



Kerry Howe, *Chair*
Steve Glass, *Vice-Chair*
Camilla Feibelman
Alejandria Lyons
Darrell Kundargi

Julia Maccini
John Pietz
Roberto Roibal
Caroline Scruggs

December 13, 2019

Location: Bernalillo County Public Works Division, 2400 Broadway SE

Time: 8:30 to 9:30 a.m.

Board Members Present: Chair Kerry Howe, Vice-chair Steve Glass, Camilla Feibelman, Darrell Kundargi, Alejandria Lyons, Julia Maccini, John Pietz, Robert Roibal, and Caroline Scruggs.

Board Members Absent (excused): None

PIC Members Present: Diane Agnew, Kali Bronson, Mo Hobbs, Mark Kelly, Danielle Shuryn, and Ken Ziegler.

Guests: Mike Neese

I. Call to Order

Chair Dr. Kerry Howe called the meeting to order at 8:31am.

II. Approval of Agenda

Chair Howe requested agenda items a. and b. be switched to have the Letter to Mr. Mark Correll, Deputy Assistant Secretary to the Air Force (Environment and Safety, and Infrastructure) item come before the Policy Implementation Committee (PIC) Agency Updates. Chair Howe requested a motion to approve the new agenda. Board member Ms. Camilla Feibelman motioned to approve the agenda with the changes, and Vice-chair Mr. Steve Glass seconded the motion. Motion to approve the agenda with changes carried unanimously.

III. Approval of Meeting Minutes

Chair Howe requested a motion to approve the November 8, 2019 meeting minutes with an addendum to address post-meeting, additional comments by New Mexico Environment

Department (NMED) Resource Protection Division Director Ms. Stephanie Stringer. Vice-chair Glass motioned to approve the meeting minutes, and Board member Dr. Caroline Scruggs seconded the motion. Motion to approve meeting minutes and addendum carried unanimously.

IV. Board Business

a. Letter to Mr. Mark Correll, Deputy Assistant Secretary of the Air Force (Environment, Safety, and Infrastructure)

Chair Howe requested that Board members review and provide edits to the draft letter to Deputy Assistant Secretary Correll of the United States Air Force (USAF) requesting renewal of the Cooperative Agreement to provide additional funding to the NMED for the Kirtland Air Force Base (KAFB) Bulk Fuels Facility (BFF) site remediation. Ms. Feibelman asked if there had been any progress on the Cooperative Agreement since the November 8, 2019 Water Protection Advisory Board (WPAB) meeting. Policy implementation committee (PIC) member Ms. Diane Agnew with the Albuquerque Bernalillo County Water Utility Authority (Water Authority) stated that according to Director Stringer, there is now a draft Memorandum of Agreement (MOA) between the USAF and NMED. Director Stringer told Ms. Agnew that NMED is still reviewing the MOA and that a letter from the WPAB Board encouraging expedited finalization by the USAF would be welcome. Board member Ms. Alejandría Lyons recommended the draft MOA be acknowledged in the letter.

Ms. Feibleman asked if it is typical for a state agency to provide oversight of federal cleanup sites. Ms. Agnew replied that this type of agreement is common.

Vice-chair Glass asked the Board if there were any other agencies or individuals that should be copied on the correspondence. Board member Mr. Robert Roibal requested a copy to be sent to City of Albuquerque (City) Mayor Mr. Tim Keller. Dr. Scruggs asked if the City's Green Team should receive a copy. PIC member and City employee Mr. Ken Ziegler informed the Board members that the Green Team's scope of responsibilities does not include KAFB. Mr. Roibal asked if Governor Michelle Lujan Grisham should receive a copy. Ms. Agnew said Governor Lujan Grisham regularly meets with the NMED Cabinet Secretary Mr. James Kenney and is well-informed about the Cooperative Agreement challenges. Chair Howe determined that the list of correspondents was complete.

The Board members then reviewed the letter and provided edits. Chair Howe requested a motion to approve delivery of the revised letter to Deputy Assistant Secretary Correll. Vice-chair Glass motioned to approve, and Board member Ms. Julia Maccini seconded. Motion to approve sending the letter to Deputy Assistant Secretary Correll carried unanimously.

b. PIC Agency Updates

PIC member Ms. Kali Bronson with Bernalillo County (County) informed the Board that the County had submitted its annual stormwater report to the U.S. Environmental Protection Agency.

Mr. Ziegler reported that the City Environmental Health Department (EHD) Director Ms. Sandra Begay resigned on December 6, 2019; Mr. Leon Espinoza from Mayor Keller's office is serving as Acting Director. Mr. Ziegler said the EHD is hoping to get all acting positions transitioned into fulltime positions. Mr. Ziegler said the EHD is currently working on smaller renovation and remediation projects at the Rail Yards remediation site.

