



Steve Glass, *Chair*
Elizabeth H. Richards, *Vice Chair*
Michael J. Bitner
John S. Derr
Pete Domenici Jr.

Kerry J. Howe
Caroline Scruggs
Jennifer Thacher
Erik K. Webb

Water Protection Advisory Board
c/o ABCWUA
P.O. Box 568
Albuquerque, NM 87103

Minutes: February 13, 2015

Location: Bernalillo County Public Works Division, 2400 Broadway

Time: 8:40 a.m. – 10:40 a.m.

Board Members Present: Chairman Steve Glass, Vice Chair Elizabeth Richards, Pete Domenici Jr., Caroline Scruggs, Jennifer Thacher, John Derr, and Kerry Howe

Board Members Absent: Michael Bitner and Erik Webb

PIC Members Present: Dan McGregor, Ken Ziegler and Rick Heckes

Guests: Patrick Chavez (AMAFCA), Sue Umshler and Davie McCoy (CANM)

I. Call to Order

Chair Steve Glass called the meeting to order at 8:40 a.m.

II. Approval of Agenda

Vice Chair Dr. Elizabeth Richards moved to modify the agenda to allow 20 minutes for the scheduled speaker and to move the review and approval of minutes to Board Business.

Motion was moved by Vice Chair Richards, and seconded by board member Dr. John Derr. Motion to modify the agenda was carried unanimously.

III. Presentation: Water Resilience in New Mexico – A Report of Law and Policy Ideas from the UNM Utton Center, Adrian Oglesby, Director.

Mr. Oglesby presented on the scope and focus of the Utton Law Center, which included:

- a. Organization of Utton Law Center
- b. Publication of “Water Matters” for annual legislative use and handout of other selected papers on various topics
- c. Summary of recently held “invite only” meeting on resiliency. Publication of meeting report is in process and is being intentionally held until after the legislative session to encourage deliberate rather than reactive discussion. The meeting addressed three primary topics:

- i. Water Funding – possible options included establishment of a water severance tax or a water users fee, as water use in New Mexico is heavily subsidized
 - ii. Water Planning – discussion centered on ISCs current approach included the need for consistent funding (emphasis on consistency rather than on amount), and the need for ISC to better manage expectations to help limit potential levels of conflict
 - iii. Water Rights Administration - Past efforts to address adjudication issues has not been well received. The Center is instead moving toward looking at future adjudication issues/options such as addressing “big block” issues such as starting with pre-1907 and existing permitted rights and establishing some type of de minimus level. It was also noted that the legislature tends to focus on adjudication issues rather than management issues.
- d. Artificial Storage and Recover – Utton Center’s role in looking at Compact implications and also at small scale “in-system” short term storage options.
 - e. Preservation of agricultural interests – Heavy subsidizing of agricultural water use was recognized and the need for short term market and leasing options are being studied.
 - f. Non-Consumptive / Non-Traditional Uses – Utton Center is looking at issues revolving around eco-tourism and recreational uses and the need to move away from single-species management policies.
 - g. Governance Structures – The Center is also interested in exploring poly-centric governance for water including issues around benefits of collaboration from competing traditions, institutional integrity, equitable treatment/transparency, and accountability.
 - h. Mr. Oglesby also included his concerns with the need to be courageous with respect to proffering ideas and solutions that have the potential to be career limiting.

Board members discussed topics including the alignment of the WPAB interest / nature as a poly-centric board with Utton Center’s focus on such structures, issues revolving about water as a limiting factor on growth, the role Utton Center can have as a “research” and support function for others. Chair Glass indicated that Utton Center is to be added to any mailing list that the Board might have.

IV. Board Business

- a. **Election of Officers:** Slate was proposed by members – Steve Glass as Chair. Motion was moved by board member Elizabeth Richards, and

seconded by board member John Derr. Slate proposed by members – Elizabeth Richards as Vice-Chair. Motion by board member Dr. Kerry Howe, and seconded by board member Dr. Jennifer Thacher. Acceptance of the proposed slate was moved by board member Pete Domenici Jr and seconded by member Dr. Jennifer Thacher. Motion by board on the proposed slate of officers for 2015 was approved unanimously.

