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4 **MINUTES OF THE**
5
6 **THE CITY OF SANTA FE & SANTA FE COUNTY**
7
8 **BUCKMAN DIRECT DIVERSION BOARD MEETING**
9

10 **November 7, 2019**
11

12 This meeting of the Santa Fe County/City Buckman Direct Diversion Board meeting
13 was called to order by Anna Hamilton, Chair, at approximately 4:05 p.m. in the Santa Fe
14 City Council Chambers, 200 Lincoln Avenue, Santa Fe, New Mexico.
15

16 Roll was called and the following members were present:
17

18 **BDD Board Members Present:**

19 Commissioner Anna Hamilton, Chair
20 Councilor Peter Ives
21 Commissioner Anna Hansen
22 Councilor JoAnne Vigil Coppler, [City Alternate]
23 Mr. J.C. Helms [Citizen Alternate]
24

Member(s) Excused:

Councilor Michael Harris
Citizen Member Denise Fort

25 Mr. Wendell Egelhoff [non-voting]
26

27 **BDD Board Alternate Members Present:**

28 Ginny Selvin [Las Campanas Alternate]
29

30 **Others Present:**

31 Rick Carpenter, Acting BDD Facilities Manager
32 Mackie Romero, BDD Finance Manager
33 Kyle Harwood, BDD Counsel
34 Nancy Long, BDD Counsel
35 Stephanie Lopez, City, Utilities
36 Randy Sugrue, BDD Operations Superintendent
37 Bernardine Padilla, BDD Public Relations Coordinator
38 Rachel Brown, Santa Fe County Deputy Attorney
39 Sara Smith, Santa Fe County
40 James Bearzi, Glorieta Geoscience Inc.
41 Joey Rowe, Santa Fe County
42 Jamie-Rae Diaz, City of Santa Fe, Administrative Assistant
43 Neil Williams, Citizen
44 Steven Horak, EM - LA
45

1
2 **3. APPROVAL OF AGENDA**

3 [Exhibit 1: Agenda]
4

5 With no recommended changes, Councilor Ives moved to approve and Commissioner
6 Hansen seconded. The motion passed by unanimous voice vote.
7

8 **4. CONSENT AGENDA ITEMS - No Consent Items**
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10 **5. APPROVAL OF MINUTES: October 3, 2019**
11

12 Commissioner Hansen offered the following change: Page 8, line 39: Commissioner
13 Hansen, rather than Chair Hansen

14 Ms. Lopez noted that the meeting was dated October 2nd rather than the 3rd.

15 Mr. Harwood provided corrections directly to the secretary.
16

17 Councilor Ives moved to approve as corrected. Councilor Vigil Coppler seconded and
18 the motion passed without opposition.
19

20 **INFORMATIONAL ITEMS**

21 **6. Monthly Update on BDD operations**
22

23 CHAIR HAMILTON: Welcome, Randy.

24 RANDY SUGRUE (Operations Supervisor): Thank you, Madam Chair,
25 members of the Board. We've had another consistent month at BDD. Our raw water
26 diversions averaged 6.35 million gallons per day. Our drinking water deliveries through
27 booster stations averaged close to 5.5 million gallons a day. Las Campanas diverted .57
28 million gallons per day on average. And our on-site treated and non-treated storage was
29 close to .3 million gallons per day. So we're providing approximately 63.9 percent of the
30 water supply to the City and County for the month.

31 The diversions are noted: For October about 187.9 million gallons. The drought
32 summary is included. I had an updated note: we've had a new configuration booster
33 pump at our Booster Station 1A to try to alleviate some of our wear and tear issues. It
34 has been running several weeks now, I believe three weeks, with no particular issues. So
35 we are very optimistic that this new booster pump configuration is going to alleviate a lot
36 of our maintenance issues with those pumps going forward. We're also looking at an
37 additional pilot project to introduce clean water rather than using raw water in the system
38 to cool and lubricate the seals in that pump.

39 CHAIR HAMILTON: So this is just a quick question if you don't mind.

40 MR. SUGRUE: I am open for questions.

41 CHAIR HAMILTON: Is this one of a series of different attempts at
42 different fixes that would help to improve the operations of those pumps?

