City of Santa Fe

Agenda

Santa Fe River Commission Agenda
Thursday, January 10, 2019 (Round House Room), 6 pm to 8 pm
City Offices at the Market Station Building at the Railyard
500 Market Street, Suite 200, Santa Fe, NM
505-955-6840

1. ROLL CALL
2. APPROVAL OF AGENDA
3. APPROVAL OF MINUTES FROM DECEMBER 13, 2018
4. COMMUNICATION FROM OTHER AGENCIES /COMMITTEES
   a. SF Watershed Report (Andy Otto, andy@santafewatershed.org)
5. INFORMATION/DISCUSSION/ACTION:
   a. Informational Item: Cornell University, Living River Study (Leigh Scudder, Master Student, ls874@cornell.edu)
   b. Informational Item: Alex Puglisi, PNM Santa Fe Generating Station (SF Well-1) , Investigation and Remediation (Alex Puglisi, aapuglisi@santafenm.gov , 955-4232)
   c. Discussion Item: EPA Clean Water Rule (2015) (Dale Doremus)
   d. Discussion Item: River & Watershed Educational Series (Zoe Isaacson, zoe.isaacson@gmail.com)
   e. Discussion Item: City / County River Issues (Anna Hansen, 986-6200, ahansen@santafecountynm.gov; Jerry Jacobi, drsjacobi@q.com)
6. MATTERS FROM STAFF
   a. Informational Item: Santa Fe Stormwater Management Strategic Plan Update, Alameda Rain Gardens, FEMA/Hazard Mitigation Grants, River Commission membership (Melissa McDonald, mamcdonald@santafenm.gov, 955-6840)
7. CITIZENS' COMMUNICATION FROM THE FLOOR
8. MATTERS FROM COMMISSIONERS
   Next Meeting Agenda Items:
   - Informational Item: Santa Fe County Greenway/River Trail Update (Scott Kaseman, skaseman@santafecountynm.gov , 992-9887)
   - Discussion Item: EPA Clean Water Rule Response
9. ADJOURN

Next Scheduled River Commission Meeting is February 14, 2019
Captions & Packet Material are due by 10 am on February 6, 2019
Persons with disabilities in need of accommodations,
Contact the City Clerk's office at
(505) 955-6521 five (5) working days prior to the meeting date.

RECEIVED AT THE CITY CLERK'S OFFICE
DATE: January 2, 2019
TIME: 2:51 PM

Santa Fe River Commission
INDEX
January 10, 2019

Santa Fe River Commission
MINUTES
Thursday, January 10, 2019
6:00 pm to 8:00 pm

1. CALL TO ORDER

Acting Chair John Buchser called the Santa Fe River Commission meeting to order at 6:00 pm in the Roundhouse Meeting Room, Market Station Building at the Railyard, 500 Market Street, Santa Fe, NM.

ROLL CALL

PRESENT:
Zoe Isaacson, Chair
Jerry Jacobi
Anna Hansen
Luke Pierpont
John Buchser
Dale Doremus
F.M. Patorni
Phil Bove
Emile Sawyer

NOT PRESENT:

OTHERS PREENT:
Melissa McDonald, River and Watershed - Staff Liaison
Alan Hook
Alex Puglisi
Raquel Thompson, Santa Fe Watershed Association
Fran Lucero, Stenographer

2. APPROVAL OF AGENDA

Ms. Hansen moved to approve the agenda as presented, second by Ms. Doremus, motion carried by unanimous voice vote.

3. APPROVAL OF MINUTES FROM DECEMBER 13, 2018

Corrections:
Fill in the blank: driveway under John Buchser

Ms. Doremus moved to approve the minutes of December 13, 2018 as amended, second by Ms. Hansen, motion carried by unanimous voice vote.

4. COMMUNICATIONS FROM OTHER AGENCIES/COMMITTEES

a. **Santa Fe Watershed Report (Raquel Thompson)**
Love your River Day February 9th 10 am – 5 pm at Frenchy's. We look forward to great attendance.

5. **INFORMATION/DISCUSSION/ACTION:**

   a. **Informational Item: Cornell University, Living River Study (Leigh Scudder, Master Student)**
   Studying the living river and applicability in different locations. Mr. Scudder would like to speak with the committee members as available.

   b. **Informational Item: Alex Puglisi, PNM Santa Fe Generating Station (SF Well-1) Investigation and Remediation – Baca Street Well**
   There are 18 new wells, Phase III will plug all those wells. We are trying to define the plume, what NMED is finding that there is contaminate from the site itself and also from outside sources. The drilling of wells is going really well, 18 wells that we started in August and should be complete by March. They also agreed to a new round of sampling, the sampled in November 2018. Wells are either going in as shallow or deep and we are looking at what we see in the aquifer for shallow or deep.