- b. **Open Meetings Act Resolution Acceptance** Vice Chair Richards, Second: Jennifer Thacher, Vote: Unanimous ayes)
- c. **Review of WPAB/Policy Implementation Missions** – Tabled until March meeting (Moved: Elizabeth Richards; Second: John Derr; Vote: Unanimous ayes)
- d. **Draft 2014 Annual Report:** Steve Glass indicated that his review of the draft report found a few grammatical errors, but no substantive changes needed. Board Member Derr indicated that Kerry Howe’s qualification “bullets” needed to be expanded to additional items. Vice Chair Richards indicated that she would like to have the opportunity to do additional review and would like to have it provided as a Google Document open for editing similar to last year’s effort. Approval was tabled pending additional opportunity for the Board to edit the Draft 2014 Annual Report. Motion was made by Vice Chair Richards to table the report and seconded by board member Domenici and was approved unanimously.
- e. **2015 Work Plan:** Board members discussed the draft work plan and presentation schedule for 2015. Various items discussed included presentation on post-fire debris concerns, watershed health, impact of agriculture on surface and water quality, concerns with septic systems, and various additions and parsing of the various topics. Particular changes to be made will be consolidated and would be forwarded to Mr. Rick Shean for changes. Board members discussed how to parse out agricultural issues including delivered water quality, septic tank issues, urban issues vs storm water, the need for adding a bullet regarding the mixed waste landfill, and need to discuss the progress of the watershed-based municipal separate storm sewer system (MS4) permit. Chair Glass offered to consolidate board member comments in an edited version of the 2015 Work Plan, and to circulate the edited plan for Board review. Comments for suggested revisions included:
 - i. Item IV. Second bullet – needing clarification on assessing the effectiveness of the WPAB and adding a bullet regarding advocating decision-maker actions on specific issues.
 - ii. Item V. Delete the second bullet as it’s redundant with the third. Change the fourth bullet to talk about wastewater discharges

/septic tank issues and possibly dairy issues, rather than it being about the Ordinance.

- iii. Item VI – Add a bullet for MS4 Permitting, Change City Stormwater Ordinances to just Stormwater Ordinances, Change third bullet to Watershed Health regulations, and add a fourth bullet Urban and Agricultural Impacts
- iv. Item VII: Delete first two bullets.

- f. **Draft Presenter Schedule:** Board members discussed the value and need for field trips by the board. Board member Dr. Caroline Scruggs was particularly interested in ensuring that any scheduled tours were specific to an issue to be discussed and followed by a detailed presentation regarding the relevant issues (Example – what is the purpose for the tour of the Los Angeles landfill, or if touring water treatment facility - emphasize the ASR project and related issues). Particular requested changes included moving the Superfund Site Update from April to September and moving Stormwater Ordinances to a general MS4 permit discussion to November. This would then open April up for a Watershed Health emphasis coupled with a discussion on status of the Mixed Waste Landfill and a legislative update. Chair Glass offered to consolidate the board's comments into a revised draft Presenter Schedule and circulate the revised draft to board members for comment.
- g. **Discussion of Water Related Legislation:** Mr. Dan McGregor of the Bernalillo County Public Works Department provided a quick summary overview of the nature of water bills before the legislature. There was brief discussion regarding HB38 Forest and Watershed Restoration Act, and Mr. Oglesby informed the Board about a proposal to use insurance fees to fund forest thinning because insurance companies reduce losses when at-risk properties are thinned. Comments were made that while there is general widespread support for the concept of forest thinning, there are obstacles in that Legislative Finance has a preference that insurance fees go to General Fund and in that the State Forester may also be in opposition.
- h. **Discussion of Support Letters for the Federal Wildfire Disaster Funding Act and Rio Grande Water Trust** – Board members came to the consensus that this was not a high federal priority and did not make it into the 2014 "chromnibus" funding bill and would be deferred to the next federal budget. Further discussion ensued regarding HB38 and the Board

decided to send a letter of support to the sponsors of the bill with copies to the Chairpersons of the City Council, the Board of County Commissioners, and the Water Authority Governing Board.

Motion to approve the drafting of this letter was made Vice Chair Richards and seconded by Dr. Derr. Motion to prepare the letter and send to the New Mexico Legislature was carried unanimously.

- II. **Other Board Business** – none was discussed.

- III. **Public Comment period** – Mr. David McCoy, Executive Director of Citizen Action New Mexico, provided a brief summary of status and concerns with the Sandia National Laboratories' (Sandia) Mixed Waste Landfill, including a summary of his locating documents describing materials placed into the Mixed Landfill that were previously unrecognized, and urged that the WPAB recommend to the NMED either denial of the request for Corrective Action Completion, request a public hearing on the same, or request exhumation of the materials. Mr. McCoy added that there is a March 13 deadline for providing public comment. The summary report and documentation are available at www.radfreenm.org. Particular points raised stemmed from a review of previous documents received under Freedom of Information Act by CANM and a correlation of various reports describing test events and facility operations reports. Particular points of concern expressed by Mr. McCoy included:
 - a. Previously undisclosed placement of high level radioactive waste into the landfill
 - b. Placement of canisters from various meltdown and reactor tests into the landfill
 - c. Presence of metallic sodium – with concern that this could lead to detonation/explosion within the landfill cells in the subsurface
 - d. That based on 1997-1998 memos, there was no concern with regard to materials safety and that decisions were purely cost driven.

Meeting adjourned at 10:40AM.