43 MR. SUGRUE: Right. The excessive wear and tear on the pump shafts
44 that connect the motor to the pump, we've tried for the last couple of years several
45 configurations and this one seems to be working well.

46 CHAIR HAMILTON: That's great. But I just can't help myself just

1 purely out of curiosity; what were some of these changes that seem to be working? Just
2 briefly.

3 MR. SUGRUE: Briefly, there is a seal that keeps the river water on one
4 side and the lubricant, whether water or oil, on the other side. And the seals have been
5 problematic on each and every case and the water from the river is able to move up the
6 shaft and the sand in the water then starts to erode the shaft. This seal has a much wider
7 surface to keep the water where it belongs.

8 CHAIR HAMILTON: Interesting, okay.

9 MR. SUGRUE: And it's not a common item and that's why it took us so
10 long to get to this point.

11 CHAIR HAMILTON: So is this something that will be applicable
12 elsewhere then?

13 MR. SUGRUE: Our intent then if this runs for a while longer, another
14 week or three, we're going to probably be ready to move forward with the remaining
15 pumps that we had budgeted quite a while back to replace the worn pumps.

16 CHAIR HAMILTON: Great, thank you.

17 MR. SUGRUE: You're welcome. Any other questions? Okay, thank you
18 much.

19 RICK CARPENTER (Interim BDD Facilities Manager): Madam Chair, if
20 I could add to that. The pilot project that's in its initial stage, it's very conceptual now,
21 and I wish I could take credit for it but I can't. It was actually Jesse Roach's idea. Not
22 only does it seem like it will probably work, we're very optimistic about it, but if it does
23 work it will also save us a lot of money. So we're working through what that pilot project
24 will look like, cost, schedule, those types of things and if it would please the Board I
25 would be happy to write up an information item of the next Board meeting of what it is
26 exactly that we're thinking.

27 CHAIR HAMILTON: That would be appreciated. That would be great.
28 Councilor Ives.

29 COUNCILOR IVES: I just realized I had one question.

30 CHAIR HAMILTON: Yes, by all means.

31 COUNCILOR IVES: On page 2, covering the reservoir storage, it says
32 under Abiquiu "11,165 acre-feet, SJCP carry-over from previous years plus 2018
33 deliveries"; is it 2018 deliveries?

34 MR. CARPENTER: That is a typo, Councilor.

35 COUNCILOR IVES: Assumed as much, thank you.

36 MR. CARPENTER: Not surprised you caught it.

37 CHAIR HAMILTON: Any other questions on this? Thank you.
38

39 7. Report from BDD Facilities Manager

40
41 MR. CARPENTER: Yes, Madam Chair, I'll try and be brief. I do have a
42 number of items that I want to touch on. Update on staffing: Randy and the operations
43 staff and Mackie have been very successful over the last several weeks in filling a lot of
44 the operator positions. We have one operator intermediate that has been filled. One
45 operator basic that has been filled. Three operator entry positions that have been filled.
46 And one water operator, I believe an offer has been made and accepted and the paper

1 work is being routed. So there has been a lot of success in filling those vacancies just
2 recently.

3 Also, Mackie and a little bit of my help, but mostly Mackie and Jesse Roach have
4 been successful at preparing the reclassification paperwork for the contract administrator
5 position as well the accounting supervisor. That paperwork is being routed as we speak.
6 So that is also in process.

7 Also in process is we are working with Lynn Komer on developing a scope of
8 work, a cost and a schedule for the source water protection plan public outreach project
9 that we've been talking about. So that is underway as well. We haven't signed a contract
10 yet but we're working on it and I expect to have that done in the next week or so.

11 With a little bit of a heavy heart, Stephanie Lopez who is sitting to my left, this is
12 her last BDD Board meeting. She will be retiring in just a few days. I wanted to
13 recognize her and thank her for all of her years of stellar service and support that she has
14 given to the Board and to the staff. [Round of applause] That's all I have, Madam Chair.

15 CHAIR HAMILTON: Councilor Ives.

16 COUNCILOR IVES: Indeed we did celebrate Stephanie yesterday at
17 Public Utilities which was wonderful and it's nice to be able to continue that celebration
18 and thank you again. I'm waiting for the family to come around the corner with balloons
19 and roses.