Ms. Agnew informed the Board that County Commissioner Ms. Maggie Hart Stebbins was appointed Office of Natural Resources Trustee (ONRT) for the New Mexico Office of Natural Resources. In response to a question from Ms. Feibelman about the ONRT's role and responsibilities, Ms. Agnew explained that the ONRT assesses contamination impacts on natural resources and helps to ensure resource restoration. Ms. Agnew said the ONRT is a paid position with several staff members but has been vacant for several years. Vice-chair Glass asked if the ONRT can assess fines. Ms. Agnew responded that the ONRT can assess and collect damages following thorough assessment of economic, cultural, and natural resource impacts.

Ms. Feibelman asked if the ONRT could provide oversight for addressing impacts on natural resources when a coal mine shuts down, for example. Ms. Agnew responded that the ONRT can and does so by working with the NMED and the Governor's Office. She cited examples in Utah where the local ONRT successfully required mitigation for impacts related to the Gold King Mine site. Vice-chair Glass recommended that the Board request Natural Resources Trustee Stebbins to present to the Board on her objectives and priorities.

V. Other Board Business

Ms. Agnew thanked Vice-chair Glass for his presentation recommendation and asked if there were any other requests for presentations in 2020. Ms. Feibelman asked if the Board should form a subcommittee to monitor the upcoming legislative session for budget requests from environmental agencies that would benefit from letters of support from the Board. Ms. Agnew said she could keep in touch with Secretary Kenney on upcoming budget requests that fall within the purview of the Board. Ms. Feibelman, Ms. Maccini, and Vice-chair Glass agreed to serve on a subcommittee to draft support letters as needed.

Mr. Roibal requested a presentation on glyphosate and potential impacts to acequias in the South Valley. Ms. Bronson said the County can provide an update on their Parks and

Recreation Department's experiences and challenges in using alternatives to glyphosates. Dr. Scruggs asked why the City has not adopted a ban on glyphosates. Ms. Bronson said she was unsure but said the City's Parks and Recreation Department opposes a ban because alternative methods are much more labor intensive.

Dr. Scruggs asked the Board reach out to the Green Team and request a presentation. Chair Howe said he would like to know the Green Team's challenges with water quality and what issues they work to address.

Ms. Feibelman asked if any Board members had applied to be on the Technical Research Steering Committee for the development of the oil and gas guidance document. Chair Howe responded that he had. Dr. Scruggs requested a presentation on the oil and gas guidance document near the end of 2020.

Board member Mr. John Pietz requested the Board receive more technical, in-depth presentations on issues like glyphosates and produced water. Chair Howe asked the Board who they could invite as a technical presenter. Ms. Agnew said she could reach out to the New Mexico Bureau of Geology and the U.S. Geological Survey.

Ms. Agnew informed the Board that PIC member Ms. Kate Mendoza with the Water Authority was returning to work in January and will be taking over as the WPAB staff member.

VI. Public Comment Period

Mr. Mike Neas thanked the Board for its continued conversations on produced water. Mr. Neas expressed his concern that the Produced Water Act allows toxic waste to be used as a resource off-site for agriculture and potentially as drinking water. Mr. Neas said he believed that produced water should not be permitted to be used off-site until after technology enables produced water to be recycled and used on-site. Mr. Neas suggested the Board become involved in the rule-making process and suggested the Produced Water Act be amended to limit off-site use until 100 percent of produced water could be recycled on-site.

Dr. Scruggs recommended the Board receive a presentation on treatment technology and the economics of using produced water on- and off-site.

Ms. Feibelman noted that she was unaware of any plans to treat and use produced water for drinking water. Ms. Feibelman said it is unclear what the timeline is for research and rule-making for produced water. Ms. Feibelman said she would like to know more about the timeline for research and rule-making, the role of the oversight committee, and whether members of the oversight committee have industry ties. Ms. Feibleman noted that in the

public meetings on the Produced Water Act it was not clear how the science consortium research timeline coordinated, if at all, with the rule-making timeline. Ms. Agnew said she would plan to have a produced water research presentation and a policy presentation in tandem. Ms. Feibelman said she would like to know if there is a possessory trust for produced water and whether or not produced water is being sold. Ms. Feibelman added that buyers of produced water could face liability complications if there are still toxins in the water when purchased.

Ms. Bronson said the oil and gas industry is essentially adding water sources in a system that is adjudicated. Ms. Agnew suggested that issue be addressed at the Board's oil and gas produced water presentation.

Mr. Neas said the oil and gas companies are adding toxic water back into the aquifer and contaminating sources of water that could be used in the future. Dr. Scruggs stated that she did not believe that reinjected produced water would be re-extracted for use, adding that injection is very deep and often into brackish groundwater. Dr. Scruggs said the Board should focus on investigating how the industry treats produced water and how recycled water could be re-used on-site. Chair Howe added that it is important to find alternative uses for produced water because deep injection can cause seismicity.

VII. Adjourn

Chair Howe requested a motion to adjourn. Mr. Roibal motioned to adjourn, and Dr. Scruggs seconded. The motion to adjourn carried unanimously. Meeting adjourned at 9:29 a.m.