

ARIZONA STATE SENATE

46TH LEGISLATURE
FIRST REGULAR SESSION

MINUTES OF COMMITTEE ON NATURAL RESOURCES AND TRANSPORTATION

DATE: January 21, 2003 **TIME:** 1:30 p.m. **ROOM:** SHR 1

CHAIRMAN: Senator Binder **VICE CHAIRMAN:** Senator Jarrett

ANALYST: Kerri Morey **COMMITTEE SECRETARY:** Debbee Kennedy
Sean Laux

INTERNS: Summer Woodson **ASSISTANT ANALYST:** Tracey Landers

ATTENDANCE

BILLS

<u>Committee Members</u>	<u>Pr</u>	<u>Ab</u>	<u>Ex</u>	<u>Bill Number</u>	<u>Disposition</u>
Senator Allen	X			SB 1007	DPA
Senator Arzberger	X				
Senator Blendu	X				
Senator Brown	X				
Senator Jarrett, Vice Chairman	X				
Senator Binder, Chairman	X				

GOVERNOR'S APPOINTMENTS

<u>Name</u>	<u>Position</u>	<u>Recommendation</u>
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Chairman Binder called the meeting to order at 1:35 p.m., and attendance was noted.

APPROVAL OF MINUTES

Chairman Binder moved the minutes of January 14, 2003 be approved. Without objection, the minutes were approved as distributed.

Presentation by Chairman Dallas Massey, White Mountain Apache Tribe

Mr. Massey testified that there are over 14,000 members of the White Mountain Apache Tribe. Mr. Massey stated that the tribal lands consist of 1.6 million acres and range from 2,000 feet elevation to 11,000 feet elevation. Their lands consist of 800,000 acres of commercial timber of which 300,000 acres were just burned. There are 400 miles of rivers and 24 lakes. The land is abundant in fish and animals.

Mr. Massey emphasized that their resources create employment, protect fish and wildlife, support the culture and religious beliefs, provide soil and air conservation, contribute to the health and welfare of people, and provide income from timber, wood products, tourism, livestock and other outdoor recreation. Mr. Massey contended that the land of the White Mountain Apache Tribe is a great resource of revenue and tourism to Arizona. He further pointed out that a total payroll of \$107 million is generated annually on the reservation. Most of this income goes into the neighboring communities, local governments and revenues to the State through personal, property and sales tax. The White Mountain Apache Tribe is one of the largest employers in Navajo County.

Mr. Massey noted that some of the tribes' income has been threatened due to the severe loss of commercial timber and natural resources from fire. The tribe needs immediate assistance with economic opportunity and employment. He explained that people go without food, electricity, shelter and employment. This is due to a lack of federal and State funding necessary to meet the basic needs of the area. The average income is below the poverty level with over 60% unemployment. There are also transportation problems due to considerable distances between homes and places of employment, and the affordability of a car. Public transportation is needed.

Mr. Massey expounded that the Arizona Department of Transportation (ADOT) plans to cut maintenance and project expenses, including snow plowing, chip sealing and new construction inspections.

In response to Senator Binder, Mr. Massey stated that there are 13,000 White Mountain Apache Tribe members.

Senator Jarrett commended the great work of the tribe on the cleanup of the fire damage.

CONSIDERATION OF BILLS

SB 1007 – excessive speeding; accident; assessment – DO PASS AMENDED

Sean Laux, Senate Transportation Analyst, explained that this bill prescribes civil penalties for drivers whom cause automobile crashes resulting in serious injury or death as a result of excessive speeding. A serious injury crash carries an assessment of up to \$500 and a suspension of the

Committee on Natural Resources
And Transportation
January 21, 2003

person's driving privilege for 90 days. A fatal crash carries an assessment of up to \$1,000 and a six-month license suspension. Mr. Laux further stated that the bill requires the driver causing the accident to attend traffic survivor school and requires that ADOT suspend the person's driving privilege until traffic survivor school or court ordered community service is completed. There is not a general fund impact to this legislation; however, the agency will have start-up costs of approximately \$12,000 for programming needs.

Mr. Laux stated that the Jarrett three-line amendment dated January 16, 2003 at 8:52 a.m. is technical in nature.

In response to Senator Arzberger, Mr. Laux explained that excessive speeding is defined as the following:

- Exceeding 35 miles per hour in a school zone
- Exceeding the posted speed limit in a business or residential area by more than 20 miles per hour
- Exceeding 85 miles per hour in any other location

Todd Honyaoma, Sr., Hopi Tribal Council Representative, representing himself, testified he is the Chairperson for their council's transportation task team. Mr. Honyaoma requested the State to improve the Hopi Route 60, which is a bus route used by the Hopi High School. He noted that the route is unpaved and extremely dangerous. The Hopi Tribe has submitted a proposal of \$4 million to ADOT to remedy the situation. The request was declined.