20 Just one question, we actually did hear a little bit about an update on the
21 reorientation for the facilities manager position and some of the steps that the City was
22 taking to make that position more attractive. I was hoping you might just address those
23 really quickly if you would.

24 MR. CARPENTER: I would be happy to Council and members of the
25 Board. Yes, we have been working with Human Resources Department and division
26 director Jesse Roach to make some changes that are intended to do just that, to make it
27 more attractive. We've received the ability to negotiate a higher range in the salary. In
28 fact, I believe the words that will be on the position when it posts is "up to \$120,000 per
29 year." That's actually stated on the job description. There's an ability, if need be, to
30 negotiate moving expenses as well so if we have to recruit from outside that makes that
31 much more attractive. And, also – I meant to ask Nancy or somebody for a more
32 politically correct term – but to use the service of a quote and quote headhunter. I'll bet
33 there's a better way to phrase that – talent recruiter. So we can cast a wider net. So we
34 are optimistic that these changes will have results.

35 COUNCILOR IVES: Yesterday we heard essentially that and it was met
36 with certainly joy might be an overstatement of how people felt but that we were taking
37 the appropriate steps to try and ensure that that position was in fact filled and what a
38 wonderful thing then to be moving forward.

39 MR. CARPENTER: I would say that we have been successful at taking
40 some of the rigidity out of the process.

41 COUNCILOR IVES: So then with the six motions that you just
42 mentioned, with five filled and one with an offer made and accepted, and aside from the
43 facilities manager, how many other positions remain?

44 MR. CARPENTER: There's a position that we have person acting in in
45 the warehouse, a warehouse schedule planner, that's technically vacant although we have
46 it covered. I think we're good on operations and I think we're good on maintenance.

1 And with the financial positions and the facilities manager we're almost placed out, we
2 will be.

3 COUNCILOR IVES: And that's what it sounded like so congratulations
4 on a good process and good work on getting us to this point. And certainly we'll look
5 forward to hearing success on the facilities manager position as well.

6 MR. CARPENTER: Thank you.

7 COUNCILOR IVES: Thank you.

8 CHAIR HAMILTON: Thank you. Commissioner Hansen.

9 COMMISSIONER HANSEN: Yes, Stephanie, I was not at your party
10 yesterday but thank you for everything over the years you have done for the Buckman. I
11 really appreciate it and I know you have really given a lot to this Board over the years
12 before my time and I am grateful for all of that services. And congratulations on
13 retirement and have a wonderful time.

14 CHAIR HAMILTON: Absolutely.

15 COMMISSIONER HANSEN: And if I can just thank you, Rick, for
16 working on the facilities manager offer/contract. I felt for a while that it needed some
17 updating and I am happy to hear that we have made a little bit of progress there and I
18 appreciate it. Thank you very much.

19 CHAIR HAMILTON: Councilor, yes.

20 COUNCILOR VIGIL COPPLER: Stephanie, I mentioned this last night
21 but I'll mention it again, one of the things that happened at Public Utilities was that it was
22 a surprise. Her family came in and much to her surprise, Stephanie was in tears, tears of
23 gratitude. But the thing that was so special was that she said she has been her 30 years
24 and she loved her job. And over the course of the years, I have known Stephanie for a
25 long time when I was here before, it really shows, she really does love her job and people
26 love her. So I know everyone is going to miss you at the City and people on this Board
27 who work with you and we wish you all the best and all of the fun things that you're
28 going to do now in your new life. Thank you for everything.

29 CHAIR HAMILTON: Yes.

30 MR. HELMS: I really have appreciated all the work that you've done
31 here and I know that I'm speaking also for Denise Fort who unfortunately is not here
32 today, but we really will miss you and god bless you.

33 CHAIR HAMILTON: Oh, yes, please.

34 GINNY SELVIN: Thank you for everything. And those beautiful Fiesta
35 dresses, we'll miss that.

36 CHAIR HAMILTON: Yes, good point. So now I get to claim Stephanie
37 as a neighbor and dear friend as well as a colleague. And all I can say is I am so jealous
38 and so proud of you. And really thank you so much for your unbelievable work and it's a
39 lot to look up to. Somebody who can love their job for that long and is working with joy
40 and everything makes it good for all the rest of us. We will very much miss you.

