



Notes

Thursday, October 13, 2022

9:00am – 2:00pm

Virtual

Attendees

Task Force Executive Committee

Mike Hamman, State Engineer, Office of State Engineer

Hannah Riseley-White, Deputy Director, Interstate Stream Commission

Rebecca Roose, Deputy Cabinet Secretary of Administration, NM Environment Department

Marquita Russel, CEO, NM Finance Authority

Task Force Members

AJ Forte, Executive Director, NM Municipal League

Aron Balok, Water Resource Specialist, Pecos Valley Artesian Conservancy District

Aaron Chavez, Executive Director, San Juan Water Commission

Debbie Romero, Cabinet Secretary, NM Dept. of Finance & Administration

Dr. Ladona Clayton, Executive Director, Ogallala Land and Water Conservancy

Dr. Nelia Dunbar, NM Tech Professor, Leap Ahead Analysis

Elizabeth Anderson, Chief Planning Officer, ABCWUA

Jennifer Bradfute, Senior Counsel, Marathon Oil Company

Joy Esparsen, Deputy Executive Director, New Mexico Association of Counties

Kyle Harwood, Water Rights Attorney, Santa Fe

Norm Gaume, President, MRG Water Advocates

Patrick McCarthy, Water Policy Officer, Thornburg Foundation

Paul Tashjian, Director of Freshwater Conservation, Audubon

Paula Garcia, Executive Director, NM Acequia Association

Priscilla Lucero, Executive Director, SWNMCOG; Water Trust Board

Ryan Swazo-Hinds, Environmental Biologist, Pueblo of Tesuque Department of Environment & Natural Resources

Debbie Romero, Cabinet Secretary, NM Department of Finance and Administration

Todd Leahy, Tribal Liaison, NM Energy Minerals & Natural Resources; proxy for Secretary Sarah Cottrell Propst

Lt. Governor Carleton Bowekaty, Zuni Pueblo

Lynn Trujillo, Cabinet Secretary, NM Indian Affairs Dept.

Laurie Weahkee, Proxy

Bill Conner, NM Rural Water Association

Ralph Vigil, President, NM Acequia Commission; William Gonzales, Proxy

Michael Sloane, Director, Department of Game and Fish Director

Daryl Vigil, Water Administrator, Jicarilla Apache Nation
Dr. Phil King, Retired NMSU Professor and Consultant to EBID
Kirk Patten, Chief of Fisheries, Dept of Game and Fish
Jeff Witte, Director/Secretary of NM Department of Agriculture

Others

Danielle Gonzales, Executive Director, NM First
Theresa Cardenas, Civic Engagement & Policy Manager, NM First
Lynne Canning, Task Force Design and Facilitation, NM First
Valerie Rangel, Civic Engagement Assistant, NM First
Adrian Oglesby, Executive Director, Utton Center
John Fleck, Utton Center
Senator Wirth
Representative Gail Armstrong

Welcome/Invocation/Opening Statements

New Mexico First

Announcement:

In the initial voting, the majority of Work Group 3's recommendations fell between 82%-67%, with 3 recommendations receiving 85% or higher (majority support) from the task force.

Note: Work Group 3's revised recommendations will be sent out for a final vote on the following Monday.

Report of final votes for Work Group 1 & 2:

Rec. 1.1 = 96% support; Rec. 1.2 = 100% approval; Rec. 1.3 = 100% approval; Rec. 1.4 = 100% approval;
Rec. 1.5 = 100% approval; Rec. 2.1 = 100%; Rec. 2.2 = 100%; Rec. 2.3 = 96% support; Rec. 2.4 = 100% approval;
Rec. 2.5 = 100% approval; Rec. 2.6 = 100% approval; Rec. 2.7 = 100% approval; Rec. 2.8 = 100% approval

Executive Committee

Gratitude was given to the task force for the heavy lift to get 100% approval on Workgroup 1&2 recommendations. Another meeting is needed to finalize the final report and the executive committee is looking forward to coordinating with legislative advisors.

Today's work:

-Review proposal for a potential alternative slate of recommendations for Workgroup 3 worked on by two members of Work Group 3 and another task force member

-Considering the approval rating [being lower than Work Group 1 & 2] of Work Group 3's, the executive committee thinks that it is worth taking a shot at pulling the core concepts of recommendations posed and making them as specific and actionable as possible so they can run with them.

The scope of Workgroup 3 [Rivers, Aquifer and Watershed Health] is important and the executive committee will look to NM First to adhere to a democratic process with the goal of getting to a final set of recommendations from two sets of Workgroup 3 recommendations that are before the Task Force for review.

