

## Minutes of NM WARN Executive Committee Meeting 11-14-07

Attendees: Matt Holmes, NM Rural Water Association – matt@nmrwa.org  
Jerry Lewis, NMED/DWB – jerome.lewis@state.nm.us  
John Jones, Entranosa Water and Wastewater Association –  
entranosa@aol.com

1. Discussion of WARN Executive Committee and Selection of Members
  - A. Agreed that the Executive Committee needs to be expanded to 6 people.
  - B. Reported that the City of Santa Fe is unable to join the Executive committee.
  - C. Agreed to try to get NMDHSEM personnel to participate on the Executive Committee

Note: The NM Department of Homeland Security and Emergency Management (NMDHSEM) is a new department within the State of NM. The Office of Emergency Management, which used to be a part of the Department of Public Safety (police), merged with the NM Governor's Office of Homeland Security to form this new department. They have been involved in mutual aid agreements and assisted in developing the NM Intrastate Mutual Aid (IMA) Act. They have needed expertise in WARN development and hopefully will participate on our Executive Committee.

- D. Agreed to look for another large water system (public or private) representative to participate on the executive committee. This person must commit to attending Executive Committee meetings (in person or via phone conference) and will be invited to attend steering committee meetings, where we vote on proposals. Limited homework and research may also be requested.
2. Discussion of the NM IMAS, mutual aid agreements and some state WARN agreements.
  - A. The NM IMA Act is the law in NM pertaining to mutual aid in NM, so this is where we started.
    - 1) It covers counties, municipalities, and tribes in NM. It does not cover MDWCAs, co-ops, associations, private water utilities and others.
    - 2) There are about 100 of these municipal water systems (excluding tribal systems), which represent only 15% of NM community water systems (again excluding tribal systems).
    - 3) Because, we want all NM community water systems to participate in the NM WARN, we need to make the WARN compatible with the IMAS, but also useful to all types and sizes of water systems.
    - 4) Generally, it appears to be compatible with other state WARNS (California, Florida, Utah and Texas), with a few exceptions.
    - 5) Section 10 (Liability) of the NM IMA Act states: "a person responding to a request for aid by a member jurisdiction, as provided in Section 6 [12-10B-6 NMSA 1978] of the Intrastate Mutual Aid Act, is considered for

the purposes of liability to be an employee of the requesting member jurisdiction”.

- 6) Under most WARN agreements we have seen, disputes over liability are usually settled by the parties within a given timeframe, or through arbitration as set out in the agreement. Some state WARNs hold harmless the other party(ies) unless negligence or gross negligence is involved. In most cases, the responding entity is responsible for providing liability insurance covering employee activities while under the operational control of the requesting entity.
  - 7) We assumed that this Act used the language described in #5 above because it pertains to government organizations. However, we are not sure. The Act also includes language allowing interstate mutual aid. This discrepancy will have to be worked out and resolved. Hopefully, NMHSDEM can help us with this.
  - 8) Section 12-10B-8 C. sets out dispute resolution/arbitration by the NM Department of Finance and Administration. Is this binding on all water systems covered by this Act? Or will the NM WARN agreement be able to set out rules of arbitration or “Hold Harmless”?
  - 9) We also discussed and briefly reviewed some of the state WARN agreements.
  - 10) Discussed the need to include language allowing and encouraging the giving of assistance without requiring reimbursement for personnel and equipment.
3. Homework for the next Executive Committee meeting in mid December.
    - A. John Jones will research the NM IMAS committee to get names and contact information for the eleven members. He will also check with FEMA to investigate their equipment reimbursement tables and rates. Finally, he will contact NM American Water Co. (Clovis and Edgewood) to see if they would want to represent private water utilities on the Executive Committee.
    - B. Matt Holmes will contact ABCWUA to find out who their designee on the Executive Committee will be. Also, he will follow-up to see the status of ABCWUA hosting the NM WARN website. He will also put a request on the NMRWA website for another water system representative to join the Executive Committee.
    - C. Jerry Lewis will contact NMDHSEM personnel and invite one of their representatives to join the Executive Committee, and will also discuss some of the issues reported on in these minutes with NMDHSEM personnel. He will also send out an e-mail to all NM CWSs serving >3300 people requesting a volunteer to join the NM WARN Executive Committee as well as the meeting minutes.

Note: Good news! Evonne Gantz of the NMDHSEM has agreed to join our Executive Committee and attend our meetings. We look forward to her expertise.

- D. We will all read (and re-read) the Florida, Utah and California WARN mutual aid agreements to identify differences, similarities and sections or phrasing that we would like to see put in the NM WARN agreement.

Acronyms

ABCWUA – Albuquerque-Bernalillo County Water Utility Authority

CWS – Community Water Systems

EMAC – Emergency Management Assistance Compact (interstate mutual aid)

NM IMA Act – NM Intrastate Mutual Aid Act

NM IMAS – NM Intrastate Mutual Aid System

NM DPS – NM Department of Public Safety

NMED/DWB – NM Environment Department, Drinking Water Bureau

NMDHSEM – NM Department of Homeland Security and Emergency Management

NMRWA – NM Rural Water Association

WARN – Water Wastewater Alert Response Network