41 STEPHANIE LOPEZ: It was so hard to talk last night. I just want to – all
42 of the staff, all of these years, Rick, Mackie and Kyle, everybody, I am just so
43 appreciative of all of these years and friendships that I have made. I truly have loved
44 doing what I do. I've been here as the PUC liaison for 15 years. I've been here for
45 almost as many years as the liaison, and Nancy also, and I just want to say how thankful I
46 am. And I didn't say it last night and he's not here but Shannon – just is special. These

1 are people who I have worked with forever. I feel thankful for the opportunities.

2 [Round of applause]

3 CHAIR HAMILTON: And, Rick, I also wanted to thank you because at
4 the last meeting everyone had expressed their desire to do something different to be able
5 to move forward with the facilities manager and make some changes. And you and
6 Shannon and Jesse really took that pretty seriously and went to HR and when we had our
7 little sub-meeting to talk about what the possibilities were, you guys were so proactive
8 and came up with things that were really right in line with what everybody had been
9 asking and I think that was very very much appreciated. So that was a great job and
10 hopefully it will help. I mean there's no control over that, we'll just see where it goes.
11 But I very much appreciated the way that was handled.

12 And then I just wanted to mention, sort of for the record, and for everybody, the
13 rest of the Board's information, there's always been a lot of discussion about wanting to
14 be updated on personnel and staffing and just related activities from the facilities
15 manager and we had a discussion about doing a very brief memo in writing for the
16 consent agenda and then having highlights done orally as we usually do and I appreciate
17 your doing that and that will include staff related goings in the topics that people would
18 be interested in. Both staffing status and what we're doing with that and things like
19 trainings and accomplishments and those kinds of things. So very much appreciate it.

20 Are there any more questions for Rick or Stephanie?

21 COUNCILOR IVES: I will say that one other treat yesterday was that
22 there were four generations of Stephanie's family here standing just in front of the dais
23 and of course her daughter works in the water department and she had two grandkids, so
24 she's already lining up that next generation.

25 CHAIR HAMILTON: And you guys know that her father was County
26 Treasurer for years and so it's like we're rolling right through. Yes, Mr. Carpenter.

27 MR. CARPENTER: I don't want to cut that discussion short but I would
28 like to, if I could, allow Kyle Harwood to offer a couple of comments as well.

29 CHAIR HAMILTON: Yes, please.

30 KYLE HARWOOD (BDD Counsel): I too am very grateful to work with
31 Stephanie for all of these years. But the reason I come to the podium is not on that.

32 Just to do a quick update under matters from the facilities manager, some of us
33 attended the interim committee on Radioactive and Hazardous Waste early this week
34 where a Board letter was presented to that interim committee. For those of you who are
35 familiar that's House and Senate members overseeing a committee that deals with that
36 topic, radioactive and hazardous waste. This is a little bit delivery of the letter that is
37 described under item 9 so I'm not sure, we can talk about it here under matters from the
38 facilities manager as an update or perhaps under item number 9. I just wanted to let the
39 full Board know that that letter was received well. None of the Board members or staff
40 presented to the committee. These were updates to the committee about the Amigos
41 Bravos lawsuit and the New Mexico Environmental Law Center lawsuit that this Board
42 has heard presentations on over the preceding months. Although there was a question
43 about safe drinking water standards which Mr. Bearzi did answer from the audience. So
44 it was a good discussion and based on the requests of the elected officials to the chair of
45 that committee it sounds like there are going to be additional agenda items scheduled
46 after the coming session to get a fuller picture of some of these topics from the state and

1 the feds and the lab. So that will be continuing to unfold I'm sure into 2020. So that's
2 just a quick update on that. I don't know if anyone has got any questions.

3 CHAIR HAMILTON: Are there questions? So this ties into – given the
4 status of the letters and whatnot, there are some ongoing questions about what we want to
5 do moving forward and then just more generally, is now a good time to ask about that?
6 So do you want to volunteer some stuff or should I ask. Because we're kind of toward
7 the end of the year and I think somehow getting a summary of like where we have been
8 over the last year starting with the study session and what we wanted to accomplish at the
9 end of this year culminating with these letters and where we might go forward.