Overview of work done on Work Group 3's recommendations

The executive committee requested a rework of Workgroup 3 recommendations. Three task force members participated in the creation of a second set of recommendations. These members thought that Work Group 3 produced great ideas that simply needed more definition, so they embarked upon a review the full list of Workgroup 3 recommendations using comments, suggestions, ideas, and advice from workgroup members and other water task members, Utton Center, and written guidance from the executive committee.

The recommendations were sorted based on 4 different criteria:

- Effectiveness at addressing challenges identified in the problem statement to define the problem
- Specificity and clarity of the action to be taken by the legislative or executive branches
- Likelihood of support from task force members based on previous votes and comments
- Representation of the full range of workgroup member views with a focus on fairness, representation, and equity

To simplify, streamline, and organize the recommendations, they were sorted into the following focus areas:

- River health
- Aquifer health
- Watershed health
- Water quality
- Water education

Several recommendations were refined based on input from MNERD and the Utton Center, and the previous recommendation on implementation of the Forest Action Plan by adapting MNERD's updated policy priorities to the Task Force's.

The ultimate recommendation format was to expand on three highly specific recommendations (generated by agency's experiences working with other agencies and communities during and after this summer's catastrophic wildfires), and refined previous recommendations related to aquifer health using info from ongoing Utton Center policy analysis (new material).

A total of 8 recommendations were crafted by the three members and offered for the task force's consideration as an alternate suite, though they are not perfect and need vetting, review, and further revision.

The meeting facilitator allowed 10 minutes for task force members to read through the recommendations, after which participants joined small breakout rooms that featured one of the members involved in the process of redrafting these recommendations to explain and answer questions, as well as a facilitator from NM First to act as timekeeper, note taker, and guide the discussion.

Each small group as allotted an hour to ask questions, offer specific recommendations for changes. Each presenter was provided time to respond to clarifying questions and respond to suggestions that were offered during the session. The task force convened again as a whole group to discuss common themes that came up in the small groups, and points of divergence and concern.

Group discussion

Topic: Recommendation 3.4: Amend the State Constitution to allow work on private lands related to fire prevention and recovery

Task Force members comments during group discussion:

Comment (rationale): MNERD was precluded from putting some projects forward that would otherwise be viable because of restrictions and the anti-donation clause related to private property owners which has forced some projects to have to be redefined in scope. When treating an area (watershed), the state has had to break up projects based on land ownership, skipping over some parcels of land due to private ownership or owners not wanting to comply or provide funding for the work. The result is not effective projects and impacts the way State funds can be managed on the landscape.

Comment: There has been conversation that much of this [work] is achievable under water and soil conservation districts. The WTB already funds grants to Soil and Water districts to do work on private lands. How much efficiency we can achieve by getting the state constitution changed as opposed to just working through the water conservation districts?

Many task force members opposed the proposed recommendation to amend the Constitution.

Questions: Do you want to propose an amendment to the State Constitution or are there other ways to achieve some of what you're trying to accomplish here and for the purpose of taking this to a vote of the task force? Are there any changes that we would make to this recommendation?

Suggestion: This may be something for our legislative advisors to weigh in on. An interim step could be requesting an Attorney General opinion on the anti-donation clause and the use of public money on private lands for public benefit. In River Restoration at the ISC we've gotten around that in the past, around the anti-donation clause doing work on private lands. I think there are legal options and pathways that could get you there. If the AG comes back and says "no", then you can reconsider the constitutional end.

Presenter of the recommendation: This is absolutely huge. I recognize that. This is not something we are entering into lightly. This grows directly out of our experience on the Hermit's Peak Cap Canyon Fire, where, to do some post-fire remediation and flood mitigation work, we had to work on land regardless of the property owner. We were held up because some of that work was going to be done on private land. What we would like to do is change the anti-donation clause to have an exception for the type of work out here for thinning, treating, and restoring forest on privately owned property. We can't move over here and work on public land, it won't have the same impact as if we work on this parcel of land that happens to be private. And while it may be seen as a benefit to the individual landowner, it has a wider benefit to all the folks who live in that watershed.

Suggestion: Make the suggested change regarding the anti-donation clause to the legislative advisors next Weds and if any of them are enthusiastic, any one of them can write a letter to the AG's office, requesting the opinion.

Question: For the purpose of the recommendation, are we changing the wording of the recommendation to indicate that an AG opinion is needed? Are we suggesting striking for now the Constitutional Amendment language entirely?

Question: Why can't this be done with Soil & Water Conservation Districts which are currently able to get grant funding out, and what is the timeframe that you would save by being able to just do it directly?