Senator Binder pointed out to Mr. Honyaoma that he was not speaking specifically to the bill and she would be more than happy to get him with the appropriate people at ADOT.

Mr. Edwin Cook, Executive Director, Arizona Prosecuting Attorneys' Advisory Council, testified that he is appearing on behalf of **Mr. Jerry Landau, Special Assistant, Maricopa County Attorney's Office**. Mr. Cook stated that the Maricopa County Attorney's Office supports this bill and the proposed amendment.

Lorraine Brown, Administrative Service Officer, Motor Vehicle Division (MVD), testified that she is available to answer any questions and that MVD is neutral on the bill. She further stated that there will be some start-up costs for systems programming. MVD does not currently track for serious physical injury or death and new traffic survivor school letters would have to be generated.

Senator Binder noted that after the start-up costs, monies would be generated from the program.

In response to Senator Blendu, Mr. Laux pointed out that the speed limit of 75 miles per hour in certain areas would make the limit just ten miles over the speed limit.

Senator Binder announced that **Eric Edwards, Arizona Association of Chiefs of Police and Phoenix Police Department**, was present and in support of the bill.

David Sands, Administrative Office of the Courts, testified that some of the limited jurisdiction court judges have identified technical concerns with the bill. He stated that it is unclear whether the

assessment is similar to a criminal penalty that would justify surcharges or not. He also expressed concern that the bill does not specify where the monies would go.

Senator Binder announced that **Jack Lane, Lieutenant, Arizona Department of Public Safety (DPS)**, was present and in support of the bill.

Senator Jarrett moved S.B. 1007 be returned with a DO PASS recommendation.

Senator Jarrett moved the three-line Jarrett amendment dated 1/16/03 at 8:52 a.m. be ADOPTED (Attachment A). The motion CARRIED by a voice vote.

Senator Jarrett moved S.B. 1007 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED by a roll call vote of 4-2-0 (Attachment 1).

Senator Blendu explained that this bill does not help the victim and he would be voting "no."

Senator Jarrett explained that she agreed with Senator Blendu and she would be glad to support an amendment for the monies to go to the victim.

Presentation by Jack Peterson, Acting Director of the Arizona Department of Agriculture (ADA)

Mr. Peterson corroborated that ADA is always on the lookout for animal and plant health, as well as insect problems. There are currently eight points of entry into the State which are the first barrier of defense. This enables our livestock and commodities to move throughout the world.

Mr. Peterson stated that the Mexican fruit fly has infested San Diego County, California and it has cost them \$75 million in lost citrus fruit revenue plus the eradication costs. The fly has not yet been found in Arizona. There are others such as the Sapote fruit fly and the Mediterranean fruit fly which have come in from fruit shipments and have been detected and cleared out.

Mr. Peterson addressed the red imported fire ant. There are extensive infestations in California, Texas and the southeastern part of the country. During the first half of FY 2003, this ant represented 16.5% of the hazardous pests intercepted at Arizona ports of entry.

Mr. Peterson noted an outbreak of Exotic Newcastle Disease (END) in California. END is a highly contagious virus which affects poultry and exotic pet birds. The virus is spread by contact with infected birds or indirectly through contaminated vehicles, equipment and clothing. There are no vaccinations for this disease which originates from South America. The disease kills most birds except pet-type birds which then carry the disease.

In response to Senator Binder, Mr. Peterson responded that 1.2 million birds will be killed in California from the disease.

In response to Senator Allen, Mr. Peterson stated that eggs can go through a sanitation process so the virus is not on the egg, and the egg is still edible.

END has now spread from California to Nevada and ADA has issued two administrative orders. These orders are a follow-up on the federal quarantine which states that poultry are not to be leaving those areas and entering our State. There are also restrictions on bird shows, such as no birds being brought in from quarantined areas.

Mr. Peterson confirmed that all divisions in ADA are working on this.

In response to Senator Binder, Mr. Peterson corroborated that the news media will help educate the public on this disease.

In response to Senator Jarrett, Mr. Peterson stated that all birds coming into the State must have a veterinarian certificate stating that the birds are healthy.

In response to Senator Allen, Mr. Peterson commented that the State veterinarian heard of END in late October in California. He further commented that with current manpower and budget cuts, this disease will not be able to be managed. ADA is contemplating going to the Governor for a state of emergency declaration. The Legislature may have to appropriate monies to help with eradication.

