



A joint regional project of the City of Santa Fe and Santa Fe County to build a reliable and sustainable water supply.

Memorandum

Date: January 5, 2016
To: Buckman Direct Diversion Board
From: Erick LaMonda, Interim Operations Superintendent
Subject: Update on BDD Operations for the Month of December 2016

ITEM:

1. This memorandum is to update the Buckman Direct Diversion Board (BDDDB) on BDD operations during the month of December 2016. The BDD diversions and deliveries have averaged, in Million Gallons Daily (MGD) as follows:
 - a. Raw water diversions: 3.54 MGD Average
 - b. Finished Drinking water deliveries through Booster Station 4A: 3.07 MGD Average
 - c. Finished Drinking water deliveries through Booster Station 5A: 0.48 MGD Average
 - d. Raw water delivery to Las Campanas at BS2A: 0 MGD Total.
 - e. 2016 Raw water diversions year to date: 1,765.35 MGD Total
2015 Raw water diversions for the same time period: 1655.18 MGD Total
2. The BDD is providing approximately 54 percent of the water supply to the City and County for the month.
3. The current Drought Update Summary and Reservoir Storage Status are attached.



Drought, Monsoon/El Nino, and ESA Update

Drought/Monsoon, Storage, and ESA Update

NOAA has recently updated (12/10/16) ENSO (El Nino/La Niña) status to: **La Niña conditions are present, with a transition to ENSO-neutral favored during January-March 2017.**

However, Dry conditions in 2016/17 could present significant challenges to all water purveyors, water utilities, and irrigators if there is not significant filling and carry-over storage in regional reservoirs. Regional reservoir levels on the Rio Grande and Chama Rivers are still low. Upper Santa Fe River reservoirs are very low so City draw down has been reduced accordingly, with a corresponding increase in BDD diversions from the Rio Grande, and moderate increases in groundwater well use. Preliminary estimates are for an approximate 95%-100% delivery of full firm-yield of San Juan-Chama Project (SJCP) water. There are no water-related Endangered Species Act (ESA) updates, except that a draft Biological Opinion was issued by the US Fish and Wildlife Service in early this month. Staff is currently evaluating this document. Updates on ESA issues will be made as needed. Rio Grande Compact Article VII storage restrictions went back into effect 4/22/16, which means the City will not be allowed to impound “native” runoff into Nichols and McClure Reservoirs above the pre-Compact pool of 1,061 acre-feet (AF) (unless an exchange for water is made with the NMISC). Updates to this condition will be made as needed.

Most current City of Santa Fe November, 2016 SJCP Reservoir Storage:

Heron:

5,029 AF. 2016 deliveries are at about 95% of annual total.

El Vado:

1,236 AF.

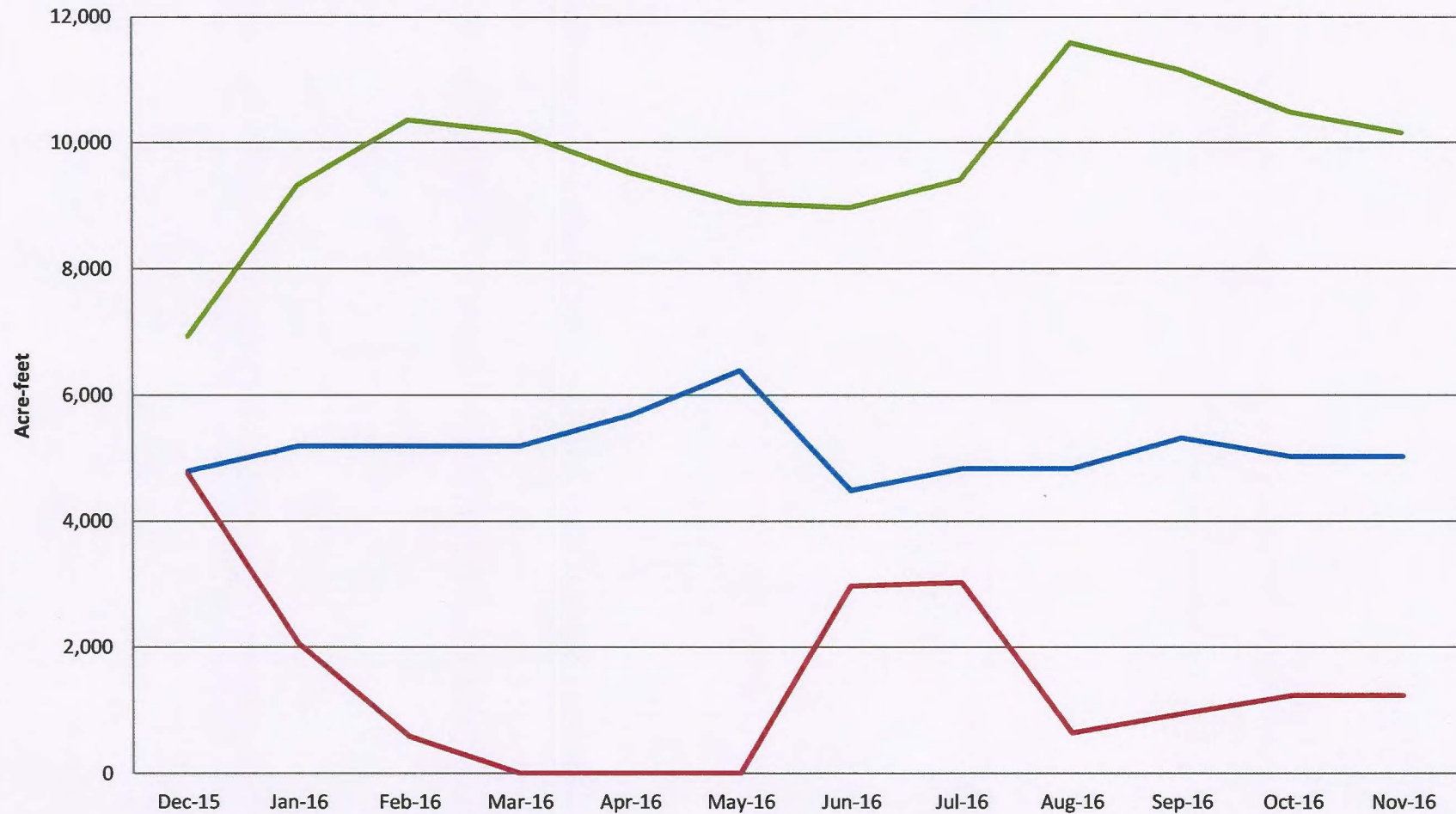
Abiquiu:

10,481 AF SJCP carry-over from previous years, no time limit to vacate due to storage agreement with ABCWUA

TOTAL:

16,746 AF

City of Santa Fe 2016 San Juan Chama Project Storage



	Dec-15	Jan-16	Feb-16	Mar-16	Apr-16	May-16	Jun-16	Jul-16	Aug-16	Sep-16	Oct-16	Nov-16
Heron	4,805	5,196	5,196	5,196	5,685	6,392	4,492	4,839	4,839	5,327	5,029	5,029
ElVado	4,757	2,055	583	0	0	0	2,968	3,026	644	944	1,236	1,235
Abiquiu	6,943	9,335	10,364	10,163	9,530	9,047	8,970	9,416	11,595	11,158	10,481	10,153
Totals	16,505	16,586	16,143	15,359	15,215	15,439	16,430	17,281	17,078	17,429	16,746	16,417



Buckman Direct Diversion Project

A joint regional project of the City of Santa Fe and Santa Fe County to build a reliable and sustainable water supply.

Memorandum

Date: For January 5, 2017 Board Meeting

To: Buckman Direct Diversion Board

From: Nancy R. Long

RE: Amendments to BDD Partner Agreements

ITEM AND ISSUE:

Update on Amendments to BDD Partner Agreements.

BACKGROUND AND SUMMARY:

Attached to this memorandum are two amendments as follows:

1. First Amendment to the Facility Operations and Procedures Agreement for the Buckman Direct Diversion Project between the City of Santa Fe, Santa Fe County and Las Campanas LP (FOPA); and
2. Second Amendment to the Joint Powers Agreement between the City of Santa Fe and the County of Santa Fe Governing the Buckman Direct Diversion Project (JPA).

Both amendments are the result of the City, County and Las Campanas Water and Sewer Cooperative (Co-op) and the Club at Las Campanas' (Club) participation in mediation last summer and the agreements reached among the parties resulting from the mediation sessions. The FOPA amendment was necessary in order to address: "Project Wide Costs" of the BDDB project, funding of litigation fees and costs; and formerly substituting the Club and the Co-op for Las Campanas, L.P. The JPA amendment provides for a Las Campanas representative and an alternate Las Campanas representative to serve on the BDDB as non-voting members.

The Board of County Commissioners approved the First Amendment to the FOPA and the Second Amendment to the JPA on December 13, 2016. The City Council approved the First Amendment to the FOPA on December 14, 2016 and is expected to approve the Second Amendment to the JPA in January 2017. The Co-op and the Club have approved the amendment to the FOPA.

The BDD is not a party to either of the agreements but BDD staff was involved in providing input and took the lead in drafting and finalizing the amendments.



**FIRST AMENDMENT
TO THE FACILITY OPERATIONS AND PROCEDURES AGREEMENT
FOR THE BUCKMAN DIRECT DIVERSION PROJECT**

This FIRST AMENDMENT TO THE FACILITY OPERATIONS AND PROCEDURES AGREEMENT FOR THE BUCKMAN DIRECT DIVERSION PROJECT BETWEEN the CITY OF SANTA FE, SANTA FE COUNTY and LAS CAMPANAS L.P. (hereinafter referred to as “First Amendment”) is entered into by and between the Board of County Commissioners of Santa Fe County (hereinafter referred to as “the County”), a political subdivision of the State of New Mexico, the City of Santa Fe (hereinafter referred to as “the City”), a municipal corporation of the State of New Mexico, the Las Campanas Water and Sewer Cooperative, a New Mexico cooperative association (hereinafter referred to as “the Cooperative”), and the Club at Las Campanas, a New Mexico not for profit association (hereinafter referred to as “the Club”), effective as of July 1, 2016.

RECITALS

WHEREAS, the City, the County and Las Campanas, L.P. entered into the Facilities Operations and Procedures Agreement (hereinafter referred to as the “FOPA”) with an effective date of October 16, 2006 to address facility operations as partners in the Buckman Direct Diversion Project (hereinafter referred to as “the BDD Project” or “BDD”);

WHEREAS, all terms defined in the FOPA have the same meaning in this First Amendment unless otherwise indicated;

WHEREAS, the FOPA addresses the peak day diversion capacity of the BDD for the BDD Partners and the allocation of certain costs for the BDD Partners based on the allocation of peak day diversion capacity of the Shared Facilities as defined in the FOPA and amended here;

WHEREAS, by three separate assignments, Las Campanas, L.P. assigned its entire peak day diversion capacity expressed as a percentage of the BDD’s total peak day capacity, as follows: to the Las Campanas Homeowners Water Cooperative, 6.93%; to the Club, 5.37%; and to a related company, Arizona Rights LLC, 5.28%. The assignments to Las Campanas Homeowners Water Cooperative and to the Club are dated April 19, 2012 and the assignment to Arizona Rights, LLC is dated March 12, 2012;

WHEREAS, the Las Campanas Homeowners Water Cooperative subsequently merged with the Las Campanas Sewer Cooperative;

WHEREAS, the County thereafter acquired 5.28% of the BDD’s total peak day diversion capacity from Arizona Rights, LLC, increasing its total peak day diversion capacity under the FOPA from 20.33% to 25.61%;

WHEREAS, the parties to this First Amendment wish to reflect the assignments made by Las Campanas, L.P. and to reflect the currently existing peak day diversion capacities; and

WHEREAS, the City, the County, the Cooperative and the Club have agreed upon the characterization and appropriate allocation methodology for certain fixed costs that have been and will continue to be incurred by the BDD.