Presenter: When we approached the soil and water conservation districts to do this work they said they didn't have the capacity, but they do have the authority.

Suggestion: In terms of the actual recommendation, it is still helpful to have the parameters of the issue or the problem, then list the possible strategies as: "get an AG opinion" or "increase S&W Conservation Districts capacity" to me, these are all potential ways to fix things.

Comment: The language of this recommendation does not need to be broader or specific in saying that we will get an AG opinion by mid-Nov.

Comment: I think the recommendation to amend the constitution is a nonstarter. I recommend seeking out the AG opinion. The reason the districts were able to spend money on private land and we couldn't after the fire was a state agency versus a federal entity. I think the soil and water conservation districts have a federal tie that may allow them to do that.

Comment: The key is to show there is benefit to the public from the work on private land.

Topic: Do we need specific dollar amounts or provide a broader range of funding on all the recommendations?

Response: Specific amounts make the recommendations more actionable and helpful when talking to legislators on these big asks. The downside is that specific amounts limit the Task Force and puts recommendations into a box that may not be all inclusive of what is needed. It would be best to provide a range for appropriations. Legislators are expecting specificity (so they may act on this), key recommendations important for legislators need specific amounts.

Comment: It's unfair to be having this discussion this late [in the task force process]. If we would have known that there was a need to put dollar figures to some of our recommendations, we would have tried to do that, but instead, we didn't have the information for the specific amounts (too short a period).

Comment: From a state agency perspective; there is an official process for state agencies to develop their budgets and budget requests, for legislature to make decisions and appropriations. There's a good balance, but the devil is in the details. If we identify important priority recommendations where a dollar figure is in reach (agencies involved in implementation)—acknowledge that agency appropriation requests may be different, especially if it goes beyond what we have the capacity to do and agree upon within the task force.

Comment: Consider framing language.

Comment: I agree in terms of state agency budgeting considerations. Consider engaging with legislature and executive. Jump start budget conversation (external to state agencies fund, e.g., strategic water reserve fund) Actionable items as recommendations. Other people will be pushing for funding initiatives.

Comment: We need to tie it to an amount. An alternative is we end up with a concept that is agreeable, with a piece of legislation that requires a specific agency to twice the amount of work they're currently doing, and they grant them the budget that they asked for previously (i.e., an unfunded mandate). We need to put a price tag on the ask so that it's understood that if you agree with what we would like to see done, you need to agree that this is what it is going to cost to get done.

Comment: While it is true, there are advocacy groups and various interest groups supporting many ideas in the recommendations, like strategic water reserve, those ideas, if we support them, will have a lot more heft than if they are being represented and advocated for by only a subset of the water policy advocacy community. If we need to leave the dollar amounts out to retain the substance that's what I would be for.

Facilitator: We are hearing a variety of perspectives, and some of it is that we want to be fair to workgroups. Two, we want to be fair to those who did not introduce specificity, we want to acknowledge that on some recommendations there actually is specificity. Looking across all the recommendations that are related to appropriations, broad range or providing sufficient funding. We need framing language to put into the report.

Topic: The Task Force was in favor of thematic consolidation of the recommendations (e.g., combine all watershed recs together into one large recommendation).

Topic: Many members noted that the language of tribes was removed from the newly proposed recommendations, and felt that there was a need to mention tribes more (insert cross cutting language).

Comment: It [the changes] is noticeable. Shift from a "people's watershed river health document" to a more policy-oriented document, we need to make it a broader statement (cost cutting issues), not explicit mention of tribes. For example: Modernize Forest Conservation Act; I wasn't aware that there are stewardship agreements that already include tribes. On some levels tribes are included, but we need to preserve and respect sovereignty (government-to-government relationships to be part of the overriding; elevated statement).

Facilitator: Majority of task force is in favor of reinserting language about tribes and pueblos where it was originally, but also potentially add cross cutting language to be more explicit about the respect for sovereign governments and the relationships between them.

Presenter: I strongly support both measures. Cross-cutting and reinserting where cut. Measures were left out because they were part of recommendations that were not carried forward because new recs have more of a policy focus. We focused on legislation, appropriations, and administrative changes.

Comment: From a land-based perspective many of the tribes and public have watershed related property and bases that are key to the health security of our water supply. It will be important for the

travel land base to be integrated into the regional and watershed planning and agenda. Recognize the gov-to-gov relationship and inclusion of tribes in regional planning context both from watershed protection and regional water supplies.

