



Kerry Howe, *Chair*
Russell Pederson, *Vice-Chair*
Suzanne Busch
Steve Glass

Julia Maccini
Roland Penttila
Caroline Scruggs
Jennifer Thacher

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

Minutes: July 13, 2018
Location: Bernalillo County Public Works Division, 2400 Broadway SE, Bldg. N Conf. Room
Time: 8:30 to 10:00 a.m.

Board Members Present: Chair Kerry Howe, Vice Chair Russell Pederson (via phone), Suzanne Busch, Julia Maccini, Roland Penttila, and Caroline Scruggs

Board Members Absent (excused): Steve Glass and Jennifer Thacher

PIC Members Present: Diane Agnew, Liz Anderson, Kali Bronson, Mark Kelly, Dan McGregor, Kate Mendoza, Kathleen Verhage, and Ken Ziegler

Guests: U.S. Air Force: Eva Blaylock, Carl Grusnick, Col. Chris King, Kate Lynnes, and Chris Segura; New Mexico Environment Department: Butch Tongate, Dennis McQuillan, and Katy Diffendorfer; Citizen Action: Dave McCoy and Eric Nuttall; Poqueen Rivera (Congresswoman Michelle Lujan Grisham's Office); Maddy Hayden; Mike Neas; and Nancy Bearce (County Treasurer)

I. Call to Order

Chair Dr. Kerry Howe called the meeting to order at 8:34 a.m. Chair Howe welcomed the large crowd of guests to the meeting.

II. Approval of Agenda

Chair Howe requested a motion to approve the agenda. Mr. Roland Penttila motioned to approve the agenda and Ms. Suzanne Busch seconded the motion. Motion to approve the agenda carried unanimously.

III. Approval of April Minutes

Chair Howe asked board members if there were any comments on the April meeting minutes. Chair Howe then asked for a motion to approve the April minutes. Ms. Julia Maccini abstained from the approval of the minutes due to her absence from the April meeting. Mr. Penttila motioned to approve the April minutes and Dr. Caroline Scruggs seconded the motion. Motion to approve the April meeting minutes carried unanimously.

IV. Approval of June Minutes

Chair Howe asked board members if there were any comments on the June meeting minutes. Ms. Busch asked that the spelling of her last name be corrected in the minutes and Ms. Kate Mendoza said she would make the change. Chair Howe then asked for a motion to approve the June meeting minutes with Ms. Busch's revision. Mr. Penttila motioned to approve the June meeting minutes and Ms. Maccini seconded the motion. Motion to approve the June meeting minutes carried unanimously.

V. Board Business

a. PIC Agency Updates

Mr. Ken Ziegler, PIC member, informed the board that the City of Albuquerque (City) Environmental Health Department recently hired Ms. Erin Engelbrecht as the new community liaison. Mr. Ziegler also informed the board that the Water Quality Control Commission (WQCC) held meetings on July 10-11th to deliberate the proposed changes to the groundwater regulations. Mr. Ziegler said that almost everything that was proposed was accepted minus the proposed language about aquifer storage and recovery. Mr. Ziegler said that the groundwater quality standards will now be the same as drinking water quality standards and the new standards will be effective beginning in July 2020.

Mr. Ziegler told the board that there was a public meeting for the Kirtland Air Force Base (KAFB) Bulk Fuels Facility (BFF) project on July 12th and mentioned that many people in the room had been in attendance. Mr. Ziegler added that there was a modeling meeting for the KAFB BFF project on June 14th and that the City has been participating in those discussions.

Mr. Ziegler informed the board that the City Environmental Health Department has been given environmental quality control of the railyards site downtown. He added that there has been long-standing environmental monitoring occurring at the site and the City is looking forward to redevelopment of the site in the near future.