AGREEMENT

NOW, THEREFORE, upon the consideration described in this First Amendment, including the covenants and promises contained herein, the adequacy of which is acknowledged by the parties, the City, the County, the Cooperative, and the Club agree to amend the FOPA as follows:

1. Paragraphs 4, 12, and 20 of the “Definitions” section of the FOPA are deleted entirely and replaced with the following:

4. **BDD Partners** means the City, the County, the Cooperative, and the Club.
12. **Club Separate Facilities** means those portions of the BDD Project described in the FOPA as the Club Separate Facilities, including pumping equipment in booster station 2A and the raw water pipeline extending from booster station 2A, providing water only to the Club, as shown on Exhibit A of this Agreement.
20. [previously 19] **Shared Facilities** means that portion of the BDD Project that provides raw water to all BDD Partners, as shown on Exhibit A of this Agreement, including all portions of booster station 2A, except for the pumping equipment in booster station 2A that is part of the Club Separate Facilities or the City/County Separate Facilities.

2. Paragraph 19 of the “Definitions” section of the FOPA is deleted entirely and replaced with the following:

19. **Project Wide Costs** means costs of the BDD Project that cannot be classified as costs of the Shared Facilities or the City/County Separate Facilities as established in accordance with Paragraph 39.

3. Paragraph 20 [WRA] of the “Definitions” section of the FOPA is renumbered as 21.

4. The last sentence of paragraph 2 of the “Agreement” section of the FOPA [Ownership of the Project] is deleted and replaced with the following:

“The Club owns the Club Separate Facilities.”

5. Paragraph 7 of the “Agreement” section of the FOPA [**BDD Project Facility Capacity Allocation**]is deleted entirely and replaced with the following:

7. **BDD Project Facility Capacity Allocation.** The peak day diversion capacities are:

City: 62.09% (approx. 11.30 mgd allocation of 18.2 mgd total capacity)

County: 25.61% (approx. 4.66 mgd allocation of 18.2 mgd total capacity)

Cooperative: 6.93% (approx. 1.26 mgd allocation of 18.2 mgd total capacity)

Club: 5.37% (approx. 0.98 mgd allocation of 18.2 mgd total capacity)

A BDD Partner may use another BDD Partner's unused peak day diversion capacity. Consent for one BDD Partner to utilize another BDD Partner's unused peak day diversion capacity shall not be unreasonably withheld and the cost to use that capacity shall be calculated as set forth in a separate agreement.

The parties acknowledge and agree that their peak day diversion capacities may increase or decrease among themselves through the conveyance of peak day diversion capacity by one BDD Partner to another. In that instance, the parties to the transaction shall timely notify all other BDD Partners and the BDD Facilities Manager by giving notice in accordance with *FOPA Section 38, Notices*, which notice shall include a copy of the conveyance document and a revised chart reflecting the peak day diversion capacities after the conveyance. Further amendment of the FOPA in that instance shall not be required and the following provisions shall apply. First, notwithstanding any provisions of the FOPA allocating costs based upon the capacity allocations shown in *FOPA Section 7, BDD Project Facility Capacity Allocation*, the revised peak day diversion capacity allocation shall be used beginning with the effective date of the conveyance and be reflected in the BDD annual budget. Second, any provision of the FOPA referencing the capacity allocations shown or set forth in *FOPA Section 7, BDD Project Facility Capacity Allocation*, shall be interpreted to mean the revised capacity allocations as opposed to the allocations set forth above.

6. Paragraph 22 of the “Agreement” section of the “FOPA” [**Cost Sharing. Fixed and Variable OMR&R Costs of the Las Campanas Separate Facilities**] is deleted entirely and replaced with the following:

22. **Cost Sharing. Fixed and Variable OMR&R Costs of the Club Separate Facilities.** The Club shall pay the full amount of the Fixed and Variable OMR&R costs of the Club Separate Facilities.

7. Paragraph 23 of the "Agreement" section of the FOPA [**Cost Sharing. Fixed and Variable OMR&R Costs of the City/County Separate Facilities**] is hereby amended by replacing "24.6%" with "24.67%" and "75.3%" with "75.33%,"

8. Paragraph 38 of the "Agreement" section of the FOPA [**Notices**] is amended to delete entirely the addresses relating to Las Campanas, L.P. and insertion of the following:

To the Cooperative: General Manager
Las Campanas Water and Sewer Cooperative
366 Las Campanas Drive
Santa Fe, NM 87506
Phone: (505) 204-7824
Fax: (505) 820-7116

With a copy to: Seth R. Fullerton
Attorney at Law
Stein & Brockmann, P.A.
P.O. Box 2067
Santa Fe, NM 87504-2067
Phone: (505) 983-3880
Fax: (505) 983-3880 (same as phone)

To the Club: General Manager
The Club at Las Campanas
132 Clubhouse Drive
Santa Fe, New Mexico 87506
Phone: (505) 995-3604
Fax: (505) 995-1032

9. The following new paragraph 39 is hereby added to the "Agreement" section of the FOPA:

39. Project Wide Cost Determination. Project Wide Costs consist of those costs designated as "PW" in the BDD Chart of Accounts Manual, a copy of which has been provided to the BDD Partners, plus any and all litigation fees and expenses (commencing with such fees and expenses incurred on or after November 5, 2015). The BDD Partners may, from time to time, make changes to Project Wide Costs; provided, however, that any proposed change shall first be reviewed by a study group consisting of representatives from each of the BDD Partners. The BDD Partners shall review the Project Wide Costs every five (5) years beginning the fifth year after the First Amendment is fully executed.