10 MR. HARWOOD: Yes, very good, Madam Chair. It's been about 13
11 months since we did the study session. We have had lots of different moving parts
12 through that year-plus and if it would be helpful to the Board I could prepare just a very
13 brief set of bullet points about where we've been and offer up some alternatives going
14 forward into 2020. There's about seven, I think, separate things that we've talked about –
15 I think it's about seven different topics. And I know that we've had a lot of discussion
16 over the last year over many of those different topics. And if it would be helpful to the
17 Board I can bring back in December just a summary of those seven topics as I think of
18 them and kind of where we've been and options of going forward.

19 CHAIR HAMILTON: Just to comment, I think that would be – I'm sure
20 people have questions – but I think that would be really useful. And it's great. No
21 pressure, but it's really great to see something in December and of course we can talk
22 about moving forward and that would affect the work plan for the coming year on several
23 fronts for you guys and GGI and the staff in general. So I think that would be very
24 helpful. Commissioner.

25 COMMISSIONER HANSEN: Madam Chair, I agree. I think that would
26 be great and that would give us, as you said, a work plan as we move into the next year.

27 CHAIR HAMILTON: A plan of attack. Yes, any other questions about it.
28 Because obviously next month we can talk about some of the details and if you present
29 options that would be something to start the discussion on with different components.
30 Thank you.

31 MR. HARWOOD: Yes, Madam Chair. I think it would be very helpful to
32 both staff and contractors to get a sense of priority and work effort. Yes, I'll bring that
33 back in December.

34 CHAIR HAMILTON: Fabulous. Yes, Councilor.

35 COUNCILOR IVES: Just a point of clarification. So on the letters
36 referenced in comments 8 and 9 here, I saw your signature on one but not on the other so
37 I wasn't sure what the status of those are.

38 CHAIR HAMILTON: Really?

39 COMMISSIONER HANSEN: Madam Chair.

40 MR. HARWOOD: When we get – can I tackle each of those as we get
41 there. We are still technically on number 7 so when we get to 8 and 9 I can give you an
42 update; is that's alright?

43 CHAIR HAMILTON: Yes, we'll proceed through to 8 and 9. Yes,
44 please.

45 MR. HARWOOD: Rick, do you have anything else on 7?

46 MR. CARPENTER: Nothing more to add.

1 CHAIR HAMILTON: Oh, yes, go ahead.

2 COMMISSIONER HANSEN: I just wanted to acknowledge and thank
3 Rick for coming to the Rio Grande Water Fund. Both he and I attended last week, and I
4 wanted to thank you for being there also because I think it is an important organization
5 that's both the City and the County are signatories to the Rio Grande Water Fund.

6 MR. CARPENTER: Madam Chair, members of the Board, I agree. It's a
7 very important organization. It is gaining momentum. The membership is growing. The
8 funds that are available for watershed protection and maintenance and restoration are
9 growing and it's becoming a higher profile organization. It was a very well attended. I
10 don't know how many people were there, probably 100, 125, of all the big hitters. So the
11 City of Santa Fe, I sit on the executive board for that water fund and we decide what the
12 policies are and how to spend the money and I think it is a very worthwhile organization
13 so thank you for recognizing that.

14 COMMISSIONER HANSEN: Thank you, Rick.

15 CHAIR HAMILTON: And actually I think this belongs here under
16 number 7. I had one more question and I wonder if we could bring it up as a report – if
17 there's anything to report in December on the sampling program that was indirectly
18 related to TREAT or directly related to it. I know GGI is working on reviewing the plan.
19 I just – maybe a status report next month?

20 MR. CARPENTER: Madam Chair, I would be happy to bring a status
21 report. It's still a work in progress. We are having communications with NMED, they're
22 ongoing. I wouldn't want to get into too much detail on that. But a status report I think
23 would be very appropriate.