Ms. Diane Agnew, PIC member, informed that board that she had attended the Sandoval County Commission meeting on July 12th and the discussion was focused on learning about the issues surrounding oil and gas production in the San Juan and Albuquerque basins. Ms. Agnew said that there were presentations from the New Mexico Bureau of Geology, the Citizen's Working Group, the science group from the Citizen's Working Group, and Thrust Energy. She said that there will be three different draft oil and gas ordinances: one from the oil and gas industry, one from the science group of the Citizen's Working Group, and one from the whole Citizen's Working Group. She said that each group has a different approach to developing the ordinance and each group is coming at it from different angles. The ordinance written by the science group of the Citizens Working Group has been posted but the other two remain to be seen. The Citizen's Working Group is still working on developing their ordinance. Ms. Agnew told board members that the New Mexico Bureau of Geology will be presenting

the results of their basin studies at the WPAB meeting in August. The results from the studies indicated that there is more risk to nearby municipal supply well locations when drilling occurs in the same drinking water production zone. Ms. Agnew said that the results of the study were in line with the results of the Water Authority's Groundwater Source Water Assessment. Ms. Agnew said that Thrust Energy presented a very technical argument about the geology in Sandoval County. She said that there were several recommendations from the Citizen's Working Group presentations including suggestions to consider the political, tribal, and cultural boundaries when writing the ordinance. The Sandoval County Commissioners asked the experts questions about their presentations and told the public that they planned to review the three draft ordinances and combine them. Ms. Agnew said that there are still issues the groups are grappling with, including timelines for production, leak detection and monitoring, how to include horizontal drilling, well location densities, upwelling of produced water, and selective bans in certain areas of the county. Chair Howe asked if there were opportunities for Bernalillo County to follow the same process and Ms. Agnew stated that the process the WPAB is proposing with the Mid-Region Council of Governments (MRCOG) is similar to the Citizen's Working Group approach. She added that utilizing the Water Resource Board at the MRCOG allows for a broad perspective and would be a good approach for our region. Mr. Dan McGregor, PIC member, asked the board to consider that the issue is larger than just drilling and also encompasses land use and planning and zoning restrictions. Ms. Agnew concluded that it was good to have multiple parties to the issue present at the Sandoval County Commission meeting share their perspectives.

Ms. Kate Mendoza, PIC member, told board members that she and Mr. Rick Shean went to the American Water Works Association Annual Conference and Exposition in Las Vegas, NV and received the Exemplary Source Water Protection Award for the Albuquerque Bernalillo County Water Utility Authority (Water Authority). She said she plans to bring the award to the next meeting for the board to see. She also thanked the board for their work on the source water protection assessments and plan. Ms. Agnew said that she and Ms. Mendoza are 80% complete with the Rivers and Aquifers Protection Plan and intend to have the plan to the board for review in August.

Ms. Kali Bronson, PIC member, told board members that the United States Geological Survey (USGS) came up with grant money to build an interactive exhibit at the Valle de Oro Wildlife Refuge Visitor's Center to engage the public about water quality and the watershed. Valle de Oro received additional funding for projects and Bernalillo County (County) and the Albuquerque Metropolitan Arroyo Flood Control Authority (AMAFCA) provide matching funding for Valle de Oro. Ms. Bronson said that the stormwater quality team received permission from the Middle Rio Grande Conservancy District (MRGCD) to conduct stormwater quality monitoring at the bar ditches near the Rio Grande at Valle de Oro. Ms. Bronson told the board that they typically have higher E. coli concentrations near Valle de Oro and they hope that the additional sampling will help them target the water quality issue.

Ms. Bronson told the board that AMAFCA was invited to speak at the National Association of Floodplain and Stormwater Agency Managers conference in Santa Fe to discuss stormwater policies. She said there was a lot of interest at the conference about

Albuquerque's approach to watershed-based stormwater planning and Albuquerque's approach to controlling floatables in stormwater. She said that floatables are a major issue in California and must be constantly addressed to avoid serious damage to stormwater infrastructure. Most floatables are the result of homeless camps in waterways and under bridges. Ms. Bronson added that floatables are a concern for stormwater quality, but the issue is deeper than water quality and includes home security, public justice, public safety, and addressing mental health concerns. She added that the solution will require a multi-agency approach. Currently, stormwater managers in California are providing warnings to the homeless a few days in advance of moving them away from stormwater infrastructure.