Senator Jarrett questioned if agricultural dues and fees will be increasing under the Governor's budget. Mr. Peterson stated that they would be. He further clarified that there would have to be increased statutory authority to increase fees because they are already at the limits set by the Legislature.

Mr. Peterson discussed the PrePass National program. He stated that it deals with semi-trucks that sign an agreement with the Federal Department of Transportation. This agreement allows the trucks to bypass the weigh stations and ports of entry for participating states. However, there is a 5% random check of trucks.

Senator Binder stated that there would be a bill on PrePass which would stop truckers, make them aware of this situation, and help prevent this disease from coming into Arizona.

In response to Senator Arzberger, Mr. Peterson clarified that there were approximately \$1 million that came in from the Homeland Security Act, and $\frac{3}{4}$ of this amount went to the University of Arizona (UA). ADA has used the balance to hire a veterinarian to increase security efforts and purchase computers for better communication with staff in the field. ADA has also developed a better communication network with governments in case of an outbreak or disease.

Presentation by Steve Owens, Director of the Department of Environmental Quality (ADEQ)

Mr. Owens introduced some of the directors and staff of the department and presented a handout entitled "ADEQ" (Attachment B). His testimony came directly from the handout. He confirmed that his experience in private practice has given him an important perspective on the need for pragmatic, common sense approaches to environmental regulations, as well as on the need for consensus in solving environmental problems. He further stated that ADEQ needs to expand its efforts and improve its relationships with elected officials throughout the State, especially at the local and county levels. He hopes to draw upon his background and experience in Washington D.C. to be a strong advocate for Arizona with the federal agencies that provide ADEQ with funding. Mr. Owens commented that even with limited resources, Arizona must continue to work to improve air quality.

Committee on Natural Resources
And Transportation
January 21, 2003

He commented that Governor Napolitano is particularly concerned about children's environmental health, air pollution and asthma.

Mr. Owens affirmed that Arizona must continue implementation of the Arizona Pollution Discharge Elimination System (AZPDES) program. The U.S. Environmental Protection Agency (EPA) delegated authority for this program to ADEQ in December. The State will continue to work with cities and private water companies to comply with the new federal standard for arsenic in drinking water. He further confirmed the State would continue to improve the Underground Storage Tank (UST) Program and State Assurance Fund.

Nancy Wrona, Air Quality Division Director, ADEQ, indicated that ADEQ has three initiatives that they have been pursuing in the division. They are the following:

- Working with stakeholders on recommendations for boundaries for the federal 8-hour ozone nonattainment area
- Progress in addressing regional haze
- Progress on developing plans to redesignate nonattainment areas to attainment

Her testimony came directly from Attachment B. She stated that the EPA must designate new nonattainment area boundaries by April 15, 2004. The states and tribes must make their recommendations on boundaries by April 15, 2003. The new boundaries will have to be larger than the existing ones for the one-hour standard because the pollution is more widespread. ADEQ has been working with the tribes, county air pollution agencies and stakeholders to develop a technical approach to this problem and have contracted Arizona State University (ASU) to model ozone concentrations in areas where there are no monitors. The analysis will be completed in March.

Ms. Wrona stated that the stakeholders told them in 2001 to prepare plans that address regional haze in Class I Areas. Class I areas are those larger national parks, monuments and wilderness areas that Congress has designated as needing protection from increases in air pollution. Under the authority granted by last year's Legislature, there are over 100 Arizonans working in technical working groups, and there is also a Stakeholder Advisory Committee to assist in this effort.

Ms. Wrona concluded by stating that their goal is the redesignation of historic nonattainment areas to attainment status by improving their air quality. As part of the sunset performance measures, plans were submitted by June 30, 2002 for the six areas of the State that historically did not meet the sulfur dioxide standard. Ms. Wrona stated that ADEQ is conducting field studies to identify the sources that contribute to the high concentrations of particulate in South Phoenix. This plan is due by February 4, 2004.

In response to Senator Arzberger, Ms. Wrona clarified that regional haze refers to a general reduction in visibility which is attributable to extremely small particles and gases. She further commented that ADEQ would be happy to do a briefing on this matter for Senator Arzberger.

Shannon Davis, Waste Programs Division Director, ADEQ, testified that this division is divided into prevention and remediation programs. Her testimony came directly from Attachment B. She stated that permits and enforcement are the "prevention part" of preventing more contamination from going into the soil or air. Their main focus is on remediation efforts. One of the programs is called

the Voluntary Remediation Program (VRP). This program requires a public/private partnership. The goal is to get property remediated to the point that it can be put back into use.