10. The following new paragraph 40 is hereby added to the “Agreement” section of the FOPA:

40. Cost Sharing. Project Wide Costs. Project Wide Costs shall be apportioned annually among the City, the County, the Cooperative, and the Club based on their percentage share (if any) of actual water deliveries during the fiscal year; *provided*, however, that the County’s share of Project Wide Costs shall not exceed 30% in any fiscal year regardless of the County’s actual water deliveries. In the event that the County’s share of Project Wide Costs would exceed 30% in any fiscal year based on the BDD Partners’ percentage share of actual water deliveries, the City shall pay the difference of the total Project Wide Costs for the fiscal year regardless of the City’s actual water deliveries, if any, less the contributions of the Club and the Cooperative, if any, based upon actual water deliveries to the Club and the Cooperative. BDD staff will bill the BDD Partners for Project Wide Costs based on the BDD’s working capital and billing policy. In addition, BDD staff will reconcile the cost allocation of Project Wide Costs annually within 90 days of the end of the fiscal year.

11. The following new paragraph is hereby added to the “Agreement” section of the FOPA:

41. Assignments. Except for peak day diversion capacity conveyed to another BDD Partner, as allowed by *FOPA Section 7, BDD Project Facility Capacity Allocation*, no BDD Partner may assign their BDD capacity or other rights and obligations under the FOPA without the written consent of the BDD Partners and the BDD Board, which consent shall not be unreasonably withheld.

12. The following paragraphs of the “Agreement” section of the FOPA are amended by replacing “Las Campanas” with “the Cooperative and the Club” wherever the entity, “Las Campanas,” is referred to in the section and by amending the tense of any associated verb as necessary: *Section 4, Relationship of the Parties; Paragraph 20, Cost Sharing. Fixed OMR&R Costs for the Shared Facilities; Section 21, Cost Sharing. Variable OMR&R Costs of the Shared Facilities; Section 25, The BDD Partners and the BDD Board.*

13. The FOPA is amended by replacing “Las Campanas Separate Facilities” with the “Club Separate Facilities” everywhere that the former phrase appears in the FOPA.

14. This First Amendment may be executed and delivered by the parties in any number of counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

15. Exhibit A to the FOPA is deleted and replaced with Exhibit A to this First Amendment.

IN WITNESS WHEREOF, each of the City of Santa Fe, New Mexico, the County of Santa Fe, New Mexico, the Las Campanas Water and Sewer Cooperative and the Club at Las Campanas have caused this First Amendment to be executed by its duly authorized representatives as of the dates specified below.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

**THE BOARD OF COUNTY
COMMISSIONERS OF
SANTA FE COUNTY**

By: _____
Miguel M. Chavez, Chair

Date: _____

ATTEST:

Geraldine Salazar, County Clerk

Approved as to form:

Gregory S. Shaffer, County Attorney

CITY OF SANTA FE

Javier Gonzales
Mayor, City of Santa Fe

Date

Approved as to form

City of Santa Fe Attorney

Date

City of Santa Fe Clerk

Date

City of Santa Fe Finance

**THE LAS CAMPANAS WATER AND
SEWER COOPERATIVE**

By: _____

Its: _____

Date

THE CLUB AT LAS CAMPANAS

By: _____

Its: _____

Date

**AMENDMENT NO. 2
TO THE JOINT POWERS AGREEMENT BETWEEN
THE CITY OF SANTA FE AND COUNTY OF SANTA FE
GOVERNING THE BUCKMAN DIRECT DIVERSION PROJECT**

THIS AMENDMENT NO. 2 is made and entered by and between the City of Santa Fe (“City”) and County of Santa Fe (“County”), effective as of the date it is approved by the New Mexico Department of Finance and Administration.

RECITALS

WHEREAS, the City and County entered into the Joint Powers Agreement Governing the Buckman Direct Diversion Project, effective March 7, 2005 (the “JPA”), to provide for the establishment and management of the Buckman Direct Diversion Board (“BDDB”), among other things; and

WHEREAS, the JPA was previously amended by Amendment No. 1 to the Joint Powers Agreement between the City of Santa Fe and the County of Santa Fe Governing the Buckman Direct Diversion Project, effective November 7, 2006; and

WHEREAS, the City and County agree that the JPA should be amended to provide for an alternate citizen member of the BDDB who will serve on the BDDB in the absence of the citizen member; and

WHEREAS, the City and County agree that the JPA should also be amended to allow the citizen member and alternate citizen member to hold over and continue to serve indefinitely after expiration of their terms until a replacement is appointed by the BDDB and remove the provision that the Chief Judge of the First Judicial District appoint a replacement citizen member in the event the BDDB fails to appoint a replacement citizen member within sixty (60) days following the expiration of the citizen member’s term; and

WHEREAS, the City and the County agree that the JPA should also be amended to provide for one non-voting representative and one non-voting alternate representative to represent both the Las Campanas Water and Sewer Cooperative and the Club at Las Campanas to serve on the BDDB; and

WHEREAS, the City and County agree that the JPA should be further amended so that only unexcused absences require appointment of a replacement BDDB member.