Mr. McGregor provided the board an update on septic systems in Bernalillo County. Mr. McGregor told the board that the County has notified about 1,200 non-permitted septic system owners over three years and the County has successfully closed-out about 600 of those non-permitted septic systems.

b. Kirtland Air Force Base, Bulk Fuels Facility Jet Fuel Leak Project Resolution:

Prior to board discussion, Ms. Agnew recused herself from the discussion about the KAFB BFF project resolution. Chair Howe started the discussion by saying that the board has been discussing this resolution since April and asked board members for any additional discussion about the resolution. Mr. Penttila said that the board has reviewed the resolution many times and felt that the resolution's language needed no further adjustments. Chair Howe recognized that the Air Force and New Mexico Environment Department (NMED) were present and asked the Air Force if they would like to provide comment prior to the board approving the resolution. Ms. Kate Lynnes, Air Force, thanked Chair Howe for the opportunity to speak, however, she suggested that NMED Secretary Butch Tongate be allowed to speak first. Mr. Dave McCoy, Citizen Action, interjected and said that he would also like to comment if everyone else was getting to comment prior to the resolution vote. Chair Howe said that he would like to hear from the Air Force and NMED and reserve additional comments for the public comment period.

Secretary Tongate expressed concerns about the Water Authority's public criticism of the draft of the 2018 Strategic Plan (Plan) for the KAFB BFF jet fuel leak project posted online in March. He told board members that he met with the Water Authority to address concerns about the Plan and added that NMED has addressed most, if not all of the comments, in the final Plan. Secretary Tongate said that NMED was invited to speak at this WPAB meeting and they were perplexed as to why they were informed it was cancelled but a meeting was being held today. Chair Howe said the issues between NMED and Water Authority do not impact the board passing this resolution. Secretary Tongate asked Chair Howe if he could continue and Chair Howe agreed. Secretary Tongate said that the technical working groups for the KAFB BFF project were established to listen to ideas about remediation strategies. Secretary Tongate said that

NMED is in agreement with the resolution that the Water Authority needs to be heard at the technical working group meetings. He said regarding the KAFB-240 well that there seems to be confusion as to why the well is not being drilled. He said that he was sure the Air Force would back him up, but the KAFB-240 well is not being drilled because the budget only allows so many wells to be drilled in a year. Secretary Tongate said the Veterans Affairs (VA) hospital has a water supply well near the plume and there is not a monitoring well between its property and the plume. Secretary Tongate said that obviously the NMED and Air Force want to put in all the wells, but the reality is that there is not enough money to do it this year. Secretary Tongate said that next year there will be more money and the well will be installed in its originally proposed location.

Secretary Tongate told invited the board and the Water Authority to have conversations about future concerns prior to going to the media. Chair Howe addressed Secretary Tongate's concern about the meeting cancellation and clarified that NMED was on the agenda for July's board meeting. However, the resolution had been discussed over several board meetings and the resolution was going to be approved at the June meeting, but the board decided that a few more changes were needed. Chair Howe said that several board members had vacation plans in July so it was decided at the June meeting to cancel the July board meeting. Chair Howe said that subsequently to that, email discussion in the interim led the board to decide to have a meeting in July to approve the resolution in a timely matter instead of waiting until the August board meeting. Ms. Mendoza asked Chair Howe if she could answer Secretary Tongate's other concerns and Chair Howe agreed. Ms. Mendoza said that the email she sent to NMED on June 11th was right after WPAB had cancelled the July meeting and indicated that a presentation was no longer needed since the July meeting had been cancelled. She explained that although the board decided to cancel, the online public portal for meeting information never showed a cancelled meeting. Secretary Tongate told the board he had a letter for them and Ms. Katy Diffendorfer, NMED, proceeded to hand each board member his letter.

