MEMORANDUM

To: Buckman Direct Diversion Board

From: Nancy Long

Date: For May 2, 2013 Board Meeting

RE: Open Meeting Act Resolution

The BDDB, as a public body, must annually determine the notice it will provide as to its meetings and agendas in compliance with the state law commonly known as "The Open Meetings Act."

The legislature recently enacted amendments to the Open Meetings Act, increasing the time period for notice and posting an agenda from 24 hours to 72 hours before the meeting and requiring a public body to report to the attorney general's office regarding matters acted upon in an emergency meeting. The law goes into effect on June 14, 2013.

The Board passed its annual Open Meeting Act Resolution earlier this year. Resolution 2013-2 would rescind the previous Open Meetings Act resolution and make necessary changes to comply with the new legislative enactments. Notice of regular and special meetings will continue to be provided ten days ahead of the meeting, and final agendas will now be made available to the public 72 hours before a meeting by posting at the Santa Fe County Administrative Building, at Santa Fe City Hall, and on the Board's, Santa Fe County's, and the City's websites.

Recommendation

It is recommended the Board review and approve Resolution 2013-2, rescinding the Board's previous Open Meetings Act Resolution.

THE BUCKMAN DIRECT DIVERSION BOARD

RESOLUTION NO. 2013-2

A RESOLUTION DETERMINING REASONABLE NOTICE FOR PUBLIC MEETINGS OF THE BUCKMAN DIRECT DIVERSION BOARD; RESCINDING RESOLUTION NO. 2013-1

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

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

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

WHEREAS, the New Mexico Legislature has amended certain provisions of the Open Meetings Act and the Board desires to revise its Open Meetings Act resolution to comply with the amended version of the Act; and

WHEREAS, the Board of County Commissioners of Santa Fe County and the City of Santa Fe are parties to that certain Joint Powers Agreement between the City of Santa Fe and the County of Santa Fe Governing the Buckman Direct Diversion Project, dated March 7, 2005; and

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

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

1. **Regular Meetings.** Unless otherwise specified, regular meetings of the Board shall be held each month on the first Thursday of the month. Notice of any regular meeting shall be provided to those broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have made written request for such notice ten (10) days before such meeting.

2. **Special Meetings.** A special meeting of the Board may be called by the Chair or by any two members of the Board upon three (3) days' notice at such time and place as the Chair or the two members deem appropriate. Notice of special meetings shall be met by posting notice of the date, time and place in a conspicuous and appropriate place at the Santa Fe County Administrative building, at Santa Fe City Hall and on the Board's, Santa Fe County's and City's internet websites (www.bddproject.org, www.santafecounty.org and www.santafenm.gov) at least seventy-two (72) hours prior to a special meeting. Notice of a special meeting shall also be

provided to those broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have made written request for such notice.

3. **Emergency Meetings.** An emergency meeting of the Board may be called by the Chair or by any two members of the Board to consider unforeseen circumstances that, if not addressed immediately, will likely result in injury or damage to persons or property or substantial financial loss. An emergency meeting may be conducted at a time and place as the Chair or the two members deem appropriate. If possible, given the emergency circumstances, notice of an emergency meeting shall be posted in a conspicuous and appropriate place at the Santa Fe County Administrative Building and at Santa Fe City Hall at least twenty-four (24) hours prior to the meeting. If twenty-four (24) hours advance notice cannot be given, notice shall be posted as soon as possible under the emergency circumstances in existence. Notice of an emergency meeting shall also be provided to broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have made written request for such notice. Within ten (10) days of taking action on an emergency matter, the Board shall report to the attorney general's office the action taken and the circumstances creating the emergency.

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

5. **Recessed Meetings.** The Board may recess and reconvene a meeting to a later day, if, prior to recessing, the Board specifies the date, time and place for continuation of the meeting, and, immediately following the recessed meeting, posts notice of the date, time and place for the reconvened meeting on or near the door of the place where the original meeting was held. Only matters appearing on the agenda of the original meeting may be discussed at the reconvened meeting unless notice of the reconvened meeting is provided as otherwise set forth herein.

6. **Participation by Conference Telephone.** A member of the Board may participate in a meeting of the Board by means of conference telephone or other similar communications equipment when it is difficult or impossible for the member to attend the meeting in person.