Ms. Davis acknowledged the Water Quality Assurance Revolving Fund (WQARF) Advisory Board's efforts to clean up sites. Ms. Davis further acknowledged the UST program. There is a penny a gallon gas tax that is used to clean up sites.

Ms. Davis concluded by commenting on the South Phoenix Environment Initiative where sites were cleaned up and underground storage tanks were pulled out. It went from a blighted area to a cleaned up area. ADEQ has been awarded a grant by the EPA to implement a multi-media toxic reduction work plan in collaboration with the City of Phoenix, Maricopa County, EPA, stakeholders and ASU. She further commented that ADEQ oversees the cleanup of wastes to increase the inventory of land for economic redevelopment.

In response to Senator Allen, Ms. Davis stated that the UST program has been reorganized by the department to get claims processed more efficiently.

Karen Smith, Water Quality Division Director, ADEQ, testified that the water quality division implements three legislative programs: Safe Drinking Water Act; Clean Water Act; and Arizona's Environmental Quality Act, which is the Aquifer Protection Permit program, Pesticide Contamination Prevention program and Reclaimed Water Use programs. Her testimony came directly from Attachment B. Ms. Smith stated that the goal is to ensure that Arizona's rivers, lakes and underground aquifers are clean and safe for drinking, and to support fish and wildlife.

Ms. Smith noted the two issues of current significance are the implementation of the new arsenic standard in drinking water and the AZPDES program. Ms. Smith further commented that the EPA put into place a new drinking water standard for arsenic of 10 parts per billion, which is a significant reduction from the existing standard of 50 parts per billion. There are approximately 300 water systems in the State that currently do not meet these new regulations. She stated that there are significant costs to comply with the new arsenic regulation which are estimated to be between \$75 million and \$120 million annually. ADEQ has developed the Arsenic Master Plan which will provide tools for water systems to determine the least costly and most effective treatment technology for the individual systems. There will be a report by the end of this month along with scheduled educational workshops to learn about options for drinking water systems.

In response to Senator Binder, Ms. Smith stated that the funding for developing the Arsenic Master Plan was secured from a grant through EPA.

In response to Senator Jarrett, Mr. Owens stated that the current debate is who is going to pay for the costs to comply with the new guidelines.

Presentation by Rick Lavis, WQARF Advisory Board President

Mr. Lavis introduced **Mr. Phil McNeeley**, who oversees the Superfund program. He presented a handout entitled "WQARF" (Attachment C). His testimony came directly from the handout. Mr. Lavis indicated that Arizona's WQARF is Arizona's Superfund Program for water quality assurance in terms of cleaning up contaminated soil and water, and is a national model for remediation and cost recovery. He noted that WQARF is a successful program. Mr. Lavis further noted that there are

Committee on Natural Resources
And Transportation
January 21, 2003

currently 33 sites being cleaned up. Through the year 2002, \$88 million has been invested in this program. Mr. Lavis contended that WQARF cannot sustain any additional cuts.

Mr. Lavis pointed out that WQARF focuses on reducing risk to public health and safety by returning polluted groundwater and contaminated property to productive use and protecting future uses of Arizona's groundwater resources. The program is based on a proportionate "fair share" liability system that discourages litigation and encourages early settlements.

Mr. Lavis expounded that the Legislature authorized annual funding of \$18 million to WQARF in 1997. These funds are used for the costs of investigation, clean up, responsible party identification, allocation and other costs associated with the clean up of contaminated soils and groundwater. He explained that since 1997, the following has occurred:

- Over 10.85 billion gallons of water have been treated.
- Over 110,000 pounds of volatile organic compounds have been removed from the environment.
- Over 20 million pounds of metals have been removed from the environment.

Mr. Lavis indicated that the WQARF Program has been cut by \$15 million over the last two fiscal years. He further stated that if the Legislature does nothing, there will be a budget of \$18 million compared to \$27 million last year. The Governor wants to reduce the budget by another \$10 million in FY 2004, which will just keep the staff going. He further stated that if there are further budget cuts, there will be polluted groundwater left contaminated, and unusable contaminated soils will render property undesirable for economic redevelopment. He urged the Committee to continue to support the full funding of \$18 million.

Senator Allen commented that she will do everything she can to keep this program going.

Senator Binder corroborated that WQARF has the full support of the Committee to continue this program.

There being no further business, the meeting adjourned at 3:35 p.m.

Respectfully submitted,

Debbie Kennedy
Committee Secretary

(Tapes and attachments are on file in the Secretary of the Senate's Office/Resource Center, Room, 115.)