

**OSE – Stakeholders Meeting #10**  
**House Memorial 42**  
**April 21, 2009, 9:00 – 11:00 am**  
**New Mexico Municipal League**  
**Santa Fe**

**Summary of Points Raised by Participants**

**Facilitator/Recorder:** Lucy Moore

**Welcome and introductions:** Lucy welcomed the group to the tenth HM42 meeting. Participants introduced themselves. Representing the OSE were John Longworth, Chief, Water Use and Conservation Bureau, Cheri Vogel, OSE Water Conservation Coordinator, and Fred Abramowitz and Martha Franks, contract attorneys with the OSE.

**Agenda Review:** Lucy reviewed the agenda and the handouts, which included: the agenda, the Draft Status Report for HM 42 Process and the Draft Consensus Memo. [All handouts are on the OSE website.] The purpose of this meeting, she said, was to offer an update on the relevant events of the legislative session and discuss next steps for the group.

**Process Review:** Martha reviewed the Status Report for the HM42 process to remind everyone of the purpose of the group, and the challenges and accomplishments to date. The Report is intended to provide a running description of the HM 42 stakeholder process, including a summary of each meeting, discussion highlights and issues raised. Martha reminded the group that it is not intended to reflect any consensus or support for one position or another, but to provide a common foundation for the group to move forward.

In early discussions focused on 72-1-9, the group identified three key issues: 1) the list of covered entities, and whether it should be altered in any way; 2) the timeframe for planning, 40 years or more or less; and 3) the need for criteria for applicants for a long-range plan. Contract attorneys prepared memos on the 1) history of the statute; 2) how these issues are handled in other states; and 3) existing plans on file at NMOSE. In addition they prepared the Status Report to track the progress of the group, and a draft template to guide the application process. Over a period of several meetings, participants developed a Draft Consensus Memo to reflect their consensus on certain basic principles which would guide the applicant and the agency. Although there was not complete consensus on all the points in the Draft Consensus Memo, there was significant agreement on several points. The group's last meeting prior to the legislative session included discussion on the feasibility or desirability of statute, regulatory, or guideline language. Lacking consensus, and feeling it was not the appropriate time to introduce legislation, the group agreed not to submit legislation on the subject.

***The group reviewed the new Status Report paragraph and accepted it with one correction, to add that guidelines “might not be in conformity with the State Water Code.”***

**Review of the Legislative Session:** John and participants summarized the relevant legislation, passed or proposed.

*HB 185* combines existing 72-1-9 entities to form a new water authority in the Lower Rio Grande, on the model of the Albuquerque-Bernalillo County authority.

A bill was introduced for discussion purposes only, and then withdrawn, to consider forming a new authority which would include Portales and Clovis, and two counties. This proposal will be considered by the Interim Committee.

Two memorials –Joint and Senate – were introduced to review the finances of the Albuquerque-Bernalillo County Water Authority.

*HB 40* passed and was signed by the Governor. The new law will prevent municipalities and counties from condemning water held by community ditches, acequias, irrigation districts, and conservancy districts. Participants in the lengthy negotiation process said that it was an extremely productive dialogue that resulted in consensus among a diverse group of interests. The bill also includes some new provisions for arbitration of condemnations for public health and safety reasons.

A participant suggested that the new legislation on deep wells may have an impact at some point on the 40-year planning process.

**OSE Budget:** John explained the reality of the OSE budget. The Water Resources Allocation Division was cut 11% by the legislature. Contractors will be cut, the hiring freeze continues, and current staff are under enormous pressure to meet demands. The State Engineer holds the HM42 Stakeholder Group in high regard, added John, and has been very impressed with, and supportive of, the process from the beginning. But without funding past June 30, it will be impossible to continue this process. John suggested that there might be funding for one more meeting of the stakeholder group before the end of June, but that the State Engineer would have to approve this expenditure.

John and Fred outlined two options:

*No Action:* The group could disband after this meeting. The OSE staff would proceed to draft some kind of guidance for applicants for a 40 year water plan which would represent the work of the group. They would make every effort to reflect the areas where the group reached consensus, and to honor areas where there were differences. This draft guideline document would be sent to the State Engineer.

*Develop guidelines with the participation of the Stakeholder Group:* If the group wished, and if the State Engineer approves, contractors could develop draft guidelines, take written comments from stakeholders, and discuss those guidelines at one final meeting. Those draft guidelines would be then sent to the State Engineer for consideration.

Participants added additional options:

*Seek funding:* Participants suggested that funding be sought to support this process, from foundations, institutions, organizations, other branches of government. Cecilia, Regina and Joy committed to pursuing this option for new sources of funding. They asked Cheri to provide a rough budget for supporting the process.

*Meet Independently:* Such was the commitment to keep this process alive that those present agreed to meet independent of the support of the OSE, at least for the purpose of reviewing the draft guidelines prepared by OSE contractors. They also contemplated meeting quarterly until the next 60-day session in order to keep in touch with each other and the issues.

**Discussion:** The group made it clear that this was a very successful process from their points of view. The dialogue has been invaluable, they said, and they were very reluctant to consider the process over. They wanted to meet again to review the draft guidelines prepared by OSE contractors. They also decided to meet independently to review the draft before the proposed final meeting on June 11. The draft review meetings will be for the purpose of discussing the issues and identifying areas where consensus is possible.

Some participants felt that the focus of the document – the area of most hope for agreement -- should be the criteria for evaluation of the application and the qualifications of applicants. They felt strongly that it was important to set aside some of the more divisive positions and make every effort to reach consensus. A participant suggested that the document might be a “White Paper” rather than guidelines.

OSE staff and contractors explained that the document would fall somewhere between the Template (which contains specifics) and the Draft Consensus Memo (which contains general principles). It would be designed to reflect the broadest possible consensus of the group, and to offer the applicant some guidance in the application process.

**Next Steps:** Cheri will correct the Draft Status Memo and post it on the website. She will also provide a rough budget to Cecilia, Regina, Liz and Joy, and she will distribute the summary to the full email list, alerting them of the upcoming meetings and the proposals made about continuing the process. Lucy will prepare a summary of this meeting within two days. Fred will prepare the Draft Guidelines for distribution to the group on May 8.

**TIMELINE:**

- May 6           Deadline to send written comments to Cheri on what you would like to see in the draft guidelines
- May 8           Draft Guidelines will be distributed to the full group
- May 11          Independent Stakeholders Meeting at the Municipal League, 9 – 12:00  
Review draft document, seek consensus
- June 9          Independent Stakeholders Meeting at the Municipal League, 9 – 1:00  
Review draft document, seek consensus
- June 11         Proposed last OSE Stakeholders Meeting at the Municipal League,  
12:00 – 4:00  
Review draft document, seek consensus

**Summary prepared by Lucy Moore. Please contact her with questions or corrections. 505-820-2166, or [lucymoore@nets.com](mailto:lucymoore@nets.com)**