   Luke Pierpont: What are the depths?

   Mr. Puglisi: 1500 feet

   Ms. Hansen: What is the peripheries.

   Mr. Puglisi: We are boarded on Cerrillos, the Railroad development, towards the west bounded by the Santa Fe well, to the north we are trying to get the land of SFPS, we are at the edge of the acequia property.

   Mr. Buchser: Is the Environment Department paying the cost for all of these wells?

   Mr. Puglisi said they are, and they are actually saving for Phase III.

   Mr. Buchser: Should we pursue future discussion with PNM now that we are under a new administration?

   Mr. Puglisi: We are in conversation with them. Under the Corrective Action Funds, it is fully paid for by the Corrective Action Funds. PNM is a very willing participant.

Chair Zoe Isaacson resumed Chairmanship

   c. **Discussion Item: EPA Clean Water Rule (2015) – Dale Doremus/Marcie Levitt**
   EPA has put forward a proposed rule, roll back of this 2015 rule. We felt at the last meeting that the city look at making comments and the Commission working with the city to comment if it is agreeable to the Mayor. A brain storming meeting was held to create the comments on why it is important to oppose this. (Draft provided to the River Commission members)

   Ms. Levitt's expertise comes from years in the NM Environment Department and the Army Corp of Engineers. Purpose is to provide information: Definition for waters of the United States defines what water gets protection from the Clean Water Act. (Exhibit A – Presentation read verbatim and attached).

Ephemeral Waters under this proposal would no longer be waters in the US. In New Mexico most of our waters are ephemeral. Definition:
Fewer lakes and waters would not be waters of the US.

Document will detail implications for NM. Waters of the US means the designation of the NPDES Program.

A lot of funding comes from the Clean Water Act, 319 Grants have historically addressed places where standards have not been met and federal government can provide us funding to get aligned by standard. EPA also provides funding that could be affected.

(Preamble read)

There will be a major impact on the Santa Fe River. Fact sheet on line: pages 72-92.

It was encouraged for committee members to submit comments and ask questions of the EPA, they are to comment before they finalize the rule.

The Rule is less than 10 pages. The Preamble explains the clarifications, although it is not the rule, it is very important. It is like one step below regulation.

Acequias are different they are irrigation ditches.

Mr. Puglisi: Since that stretch doesn't always flow to the Rio Grande, would that be covered?

Dale Doremus: The implications, there are a lot, not only is it a funding issue, hoping that the Watershed Association comments.

The big push is to get comments out. The Chair said if we could have a document that has points and questions, we could get that circulated.

Ms. Doremus: I believe that it is not that effective when you get a Robo message it needs to be personalized. If we could get lists from agencies and we could get a call of arms to their mailing list defining the importance and giving them the links, as it is not easy to find.

Anna Hansen: Thank you to Marcie for this information.

Ms. McDonald will send the documents to assist in disseminating the information to agencies who could be supportive and send to the EPA on this rule. It was recommended that a letter to the editor giving them the link would be important. Staff also recommended that this commission provide their opinion on the rule to the Governing Body. It going to affect more than just river and streams, we are talking about wetlands, it would be valuable for this body to have input.

Chair Isaacson: Is this document the draft to send to the Governing Body?

Dale Doremus: We met to talk about process on how this should occur, and strategy and in that process these bullets were created on how it will affect the Santa Fe River

and water supply. We wanted to get the support from the Mayor, the County and Watershed Association.

Anna Hansen: Suggested that Marcie present to the County Commission. She cannot direct staff but if a letter is drafted and provided for consideration we could present to the County Manager to get letter written.

Ms. McDonald: It is a 60-day comment period which is why it is important to take to the governing body. In terms of an official response, the River Commission would need to go through a process to get the city to comment. A fact sheet should be created to present to the Governing Body.

Alex Puglisi: The Water Division would like to comment.

Mr. Pierpont proposed that we submit a letter with the River Commission comments to the Mayor and that the City prepare a response in opposition to communicate to EPA.

Ms. McDonald reiterated that as many governmental entities and individuals who can submit their comments to the EPA in opposition is important. Working group can meet prior to February 14th to fine tune the draft document. You could also do an educational meeting with the public.

FM Patorni: Should we share with other organizations and people in New Mexico, not only Santa Fe?

Ms. Doremus said yes, we could ask organizations to send to their statewide groups, making contacts, yes I think we should.

Ms. Hansen: For Santa Fe County our concern is much larger than the Santa Fe River. Hearing that the Santa Fe River is impacted, Pojoaque is impacted, and it runs through tribal land. Where are tribal partners? Are they educated about it?