24 CHAIR HAMILTON: Great, thank you, whatever is appropriate. So
25 perhaps that lets us move onto number 8.

26

27 **8. Buckman Direct Diversion Board Comments on EPA Proposed Rule:**
28 **Updating Regulation on Water Quality Certification Docket JD No. EPA-**
29 **HQ-OW-2019-0405**
30

31

32 MR. HARWOOD: Eight and nine, real briefly, these are both letters that
33 have been delivered. Number 8, as you may remember had an October 21st deadline in
34 order to comment on the 401 Rule. We did coordinate with a number of different entities
35 on this letter. This letter has been delivered and was delivered by the deadline. Any
36 questions about number 8?

37 COMMISSIONER HANSEN: Madam Chair. So in the past we've had
38 all the signatures of all the Board on these letters; so I'm just wondering why we didn't
39 do it this time.

40 MR. HARWOOD: We were in a little bit of a crunch and I apologize for
41 that. But I will return to doing that if you want.

42 COMMISSIONER HANSEN: Yes.

43 CHAIR HAMILTON: It was just expedient because it was done between
44 the two meetings.

45 COMMISSIONER HANSEN: Yes, but I would still like the names of the
46 Board members on the letter.

CHAIR HAMILTON: Absolutely.

1 MR. HARWOOD: I apologize for getting that letter in without that.

2 CHAIR HAMILTON: Yes.

3 MR. HELMS: I'm the alternate citizen and Denise, I'm fairly certain,
4 would have wanted her signature on it. I can't actually speak for her because I didn't go
5 over it with her but maybe other members of the Board know that or perhaps you would
6 call Ms. Fort to be sure that her signature is on it as regards a decision that was made a
7 month ago or whenever it was. Do you understand my point? There was a point where I
8 personally was opposed but I'm not the voting member normally and I believe she
9 supported this; is that correct?

10 COMMISSIONER HANSEN: That's correct.

11 MR. HELMS: Okay, I just wanted to clarify that so she is not
12 misrepresented here so that it is her signature that will be on the document.

13 CHAIR HAMILTON: Thank you. Yes, got it, thank you. Is there
14 anything else on this? Let's move on to number 9, Mr. Harwood.

15

16 **9. Buckman Direct Diversion letter to Governor Lujan Grisham, letter to**
17 **NMED Secretary Kenney and letter to Representative Rubio, Chair of**
18 **Radioactive and Hazardous Waste Materials Committee**
19

20

21 MR. HARWOOD: This letter has also been delivered with signature and
22 with some of the formatting errors corrected. This was the version that we got to Jamie
23 for the packet but the actual letter that went in did go in signed and it did go in with some
24 of the formatting errors fixed. I should also point out and this was an unfortunate
25 autocorrect, but in the caption of the agenda item it says, "Representative Rubio, Chair of
26 Radioactive and Hazardous" it should be "Waste" not water "Materials Committee." An
27 unfortunate autocorrect that I apologize for. Fortunately, it is not in the letter it was just
28 on our agenda.

29 So, again, I am sure that you will remind me to get all signatures on letters going
30 forward and I am sorry this letter has also been delivered. This is actually the letter that
31 was delivered at the interim committee meeting on Tuesday morning that I've already
32 referred to.

33 CHAIR HAMILTON: And just for clarity, you'll see like at the very
34 bottom there is that formatting problem, that was corrected before the actual signed
35 copy. At the bottom of the first page – so we caught all of those. We didn't catch the –

36 COMMISSIONER HANSEN: Did you catch the paragraph –

37 CHAIR HAMILTON: Yes, yes. That lack of spacing at the top, yes. We
38 caught both of those and those were corrected. So this was like a draft copy somehow got
39 included in the packet.

40 MR. HARWOOD: Yes, I apologize for that confusion.

41 CHAIR HAMILTON: Commissioner.

42 COMMISSIONER HANSEN: Madam Chair, I had the opportunity to
43 meet with Secretary Kenney and during that meeting he actually asked me to mark-up a
44 copy of the Consent Order for the 2016. And I would like to ask if Kyle could help me
45 mark it up?

46 CHAIR HAMILTON: Well, I think we should have some discussion but I
think that's kind of a tall order for you to do all by yourself. So if BDD wants to – and I

1 think this is what we need to discuss, briefly – but if we want to have some input to this
2 which we've been – we gave the letter on the consent order, we've had presentations on
3 the difference between the 2005 and the 2016, so if we want to have some input it seems
4 it would be a useful thing to do but not burden one person.