Strategy and recommendation: Regarding the river stewardship program, we need to mention the tribal lands as an area that could act as lands that are already eligible for their stewardship program funding, but we aren't mentioning that specifically. Also, in Rec 3.7; assuming the recommendation goes forward and is presented at the decision-makers workshops and tribal leaders or tribal env. program. Managers are not listed in the types of entities that could benefit from and participate in the stewardship program.

Topic: There is a bit of disconnect between this revised set of proposed recommendations and the initial set developed by Work Group 3 members in the original problem statement. The problem statement needs to be reviewed and amended.

Question: Are there any critical items that were removed that we need to get back into the recommendations?

Comment: Aquifer health (Rec. 3.2); bring back the strategy that would provide funding to the NMED's groundwater program to increase monitoring permanent compliance, enforcement, and abatement activities.

Comment: One of the things that got dropped was specific info about supporting the Water Data Act in workgroup 3. I would like to keep specific language. We have a robust idea of the funding that would be needed to do this. This would be submitted to the Legislature through our agency funding processes. Suggestion on Rec. 3.7: Change to water education and information; under strategy B to have specific language related to Water Data Act. Point A under 3-E. Small edition. We also want to include that a robust budget has been created, people have worked on this.

Suggestion: Don't put in a specific dollar amount, provide in recommendation that Legislature "fully fund" whatever the needed funding amounts are in the most recent water data implementation; so our recs live on beyond.

Next steps for task force recommendations

New Mexico First will take all feedback, everything that we talked through during the whole group session as well as what was considered in the small group breakouts and make additional refinements to Work Group 3's recommendations within the next 24 hours. Revisions will be sent back out to you for review and vote.

Question: Will the review include consistency of the existing problem statement be part of your work? This really influences the key next steps that the Utton Center has to do in terms of report writing.

Facilitator: Could any task force members help review the problem statement? (participants from Work Group 3 volunteered to review and revise by Monday)

Comment: I think the nature of the problem statement being about people and community is valuable. I wouldn't want to lose that.

Suggestion: The revised problem statement and recommendations should go out at the same time for the task force to review. Perhaps by the end of the day on Monday.

Overview and timeframe for review of the final report

Intent of Utton as we write the report: we are trying to create a tool that documents the work of the task force and then moves that work into the public arena in a way that it can be productively applied to the solution of the public policy problems we are addressing.

We are engaging in two important acts of persuasion:

- Persuade people of the seriousness of the problems we face
- Persuade readers that this group of people in the task force is a bunch of smart, serious, thoughtful, passionate people who have come together in the face of those problems and have carefully considered solutions and offered ideas to solve those big problems

This work provides two functions:

- It does the work of making this a document that we hope will be persuasive to people who we want to do the things that we want them to do (e.g., legislative members, executive branch, and broader public who will provide whatever political underpinnings to support for this that we need)
- Serves to frame complex and technical work that follows (we will have a clean exec. summary, tiered structure, etc.) we will be able to serve all types of readers

Questions: Does the report make a persuasive case for the need for action? Does it provide the framework for legislators in the executive branch to begin taking the action required?

Note: Link to the most recent report was provided to participants with a request for feedback on the draft final report.

Comments on draft final report

Lack of agency capacity and focus on doing the right things is a core problem and is needed to convince legislators that they need to provide more funding for the State agencies not just to do the jobs they already have, but to manage water for the 21st century. Those points are made but I don't think we've emphasized enough the lack of focused agency capacity to address our 21st agency capacity problems. It would make sense to put agency capacity in the first tier of the report to emphasize its importance. Do the tiers correspond to one another? Like a through-line.

It is moving in the right direction but there's been so many shifts and changes that it is hard to make a definitive answer. Once the recommendations are finalized and we understand what those recommendations are, it will be easier to measure the context and the framing.

The report is accomplishing what we want even though Workgroup 3 recs have not been inserted. The content quality of the report is exceptional, and I love the way it is laid out, I like the case it makes from the beginning and builds up the overview of the recommendations and the recs in their entirety sit in the back of the document. The language approach is great too, in plain language to help others understand what we are facing and what we were charged to do as a task force.

Great layout. We should add numbered and lettered references throughout the document. Perhaps a 2-pager of key issues.

Closing remarks:

The executive committee will start the process of working with the Legislature and are planning an informational workshop to introduce the task force recommendations mid-November.

NM First will send out the latest draft of the report to the task force who are encouraged to continue to send feedback to Utton Center. NM First will look at Workgroup 3 problem statement and try to send out the recommendations on Monday. The voting link and revised problem statement for Workgroup 3 will have a 24-hour deadline. There are still one or two stragglers who have not voted on Work Group 1 & 2's recommendations, please do so.

Adjourned at 1:00pm