Following Secretary Tongate's remarks, Ms. Lynnes spoke to the board about the KAFB-240 well that was relocated. She said that the Air Force has wells in other areas of the plume that are monitoring the movement of contamination. Ms. Lynnes said the Air Force is looking at a new scope of work to maybe include the original location for the KAFB-240 well. Ms. Lynnes also mentioned that the Air Force is not at the WPAB meeting to focus on points from the technical working group meetings. Ms. Lynnes asked board members to hold off on voting on the resolution because board members are invited to come look at the treatment facility on base to ease their concerns. Ms. Lynnes told board members that she believes the board does not fully understand where the project is in the Resource Conservation and Recovery Act (RCRA) process. She said that discussions about the Corrective Measures Evaluation (CME) in the technical working group meetings is premature at this point in time. She said that after

the investigation is done, there must be hearings and public process. Ms. Lynnes said that they are following the RCRA process and it is not Superfund; the robust RCRA process is better than Superfund and noted that decisions on the site are even appealable in court. Ms. Lynnes reiterated her request that board members to hold off on voting on the resolution at the meeting until board members visit the site. Following Ms. Lynnes' request to the board to hold the vote, Secretary Tongate stood up and also requested that board members hold off on voting on the resolution at the meeting.

Chair Howe asked board members for additional discussion and if they would like to pass the resolution. Mr. Penttila said he was in favor of approving the resolution and noted that NMED (Secretary Tongate) agreed with the resolution. Mr. Penttila reminded board members that it is a resolution and if it gets the Air Force and NMED to act, then he supports the resolution. Dr. Scruggs said if there is concern that the resolution could interfere with the current remediation efforts and Ms. Lynnes interjected and said that the resolution does not really interfere, but that it is not very timely. Ms. Lynnes said that NMED must choose the final remedy for the site, not the Air Force. She added that the independent advisory board recommended in the resolution makes the RCRA process longer and more cumbersome. Chair Howe told Ms. Lynnes that the board is only making recommendations for the project.

Ms. Mendoza asked Chair Howe if she could say a few words and Chair Howe agreed. Ms. Mendoza started by addressing the Water Authority's public criticism of the draft Plan. She said that the Water Authority's comments on the Plan were submitted to Mr. Dennis McQuillan, KAFB BFF project lead at NMED, prior to the comments appearing in the media. Ms. Mendoza also addressed the KAFB-240 well and said that because the original well location is no longer in any current work plans, there is no guarantee that it will be drilled in the future. She also said that no documentation had been provided explaining why the well was relocated and what data supported that decision. Ms. Mendoza then addressed Ms. Lynnes and said she felt Ms. Lynne's comments had not taken into consideration the credentials of the WPAB, which is composed of highly experienced engineers, prominent academic professors, and professionals and are all very familiar with remediation techniques and the KAFB BFF project. She pointed out that many Board members have already been on a tour of the treatment facility, and Chair Howe confirmed that he had already been on a tour of the treatment facility with Mr. Trent Simpler, former project manager with the U.S. Army Corps of Engineers.

Chair Howe addressed the KAFB-240 well and said that it sounds like the Air Force and NMED intend to still install the well in its original location in the future, but maybe not right now. Chair Howe said that he is still in favor of passing the resolution as-is. Ms. Busch said that she has worked in government long enough to know that if something is not in a work plan or on contract, there is no guarantee that it will happen in the future. She also stated her support for approving the resolution. Chair Howe said that the last recommendation in the resolution was amended slightly from the last draft the board

members had reviewed. Ms. Mendoza stated that the version the board has in front of them for approval is different from the version that the Air Force and NMED have seen. Mr. McGregor suggested reading the last recommendation, as revised, aloud since there was a tweak in the language. Chair Howe read the recommendation aloud and then asked board members for further comments. Vice Chair Russell Pederson said that he had no additional comments and supported moving forward with the resolution. Chair Howe asked if Ms. Maccini had any comments and she replied that she did not.