AGREEMENT

NOW, THEREFORE, it is agreed by the City and County that the JPA be amended as follows:

1. Section 5, **Appointment of BDD Board Members and Chairperson**, is amended by the deletion of the third full paragraph in its entirety (lines 23-30) and replacement with the following:

“One citizen member and one alternate citizen member shall be appointed by a majority vote of the four other members, each for a two-year term and each who may be re-appointed without limit. Prior to the end of any term, the citizen member, or alternate citizen member, may only be removed by unanimous action of the four other members. In the event that the citizen member’s term, or alternate citizen member’s term, expires but a citizen member, or alternate citizen member, has not been appointed for the following term, the citizen member, and/or alternate citizen member, shall continue to serve as a member or alternate member of the BDD Board until a replacement has been appointed by the BDD Board. Upon the expiration of the terms of the citizen member and alternate citizen member, or on the account of death, illness, resignation, or three consecutive unexcused absences (in the case of the citizen member only) from duly called meetings, the BDD Board shall appoint a replacement.”

Section 5 is further amended by the insertion of the following:

“The Las Campanas Water and Sewer Cooperative and the Club at Las Campanas (the “Las Campanas Entities”) shall collectively be entitled to name one member to serve on the BDD Board as a non-voting member of the BDD Board and one member to serve as an alternate non-voting member of the BDD Board (the “Las Campanas Member and Las Campanas Alternate Member”). The Las Campanas Member and the Las Campanas Alternate Member shall be selected by the Las Campanas Entities as such entities may choose and shall not be subject to any term limits by the BDD Board.”

Section 5 is further amended by the insertion of the word “unexcused” in the first sentence of the fourth paragraph between the words “consecutive” and absences” (line 33), so that the sentence with the addition noted in bold reads as follows:

“Upon expiration of a term of office or on account of death, illness, resignation, or three consecutive **unexcused** absences from duly called meetings, the entity that appointed the director shall thereupon appoint a director to the new term or to complete the term vacated.”

2. All other provisions of the JPA not specifically amended by this Amendment Number 2 shall remain in full force and effect.

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IN WITNESS WHEREOF, the parties have set their hands and seal this day and year set forth below.

CITY OF SANTA FE:

JAVIER GONZALES, MAYOR

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

KELLEY BRENNAN, CITY ATTORNEY

COUNTY OF SANTA FE:

MIGUEL M. CHAVEZ, CHAIR, BOARD
OF COUNTY COMMISSIONERS

ATTEST:

GERALDINE SALAZAR, COUNTY
CLERK

APPROVED AS TO FORM:

GREGORY S. SHAFFER, COUNTY
ATTORNEY

**THIS AMENDMENT HAS BEEN
APPROVED BY:**

State of New Mexico
Department of Finance Administration

By:

Date:



A joint regional project of the City of Santa Fe and Santa Fe County to build a reliable and sustainable water supply.

Memorandum

Date: December 21, 2016
To: BDD Board
From: Kyle Harwood, Board Counsel

ITEM AND ISSUE:

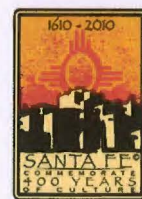
Final 2016 Biological Opinion for the Rio Grande Silvery Minnow (RGSM)

BACKGROUND AND SUMMARY:

On December 2, 2016, the US Fish and Wildlife Service issued a Final Biological Opinion for certain federal and state water activities as they impact multiple ESA federally listed species, including the Rio Grande Silvery Minnow (RGSM), the Southwestern willow flycatcher, and Yellow-billed cuckoo. The BO also concluded that the proposed actions are not likely to adversely impact the New Mexico jumping mouse and Pecos sunflower, and will have no impact on the interior least tern.

This Biological Opinion (BO) replaces the previous 2003 that expired in 2013 but was extended after re-initiation was requested. The 2003 BO is the subject of a pending lawsuit by the plaintiff Wild Earth Guardians with respect to the RGSM. The BO covers the proposed actions of the Bureau of Reclamation, Bureau of Indian Affairs, Middle Rio Grande Conservancy District and the Interstate Stream Commission/Office of the State Engineer.

This BO is a non-jeopardy biological opinion for a term of 15 years and contains 86 required conservation measures summarized in Table 1 of the BO. The BO states that with the implementation of the required offsetting and conservation measures the proposed actions of the certain federal and state entities will not jeopardize the continued existence of the RGSM, flycatcher or cuckoo, and will not destroy or adversely modify the species' critical habitat. The Incidental Take Statement (ITS) is measured in terms of fish densities at locations on the Rio Grande downstream of Cochiti Reservoir. This is a significant change from the prior RGSM management strategy of requiring minimum river flows at specific locations during specific periods of the year. The use of fish density measurements for the measurement of take is a novel approach that has not been used elsewhere in the country. The BO also adopts an adaptive management approach in order to incorporate future lessons and scientific information as it relates to supporting the listed species.



The Bureau of Reclamation, the Interstate Stream Commission and the Middle Rio Grande Conservancy District are supporting this 2016 BO. Continued and perhaps expanded litigation over these issues is likely.

The press release and the first couple pages of the Biological Opinion are attached to this memo for your reference. I separately sent a link to download the full biological opinion on December 3, 2016 (<https://www.fws.gov/southwest/es/NewMexico/>) to the Board. The referenced documents were sent to Board members the week of December 19, 2016.

The staff presentation will briefly review our (project specific) BDD Biological Opinion and how this 2016 BO may impact future water management activities in the Middle Rio Grande.



Media Contacts:

Reclamation

Mary Carlson (505)462-3576
mcarlson@usbr.gov

Fish and Wildlife Service

Jeff Humphrey (602)242-0210
jeff_humphrey@fws.gov

NM Interstate Stream Commission

Melissa Doshier (505)469-5698
melissa.doshier@state.nm.us

MRGCD

Mike Hamman (505) 247-0234
mikeh@mrgcd.us

Bureau of Indian Affairs

Nedra Darling 202-219-4152

For Release: December 5, 2016

Efforts to Protect Endangered Species in the Middle Rio Grande Continue with Renewed Commitments from Key Water Management Agencies

The U.S. Fish and Wildlife Service has completed and provided a new biological opinion to the Bureau of Reclamation, Bureau of Indian Affairs, Middle Rio Grande Conservancy District and the State of New Mexico, providing Endangered Species Act coverage for water-related activities in the Upper and Middle Rio Grande.