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

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

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

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

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

9. Resolution No. 2013-1 is hereby rescinded.

PASSED, APPROVED AND ADOPTED this ___ day of _____, 2013.

BUCKMAN DIRECT DIVERSION BOARD:

_____
KATHY HOLIAN, Chair

ATTEST:

_____
YOLANDA Y. VIGIL, City Clerk

APPROVED AS TO FORM:

Nancy R. Long
_____
NANCY R. LONG, Board Counsel

THE BUCKMAN DIRECT DIVERSION BOARD

RESOLUTION NO. 2013-2~~1~~

A RESOLUTION DETERMINING REASONABLE NOTICE FOR PUBLIC MEETINGS OF THE BUCKMAN DIRECT DIVERSION BOARD; RESCINDING RESOLUTION NO. 2013~~2~~-1

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

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

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

WHEREAS, the New Mexico Legislature has amended certain provisions of the Open Meetings Act and the Board desires to revise its Open Meetings Act resolution to comply with the amended version of the Act; and

WHEREAS, the Board of County Commissioners of Santa Fe County and the City of Santa Fe are parties to that certain Joint Powers Agreement between the City of Santa Fe and the County of Santa Fe Governing the Buckman Direct Diversion Project, dated March 7, 2005; and

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

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

1. **Regular Meetings.** Unless otherwise specified, regular meetings of the Board shall be held each month on the first Thursday of the month. Notice of any ~~other~~ regular meeting shall ~~be published in a newspaper of general circulation ten (10) days before such meeting. Notice of a regular meeting shall also~~ be provided to those broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have made written request for such notice ten (10) days before such meeting.

2. **Special Meetings.** A special meeting of the Board may be called by the Chair or by any two members of the Board upon three (3) days' notice at such time and place as the Chair or the two members deem appropriate. Notice of special meetings shall be met by posting notice of the date, time and place in a conspicuous and appropriate place at the Santa Fe County Administrative building, at Santa Fe City Hall and on the Board's, Santa Fe County's and City's internet websites (www.bddproject.org, www.santafecounty.org and www.santafenm.gov) at

least ~~three (3) days~~seventy-two (72) hours prior to a special meeting. Notice of a special meeting shall also be provided to those broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have made written request for such notice.

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4. **Agendas.** Any notice for meetings of the Board shall include an~~ preliminary~~ agenda containing a list of specific items of business to be discussed or transacted at the meeting, or information on how the public may obtain a copy of an agenda. At least seventy-two (72) hours prior to a regular or special meeting, t~~A preliminary~~he final agenda shall ~~be prepared and~~be posted in a conspicuous and appropriate place at the Santa Fe County Administrative

Building, at Santa Fe City Hall, and on the Board's, Santa Fe County's and the City's internet web sites (www.bddproject.org, www.santafecounty.org and www.santafenm.gov). ~~at least three (3) days prior to a regular or special meeting. A final agenda shall be prepared and posted in a conspicuous and appropriate place at the Santa Fe County Administrative Building and at the Santa Fe City Hall no later than twenty-four (24) hours preceding the meeting, except in the case of an emergency meeting where it is not possible or practical to prepare or post an agenda prior to the meeting.~~

5. **Recessed Meetings.** The Board may recess and reconvene a meeting to a later day, if, prior to recessing, the Board specifies the date, time and place for continuation of the meeting, and, immediately following the recessed meeting, posts notice of the date, time and place for the reconvened meeting on or near the door of the place where the original meeting was held. Only matters appearing on the agenda of the original meeting may be discussed at the reconvened meeting unless notice of the reconvened meeting is provided as otherwise set forth herein.

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

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

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

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9. Resolution No. 2013~~2~~-1 is hereby rescinded.

PASSED, APPROVED AND ADOPTED this ___ day of _____, 2013.

BUCKMAN DIRECT DIVERSION BOARD:

_____

~~CHRIS CALVERT~~KATHY HOLIAN, Chair

ATTEST:

_____

YOLANDA Y. VIGIL, City Clerk

APPROVED AS TO FORM:

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3 NANCY R. LONG, Board Counsel