Chair Howe asked for a movement on the resolution and Mr. Penttila moved to approve the resolution. Ms. Busch seconded the motion. Chair Howe stated he had a proxy vote for Mr. Steve Glass and Mr. Glass votes to approve the resolution. Dr. Scruggs stated that she had a proxy vote for Dr. Jennifer Thacher to approve the resolution. Motion to approve the KAFB BFF jet fuel spill project resolution passed unanimously.

c. Follow-up Letter to MRCOG for Oil and Gas Regional Template and Ordinance Development

Chair Howe asked for comments from board members. Mr. Penttila said that he was glad the board was moving forward with this letter to the Mid Region Council of Governments (MRCOG) supporting a regional template for an oil and gas ordinance. Mr. Penttila also thanked Mr. McGregor and Ms. Agnew for their help with wording the letter.

Chair Howe asked for a movement to approve the letter. Mr. Penttila moved to approve the letter and Dr. Scruggs seconded the motion. Chair Howe stated he had a proxy vote for Mr. Glass and he voted to approve the letter. Dr. Scruggs stated that she had a proxy vote for Dr. Thacher and she voted to approve the letter. Motion to approve sending the letter to MRCOG passed unanimously.

VI. Public Comment Period

Prior to beginning the public comment period, Chair Howe stated that although there is some sensitivity to the issues discussed at the meeting, he believes that all parties have the same goals for cleanup. Chair Howe added that each person signed up for public comment will have three minutes to speak. Dr. Scruggs offered to time each speaker and Chair Howe agreed.

Ms. Nancy Bearce, County Treasurer, said that she is from the International District in Albuquerque and she has been following the KAFB spill since 2000. She stated that she was concerned that remediation partners are not working together well. She said that Chair Howe acknowledged that we all have the same goals in cleaning up the spill. Ms. Bearce said that as an elected official, she understands professional disagreements. She said that she did not realize that the WPAB was an independent advisory board. Ms. Bearce said

she wants to encourage people to work together. She said that years ago, the Water Authority was shut out of KAFB BFF project meetings and that was not good. She said that she wants attention on the spill and the momentum of the project to focus on cleaning up the spill. She added that she wants the community to stop the spread of the plume and for the community to have a say in the technical arguments for the site. Ms. Bearce said that she recognizes other politics, but it takes a team of people working together to clean up the contamination. She turned to Water Authority staff in the room and encouraged them to seek solutions in cooperation with NMED. Ms. Bearce added that she was told by senator's office staff that the meeting was cancelled today and that is why they are not in attendance. She said that she looked at the website and saw that there was a meeting so she decided to attend herself.

Mr. Mike Neas, citizen of Sandoval County, thanked board members for following up with the letter to go to MRCOG regarding the oil and gas ordinance. He said that the board does have legal standing by way of ordinance to write letters. Mr. Neas said that he attended the July 12th Sandoval County Commission meeting where he heard Mr. Mike Springfield, director of Planning and Zoning in Sandoval County, mention that there are already agencies regulating water and that is the reason water protections are not needed in the Sandoval County oil and gas ordinance. Mr. Neas said that he found that statement by Mr. Springfield unacceptable. Mr. Neas then told the board that there was a Ph.D. hydrologist from Thrust Energy present at the meeting that said that water can be purchased, even during a drought, for oil and gas operations. He said that quote could be continued motivation for the board to continue their efforts on the oil and gas ordinance.