The parties have been formally consulting for nearly four years to address the needs of species protected under the act. The Service's biological opinion concludes that the proposed water-related activities, including almost 90 species conservation commitments from the entities, will not jeopardize the survival of the endangered Rio Grande silvery minnow, southwestern willow flycatcher and the threatened yellow-billed cuckoo.

The Rio Grande is one of the most important natural resources in the state of New Mexico. "This Biological Opinion recognizes the core management elements that are necessary to sustain and ultimately recover populations of silvery minnows. The Biological Opinion is based on years of experimentation, rigorous science, and adaptive management strategies that will balance and meet human water needs while supporting wildlife conservation," said Dr. Benjamin Tuggle, the Service's Southwest Regional Director. "The substantial conservation commitments made by the Middle Rio Grande Partners will significantly improve the status of the silvery minnow, flycatcher and cuckoo."

The entities involved in this consultation worked closely with the Service to come up with innovative, science-based solutions to improve habitat for the species between Cochiti Dam and Elephant Butte Reservoir while continuing to improve water delivery efficiencies.

"We are hopeful that the trust built during this complicated consultation will carry through to the implementation phase. We have a lot of work to do and are eager to move forward," said Jennifer Faler, Albuquerque Area Manager for Reclamation.

"The Bureau of Indian Affairs has worked hard in collaboration with the parties and with affected tribes to maintain the sovereignty of the tribes as well as accomplish the goals related to the species," said Bureau of Indian Affairs Regional Director William T. Walker.

These entities have worked collaboratively and persistently on water use and Endangered Species Act issues for about 20 years, starting with the onset of drought in 1996, through severe drought and litigation in early 2000's, to continued drought in the following decade, all with significant investments of federal, state and local resources.

“Our agency continues to engage with its federal water management partners, the Middle Rio Grande Conservancy District, the six Middle Rio Grande Pueblos and other water users to ensure State water laws and regulations provide a solid foundation in the basin from which to build upon,” said Interstate Stream Commission Director Deborah Dixon. “We have offered commitments that are included in the new biological opinion that will provide improvements in water availability for species, better habitat conditions and science-based water management while continuing to provide water and endangered species compliance for New Mexicans.”

An example of joint efforts in recent years is the coordination by water managers last spring to temporarily store additional water on the Rio Chama. This allowed them to augment the natural flow of the river through the middle valley in May to mimic a moderate spring runoff instead of the lower runoff that would have occurred naturally. That effort, in combination with habitat restoration conducted over the last decade contributed to increased numbers of young silvery minnow in the river this fall.

“The District is pleased to be able to work in partnership with Reclamation, the state of New Mexico and the Fish and Wildlife Service to assist in the preservation and recovery of endangered species, while preserving water rights and agricultural use in the Middle Rio Grande Valley. This fifteen-year biological opinion is a comprehensive approach that provides us needed flexibility to adapt to highly variable water supply conditions while providing the District the necessary coverage under the Endangered Species Act that allows us to continue our mission in meeting the needs of our constituents,” said MRGCD Board Chairman Derrick Lente.

The new biological opinion is available to the public at <https://www.fws.gov/southwest/es/NewMexico/>.



United States Department of the Interior



FISH AND WILDLIFE SERVICE

New Mexico Ecological Services Field Office
2105 Osuna Road NE
Albuquerque, New Mexico 87113
Telephone 505-346-2525 Fax 505-346-2542
www.fws.gov/southwest/es/newmexico/

December 2, 2016

Consultation Number 02ENNM00-2013-F-0033

Memorandum

To: Area Manager, Bureau of Reclamation, Albuquerque Area Office, Albuquerque, New Mexico (Attn: Jennifer Faler)

From: Field Supervisor, Fish and Wildlife Service, New Mexico Ecological Services Field Office (NMESFO), Albuquerque, New Mexico

Subject: Final Biological and Conference Opinion for Bureau of Reclamation, Bureau of Indian Affairs, and Non-Federal Water Management and Maintenance Activities on the Middle Rio Grande, New Mexico

WALLY
MURPHY

Digitally signed by
WALLY MURPHY
Date: 2016.12.02
11:31:41 -07'00'

Thank you for your request for formal consultation dated February 22, 2013, with the U.S. Fish and Wildlife Service (Service) pursuant to section 7 of the Endangered Species Act of 1973 (16 USC 1531-1544), as amended (ESA). At issue are impacts that may result from the actions described in the Joint Biological Assessment (BA) for Bureau of Reclamation (Reclamation), Bureau of Indian Affairs (BIA), and non-Federal Water Management and Maintenance Activities located along the Middle Rio Grande (MRG), New Mexico (Proposed Action). You determined the Proposed Action may affect and is likely to adversely affect the Rio Grande Silvery Minnow (*Hybognathus amarus*; silvery minnow), the Southwestern Willow Flycatcher (*Empidonax traillii extimus*; flycatcher), the Yellow-billed Cuckoo (*Coccyzus americanus*; cuckoo) and proposed or designated critical habitat for each of the species.

You determined that the Proposed Action is not likely to adversely affect the New Mexico Meadow Jumping Mouse (*Zapus hudsonius luteus*), its designated critical habitat, the Pecos Sunflower (*Helianthus paradoxus*), and will have no effect on the Interior Least Tern (*Sternula antillarum athalassos*).

The Service concurs with the determination of may affect, but is not likely to adversely affect the New Mexico Meadow Jumping Mouse and its designated critical habitat based on the following proposed actions. Reclamation and the BA Partners will provide a minimum of 25 cubic feet per second (cfs) to the north boundary of Bosque del Apache National Wildlife Refuge (BDANWR) through the Socorro Riverside Drain and Low Flow Conveyance Channel (LFCC) from April 15 through September 30. Combined flows will not fall below 25 cfs for more than a total of 5 days annually, when water is available.