Jerry Jacobi: Standing on the ground looking at river systems, I have heard no discussion about the State Engineer. How would the State Engineer fit in?

Marcie: It depends on who the State Engineer is, I don't think past administration would have opposed this rule. Once the state engineer is in place, she hopes there is a closer tie between State Engineer and the Environment Department.

Alex Puglisi: It could affect return flow credits. Hydrological connection?

Mr. Buchser: I recommend we send a letter to the Mayor and tell them what the action is they should take. The community does not want polluted water. We should meet in 2 weeks to review and finalize the letter to present to the Mayor and Council. The other thing that is important, we have a venue before the City Council, we could go before the council, our residents care about the pollution, water, get the community engaged.

Mr. Puglisi: Buckman Diversion Board always has a public comment period.

Future Date for River Commission to meet: January 23rd at 4:00 pm – 5:00 pm. Interim work group meeting to be coordinated with Ms. Doremus.

Ms. Doremus suggested Mayor Coss present at the City Council. Ms. Doremus and Mr. Buchser have reached out to him, no response has been received.

Commissioner Anna Hansen could also send letter from Santa Fe County to the City Council.

d. Discussion Item: River & Watershed Educational Series

Jerry Jacobi – Macro and vertebrae discussion in the River tours June
Phil Bove – Acequias
Watershed Association

We need a way to communicate with the public vs. the city website. Mr. Pierpont would like to see a FB page. Mr. Hook said another tool is Next Door, it really helps to get the message out.

Ms. McDonald: If dates are provided she can work on getting some graphics or coverage.

The Chair stated they would discuss at the February meeting and get dates to Melissa to hopefully start this project in May. She asked that everyone come to the March meeting with a topic, function, speaker and date.

e. Discussion Item: City/County River Issues

Jerry Jacobi: Memo in October 2018. (Joint meeting of Water Conservation for the city and Water Policy Advisory Committee for the county met on October 24, 2018. Panel comprised of City Councilor Romero Wirth and Anna Hamilton and their respective committees and they discussed water availability, plans for the future and putting water at the Buckman diversion. Mr. Jacobi said his concern is that there was no discussion about the Santa Fe River. The River Commission did not have a seat at this committee meeting. I believe future meetings should have representation from the River Commission. I wrote a memo expressing my concerns to Councilor Romero Wirth to consider the Santa Fe River Commission for future discussions when talking about water availability. Mr. Jacobi said he sent this to Melissa McDonald and to the Chair.

Mr. Hook said they will be meeting again on February 5th.

Mr. Jacobi said he showed his memo to Anna Hamilton and she said she agreed it would be good to have the River Commission involved.

Melissa McDonald asked if they should send an e-mail to Councilor Romero Wirth and express that we are interested in participating on February 5th and future meetings. Melissa will send the comments to the Commission members for their review.

Ms. Hansen: There is a Water Policy Board and Water Conservation Board at the city/county, whereas there is nothing at the county about River Commission. She has mentioned to the Mayor and some Councilors that this board should be expanded to

become a city county commission and that there should be a city councilor on this commission. She stated that in the community of La Cienega they feel that the River Commission is ineffective because we don't have a standing with the Governing Body because we don't have a representative from the City Council. We could be more effective and have more influence if we had a representative from Santa Fe County Commission and a City Councilor.

6. **MATTERS FROM STAFF**
   a. **Informational Item: Santa Fe Stormwater Management Strategic Plan Update, Alameda Rain Gardens, FEMA/Hazard Mitigation Grants, River Commission membership**

7. **CITIZENS' COMMUNICATION FROM THE FLOOR**
   None

8. **MATTERS FROM COMMISSIONERS**
   Next Meeting Agenda:
   - **Informational Item: Santa Fe County Greenway/River Trail Update, Scott Kaseman**
   - **Discussion Item: EPA Clean Water Rule Response**
   - **River Watershed Series**

9. **ADJOURN**
   There being no further business to come before the River Commission the River Commission meeting was adjourned at 8:00 pm.