Mr. Dave McCoy, Citizen Action New Mexico, stated that he has become aware of so much information on the KAFB BFF project through the Inspection of Public Records Act (IPRA) and the Freedom of Information Act (FOIA) process. Mr. McCoy stated that he attended the July 12th public meeting for the KAFB BFF project and that there was a discussion about the Environmental Protection Agency's (EPA) capture zone analysis guidance and modeling capture zones. Mr. McCoy showed board members a print-out of a slideshow created by INTERA for the Water Authority that discussed the uncertainty of hydraulic containment of the ethylene dibromide plume. Mr. McCoy stated that there was a meeting between NMED, Air Force, and the Water Authority on June 7th to talk about comments submitted on the Plan but other parties who submitted comments on the plan were not invited to the meeting. Mr. McCoy stated that he strongly supports the resolution. He then stated that there have been so many promises over the years that have not happened for the KAFB BFF project. For example, the Air Force has promised eight extraction wells and there are only four wells. He added that those four extraction wells do not operate at capacity either. Mr. McCoy said that there is so much information that is not available to the public that it is very alarming. He said that the public is not supposed to have to wait for the CME proposal to be in place to have a say in project remediation strategies. He added that

there still is not a RCRA Facility Investigation (RFI) report in place yet. Mr. McCoy said that he wants INTERA to be kept on as an advisor for the Water Authority and that he believes that INTERA's work on the project represents the only independent assessment of cleanup plans. Dr. Scruggs' timer went off indicating three minutes had passed.

Dr. Eric Nuttall told the board he was a retired UNM professor and stakeholder for the KAFB BFF project, said that he has worked for the Interstate Technical Regulatory Council (ITRC) for 20 years and the ITRC regularly deals with groundwater remediation in all U.S. states. He said that essentially, the EPA is a supporter of the ITRC. He said that in regard to what is happening nationally, there are over 1000 complex groundwater contamination sites in the U.S. that need addressing. Dr. Nuttall said that just like every other industry, allowing for a review of a site at a certain time and level is important for the process prior to selecting a final remediation strategy. He added that having a review after the process has played out does not help the site. Dr. Nuttall said that other complex sites have had multiple reviews and none of the reviews were designed to criticize any parties involved, but were instead designed to choose the most expedient and cost-effective approach to remediating the contamination. He added that there have been many reviews by the ITRC and the reviews have been more productive for sites than not. He suggested to get everyone on the same page and avoid having gaps in the data for the KAFB BFF site. Dr. Nuttall reiterated that not all reviews are bad. He said that reviews save the public money, can result in cutting remediation costs, and get stakeholder approval and buy-in for remediation efforts at the site. Dr. Nuttall said that cleanups are challenging, expensive, and complicated and the KAFB BFF project deserves a national review. He said that reviews take time, but they are critical and needed between the RFI and CME reports. Dr. Nuttall reiterated that he believes an independent review will be good and help everyone involved in the KAFB BFF project. Dr. Scruggs' timer went off indicating three minutes had passed.

Chair Howe said that concluded the public comment period and Colonel Chris King, Vice Commander of the 377th Wing of the Air Force, requested to speak and Chair Howe agreed. Colonel King introduced himself and noted that he has been on the job for 10 days and he is at the meeting on behalf of Colonel Gibbs, Wing Commander. Col. King invited board members to come see the project at the base and get a tour of the treatment facility. Colonel King said that the Air Force is all about transparency and that they strive to be good neighbors in the community. He said that the Air Force looks forward to a good partnership in the future and that the only way to make that happen is if all parties can come together and take a look at the issues together.

VII. Adjourn

Prior to adjourning the meeting, Ms. Agnew stated that the next WPAB meeting will be on August 10th from 8:30 a.m. to 10:30 a.m. and will be held at the Bachecci Open Space

building near Alameda Blvd. and Rio Grande Blvd. The change in location for the August meeting is posted on the website where meeting materials can be accessed. Ms. Agnew stated she would send a reminder to the PIC and board members for the changed meeting location.

Chair Howe asked for a motion to adjourn. Mr. Penttila motioned to adjourn the meeting and Ms. Busch seconded the motion. Motion to adjourn the meeting passes unanimously. The meeting was adjourned at 9:46 a.m.