The Service concurs with the determination of may affect, but is not likely to adversely affect the Pecos Sunflower based on the following proposed actions:

- Reclamation and the BA Partners will continue actions that are beneficial; coordinate with the Service on river maintenance activities near occupied habitat including the area near the La Joya Drain; evaluate new areas to determine presence and avoid impacts to the Pecos Sunflower habitat.
- Reclamation and the BA Partners will work with the Service to develop a plan to avoid impacts; including water delivery, to the Pecos Sunflower populations in maintenance areas, including the La Joya Drain.
- Implementation of the Lower Reach Plan will include activities designed to improve Pecos Sunflower habitat.

This 15-year biological and conference opinion (BiOp) is based on information provided in the August 31, 2015 BA; March 23, 2016 BA errata; July 20, 2016, memorandum; other correspondences, telephone conversations, and field investigations; and other sources of information. A complete administrative record of this consultation is on file at the NMESFO.

cc:

Regional Director, Bureau of Indian Affairs, Albuquerque, New Mexico (electronic copy)
Trust Resources and Protection Manager Bureau of Indian Affairs, Albuquerque, New Mexico
(electronic copy)

Taos Pueblo
Picuris Pueblo
Ohkay Owingeh
Santa Clara Pueblo
Pueblo de San Ildefonso
Pueblo of Pojoaque
Nambe Pueblo
Pueblo of Tesuque
Pueblo of Jemez
Pueblo of Zia
Pueblo of Acoma
Pueblo of Laguna
Pueblo of Cochiti
Santo Domingo Pueblo

Pueblo of San Felipe

Pueblo of Santa Ana

Pueblo of Sandia

Pueblo of Isleta

Chief Engineer, Middle Rio Grande Conservancy District, Albuquerque, New Mexico
(electronic copy)

Director, New Mexico Interstate Stream Commission, Santa Fe, New Mexico (electronic copy)

State Engineer, New Mexico Office of State Engineer, Santa Fe, New Mexico (electronic copy)

Attorney, New Mexico Attorney General, Santa Fe, New Mexico (electronic copy)

Director, New Mexico Department of Game and Fish, Santa Fe, New Mexico (electronic copy)

Director, New Mexico Energy, Minerals, and Natural Resources Department, Forestry Division,
Santa Fe, New Mexico (electronic copy)

Assistant Regional Director, Ecological Services, U.S. Fish and Wildlife Service, Albuquerque,
New Mexico (electronic copy)

Assistant Regional Director, Fish and Aquatic Conservation, U.S. Fish and Wildlife Service,
Albuquerque, New Mexico (electronic copy)

Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, Albuquerque,
New Mexico (electronic copy)



A joint regional project of the City of Santa Fe and Santa Fe County to build a reliable and sustainable water supply.

Memorandum

Date: For January 5, 2017 Board Meeting

To: Buckman Direct Diversion Board

From: Nancy R. Long

RE: **Adoption of Annual Open Meetings Act Resolution; 2017-1**

ITEM AND ISSUE:

Adoption and approval of the Annual (2017) Open Meetings Act Resolution

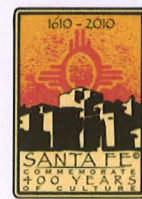
BACKGROUND AND SUMMARY:

As the Board is aware, public bodies are required by the New Mexico Open Meetings Act to annually address the issue of what determines reasonable notice for its public meetings in compliance with the Act.

In 2013, and carried forward in the 2014, 2015 and 2016 Resolutions, the Board imposed an additional requirement not required by the Act that in order for a Board member to attend a board meeting by telephone, that board member must be needed to meet Board quorum requirements. That requirement is contained in the proposed 2017 resolution.

RECOMMENDATION

Independent counsel recommends adoption by the Board of the Resolution Determining Reasonable Notice for Public Meetings of the Buckman Direct Diversion Board; Rescinding Resolution No. 2016-1, subject to revisions the Board may wish to make, if any.



1 **THE BUCKMAN DIRECT DIVERSION BOARD**

2 **RESOLUTION NO. 2017-1**

3 **A RESOLUTION DETERMINING REASONABLE NOTICE FOR**
4
5 **PUBLIC MEETINGS OF THE BUCKMAN DIRECT DIVERSION BOARD;**
6 **RESCINDING RESOLUTION NO. 2016-1**
7

8 **WHEREAS**, Section 10-15-1 (B), NMSA 1978 of the “Open Meetings Act” (hereinafter
9 referred to as “the Act”) provides that “... meetings of a quorum of members of any board,
10 commission ... or other policymaking body ... held for the purpose of formulating public policy,
11 including the development of personnel policy, rules, regulations or ordinances, discussing
12 public business or taking any action within the authority of or the delegated authority of any
13 board, commission or other policymaking body are declared to be public meetings open to the
14 public at all times, except as otherwise provided in the Constitution of New Mexico or the Open
15 Meetings Act;” and

16 **WHEREAS**, Section 10-15-1 (D) of the Act further provides that “(a)ny meetings at
17 which the discussion or adoption of any proposed resolution, rule, regulation or formal action
18 occurs and at which a majority or quorum of the body is in attendance, and any closed meetings,
19 shall be held only after reasonable notice to the public;” and

20 **WHEREAS**, the Act further requires a public body to determine in a public meeting at
21 least annually what notice is reasonable when applied to that body; and

22 **WHEREAS**, Santa Fe County and the City of Santa Fe are parties to that certain Joint
23 Powers Agreement between the City of Santa Fe and the Santa Fe County governing the
24 Buckman Direct Diversion Project, dated March 7, 2005; and

1 **WHEREAS**, the Buckman Direct Diversion Board (the "Board") desires to determine
2 herein what constitutes reasonable notice to the public of its meetings as required by the Act, and
3 to otherwise specify important elements of its continuing compliance with the Act.