SIGNATURE PAGE:

Zoe Isaacon, Chair

Fran Lucero, Stenographer

2018-2020 State of New Mexico Clean Water Act Section 303(d)/ Section 305(b) Integrated Report

Appendix A 303(d)/305(b) List

Prepared by:
New Mexico Environment Department
Surface Water Quality Bureau
1190 St. Francis Drive
Santa Fe, New Mexico 87505
https://www.env.nm.gov/surface-water-quality/

EXHIBIT A

FACT SHEET

Proposed Revised Definition of "Waters of the United States" Key Proposed Changes

- On December 11, 2018, the U.S. Environmental Protection Agency (EPA) and the Department of the Army (Army) proposed a revised definition of "waters of the United States," which would delineate the scope of federal regulatory authority under the Clean Water Act in a clear and understandable way.
- The agencies are concerned that the previous administration's 2015 Rule defining "waters of the United States" may have greatly expanded Washington's control over local land use decisions.
- The agencies' proposal respects the constitutional and statutory limits of federal government to regulate navigable water under the Clean Water Act and gives states and tribes more flexibility to determine how best to manage waters within their borders.
- States already have their own authorities to regulate waters within their borders, regardless of whether they are federally regulated as "waters of the United States."
- The EPA and the Army reviewed and considered the extensive feedback and recommendations the agencies received from states, tribes, local governments, and stakeholders throughout consultations and pre-proposal meetings and webinars. This input helped highlight the issues that are most important to state and tribal co-regulators and stakeholders with interests in this proposed regulation.
- The agencies' proposal would eliminate the time-consuming and uncertain process of determining whether a "significant nexus" exists between a water and a downstream traditional navigable water as directed under the agencies' 2008 *Rapanos* Guidance or whether a water has a significant nexus to a traditional navigable water, interstate water or territorial sea as codified in the agencies' 2015 Rule defining "waters of the United States."
- Specifically, the agencies are proposing the following changes (among others) compared to the 2015 Rule and pre-2015 practice:
    - Traditional navigable waters
        - No change, except that the territorial seas are identified in the proposal as a type of traditional navigable water.
    - Interstate waters
        - No longer an independent category of jurisdictional waters under the proposal; jurisdictional if they satisfy the conditions of another category of jurisdictional waters.
        - Independent category of jurisdiction under 2015 Rule and pre-2015 practice.
    - Tributaries
        - Rivers and streams that contribute perennial or intermittent flow to downstream traditional navigable waters in typical year are jurisdictional under the proposal; no ephemeral features are considered jurisdictional under the proposal.
        - Both the 2015 Rule and pre-2015 practice found some ephemeral streams jurisdictional.
    - Ditches

- Fewer ditches will be considered jurisdictional under the proposal, mostly because no ditches constructed in upland and no ditches with ephemeral flow would be considered jurisdictional.
- Both the 2015 Rule and pre-2015 practice found ditches jurisdictional where they were a tributary, including ditches constructed in upland with perennial or intermittent flow.

- Lakes and Ponds
  - Lakes and ponds were not a separate category in the 2015 Rule or pre-2015 practice.
  - This proposal more closely adheres to the pre-2015 practice of regulating lakes and ponds as traditional navigable waters or as part of the tributary network of traditional navigable waters, with added clarity to make implementation more straightforward and for consistency.
  - Under this proposed definition, fewer lakes and ponds may be jurisdictional than under the 2015 Rule because non-navigable, isolated lakes and ponds were considered adjacent waters together with isolated wetlands under the expanded definition of "neighboring" in the 2015 Rule.
- Impoundments
  - Impoundments of jurisdictional waters would remain jurisdictional under the proposal, as they were under the 2015 Rule or pre-2015 practice.
- Adjacent Wetlands
  - Under the agencies' proposal there are more limited circumstances where wetlands would be considered adjacent relative to both the 2015 Rule and pre-2015 practice.
  - Under the 2015 Rule and pre-2015 practice wetlands behind a berm or dike were considered adjacent. Under the agencies' new proposal wetlands must either abut jurisdictional waters or have a direct hydrological surface connection to jurisdictional waters in a typical year to be jurisdictional themselves; wetlands physically separated from jurisdictional waters by a berm, dike, or other barrier are not adjacent if they lack a direct hydrologic surface connection to a jurisdictional water in a typical year.

HOW TO COMMENT

- The agencies will take comment on the proposal for 60 days after publication in the Federal Register. The agencies will also hold an informational webcast on January 10, 2019, and will host a public listening session on the proposed rule in Kansas City, KS, on January 23, 2019. Additional information on both engagements is available at https://www.epa.gov/wotus-rule.
- Comments on the proposal should be identified by Docket ID No. EPA-HQ-OW-2018-0149 and may be submitted online. Go to https://www.regulations.gov and follow the online instructions for submitting comments to Docket ID No. EPA-HQ-OW-2018-0149.
- For additional information, including the full EPA public comment policy, please visit https://www.epa.gov/dockets/commenting-epa-dockets.

FOR MORE INFORMATION

- Additional fact sheets along with copies of the proposed rule and supporting analyses are available on EPA's website at https://www.epa.gov/wotus-rule.