 in 2014. He said that at 50 employees per rig, that means there are 3,500 fewer rig jobs in 2016. Direct oil and gas job losses from 2012 through 2015 were 2,245, with 5,390 direct and indirect losses over that time period, according to the Interstate Oil and Gas Compact Commission report for 2015. In San Juan County, the population has declined by 11,500 over the past two years, with 6,500 job losses over the last eight years. Mr. D'Antonio reported that 6,900 jobs were lost over the past year statewide, with 967 from Farmington, 1,504 from Eddy County and 1,739 from Lea County. With continuing low oil prices, the threat of increased federal regulation and a new Bureau of Land Management resource management plan, the industry is facing strong headwinds over the next few years, he said.

Update on Equine Herpes Virus 1 Epidemic

William W. Bunce, executive director, New Mexico Livestock Board; Ismael "Izzy" Trejo, executive director, State Racing Commission; and Ray Willis, chair, State Racing Commission, reported on the equine herpes virus 1 outbreak that occurred at Sunland Park last year. Mr. Willis said it could have been a catastrophic event resulting in shutting down all horse racing in the state for a year or more. Instead, Mr. Bunce explained, interagency cooperation, along with cooperation from the racetrack and horse owners, avoided the specter of a half-billion-dollar disaster. Mr. Trejo explained that Sunland Park closed for 19 days at a cost of \$15.2 million and 72 races, with \$4 million in purses, canceled. The protocols developed during the crisis at Sunland Park were tested last summer, Mr. Bunce said, when a horse developed equine herpes at Ruidoso Downs. In that case, no other horses were infected. All three presenters stressed the importance of interagency cooperation and support in dealing with the outbreak.

Adjournment

There being no other business, the committee adjourned at 2:15 p.m.