4
5 **NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE BUCKMAN**
6 **DIRECT DIVERSION BOARD, AS FOLLOWS:**

7 1. **Regular Meetings.** Unless otherwise noticed, regular meetings of the Board shall
8 be held each month on the first Thursday of the month in the City of Santa Fe Council Chambers
9 or at the Santa Fe County Commission Chambers. Notice of any regular meeting shall be
10 provided to those broadcast stations licensed by the Federal Communications Commission and
11 newspapers of general circulation that have made written request for such notice ten (10) days
12 before such meeting.

13 2. **Special Meetings.** A special meeting of the Board may be called by the Chair or
14 by any two members of the Board upon three (3) days' notice at such time and place as the Chair
15 or the two members deem appropriate. Notice of special meetings shall be met by posting notice
16 of the date, time and place in a conspicuous and appropriate place at the Santa Fe County
17 Administrative building, at Santa Fe City Hall and on the Board's, Santa Fe County's and City's
18 internet websites (www.bddproject.org, www.santafecounty.org and www.santafenm.gov) at
19 least seventy-two (72) hours prior to a special meeting. Notice of a special meeting shall also be
20 provided to those broadcast stations licensed by the Federal Communications Commission and
21 newspapers of general circulation that have made written request for such notice.

22 3. **Emergency Meetings.** An emergency meeting of the Board may be called by the
23 Chair or by any two members of the Board to consider unforeseen circumstances that, if not
24 addressed immediately, will likely result in injury or damage to persons or property or

1 substantial financial loss. An emergency meeting may be conducted at a time and place as the
2 Chair or the two members deem appropriate. If possible, given the emergency circumstances,
3 notice of an emergency meeting shall be posted in a conspicuous and appropriate place at the
4 Santa Fe County Administrative Building and at Santa Fe City Hall at least twenty-four (24)
5 hours prior to the meeting. If twenty-four (24) hours advance notice cannot be given, notice
6 shall be posted as soon as possible under the emergency circumstances in existence. Notice of
7 an emergency meeting shall also be provided to broadcast stations licensed by the Federal
8 Communications Commission and newspapers of general circulation that have made written
9 request for such notice. Within ten (10) days of taking action on an emergency matter, the Board
10 shall report to the attorney general's office the action taken and the circumstances creating the
11 emergency.

12 **4. Agendas.** Any notice for meetings of the Board shall include an agenda
13 containing a list of specific items of business to be discussed or transacted at the meeting, or
14 information on how the public may obtain a copy of an agenda. At least seventy-two (72) hours
15 prior to a regular or special meeting, the final agenda shall be posted in a conspicuous and
16 appropriate place at the Santa Fe County Administrative Building, at Santa Fe City Hall, and on
17 the Board's, Santa Fe County's and the City's internet web sites (www.bddproject.org,
18 www.santafecounty.org and www.santafenm.gov).

19 **5. Recessed Meetings.** The Board may recess and reconvene a meeting to a later
20 day, if, prior to recessing, the Board specifies the date, time and place for continuation of the
21 meeting, and, immediately following the recessed meeting, posts notice of the date, time and
22 place for the reconvened meeting on or near the door of the place where the original meeting was
23 held. Only matters appearing on the agenda of the original meeting may be discussed at the

1 reconvened meeting unless notice of the reconvened meeting is provided as otherwise set forth
2 herein.

3 **6. Participation by Conference Telephone.** Members of the Board may participate
4 in a meeting of the Board by means of conference telephone or other similar communications
5 equipment when it is difficult or impossible for the member to attend the meeting in person and
6 only when necessary to meet the quorum requirements for the meeting. At least one member of
7 the Board must be physically present at the noticed location for the meeting.

8 **7. Closed Meetings.** A meeting may be closed in the following manner:

9 a. If the Board is in an open meeting when a closed meeting is desired and
10 authorized by the Open Meetings Act, then the closed meeting shall be approved on motion by a
11 majority of a quorum of the Board and the authority for the closure shall be stated in the motion.
12 The votes of the members on the motion shall be recorded in the minutes.

13 b. If the Board is not in a public meeting and a closed meeting is desired and
14 authorized, public notice of the closed meeting, appropriate under the circumstances, shall be
15 given stating the authority for the closure.

16 c. Following completion of any closed meeting, the minutes of the open
17 meeting that was closed, or the minutes of the next open meeting if the closed meeting was
18 separately scheduled, or held after adjournment, shall state that the matters discussed in the
19 closed meeting were limited only to those specified in the motion or notice for closure.

20 **8. Definition: "Meeting."** For purposes of this Resolution, the term "meeting" shall
21 be defined as a meeting of a quorum of the members of the Board held for the purpose of
22 formulating public policy, including the development of personnel policy, rules, regulations or
23 ordinances, discussing public business, or taking any action within the authority of or the

1 delegated authority of the Board.

2 9. Resolution No. 2016-1 is hereby rescinded.

3
4 **PASSED, APPROVED AND ADOPTED this 5th day of January 2017.**

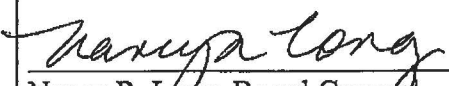
5
6
7 **BUCKMAN DIRECT DIVERSION BOARD:**

8
9
10
11
12 _____
13 Carmichael Dominguez, BDDB Chair

14 **ATTEST:**

15
16
17
18 _____
19 City Clerk

20
21 **APPROVED AS TO FORM:**

22
23
24 
25 _____
26 Nancy R. Long, Board Counsel