5 COMMISSIONER HANSEN: I mean, yes, that's how I felt about it. I
6 thought maybe James Bearzi might be interested in giving some input. I don't want to
7 rewrite this order. I want to mark it up with areas that would affect us in regards to
8 cleanup. And, you know, I don't want to rewrite this order. I just want to mark it up in a
9 way that reflects the issues that we are dealing with drinking water and how cleanup at
10 the lab affects us. So I felt that it would be more appropriate – I have some ideas but I
11 just also feel that I could use some legal help.

12 CHAIR HAMILTON: Yes, Mr. Harwood.

13 MR. HARWOOD: Madam Chair, may I recommend that when I
14 mentioned the seven, sort of, water quality topics that I will be bringing back at the
15 December meeting, the Consent Order is one of those seven. So if it's okay, let me take
16 this suggestion and have it be one of the options.

17 CHAIR HAMILTON: That's great. That makes complete sense but I also
18 think it would be useful to have a little – what kind of timeframe do you think Secretary
19 Kenney was asking for? I mean, is there any?

20 COMMISSIONER HANSEN: I would like to do it sooner rather than
21 later. I'm not looking for – I'm not trying to be NukeWatch or Concerned Citizens. I'm
22 trying to mark this up in regards to our concerns that relate to BDD with the Consent
23 Decree because I feel like there are things in here that do not relate to us.

24 CHAIR HAMILTON: Right. So, Kyle, I was going to ask you and then
25 ask the Board members what they thought and Nancy and Rick in terms of process. This
26 is a specific task compared to also planning out how this fits in but – this is a little bit
27 while nice but unexpected, right? We wouldn't have dreamt this up on our own if this
28 hadn't been presented to Commissioner Hansen. So it's a little bit opportunistic on our
29 part to be able to use this opportunity to give some direct feedback; does that seem
30 appropriate? And what kind of effort would it require because money is effort or effort is
31 money and you know the Board has to think about that. I'm trying to look meaningfully
32 at Kyle and Nancy.

33 NANCY LONG (BDD Counsel): A couple of things come to mind. I'm
34 not sure what the effort might entail. If we're talking about a couple of hours or a couple
35 of weeks worth of work and that might make a difference. And I think also Kyle has
36 some resources that he's used before in terms of the Consent Order issue and there may
37 be others that have gone through the order and already marked it up or at least have some
38 comments. Whether those would be direct to the BDD concerns, I don't know. But it
39 seems like there is probably already some work that has been done that we could tap in
40 to.

41 COMMISSIONER HANSEN: Yes, Madam Chair, that's kind of what I
42 felt like there was. There are people out there that we can possibly tap into also but I
43 want to mark this up – and I was grateful that Secretary Kenney asked me, to even
44 consider that. He said also, if there's things you like, to mark those too. And so I think it
45 was generous on his part to make that offer to me and to us but I want to keep it focused
46 on how it's going to affect our drinking water and what's important to the BDD.

1 CHAIR HAMILTON: So we actually had a presentation a few months
2 ago about what some of the salient differences were and in what ways the 2016 order
3 really gutted ability to ensure that there was meaningful cleanup and a few other things.
4 So maybe if from that presentation we could pull some of those key points. But I know
5 there is always a balance. There's a trade between keeping things in a reasonable level of
6 effort.

7 MR. HARWOOD: Yeah, I am hoping my memo for December will
8 answer all of these questions with proposed options and work effort and collaborating
9 with others that the Board would not have to be responsible for the cost. So there's a lot
10 of moving parts there and there's a lot of resources as Nancy said.

11 CHAIR HAMILTON: Okay, and then the other point is that it would have
12 to come back. The Board could get briefed on what things we're thinking about to put
13 forward otherwise, you know, it's not really from the Board.

14 MR. HARWOOD: I wouldn't hazard to go forward without getting your
15 direction.

16 CHAIR HAMILTON: Councilor Ives.

17 COUNCILOR IVES: Thank you, Madam Chair. Kyle, looking at the
18 letter in the second paragraph and I think it's the second sentence, it says, "...BDD
19 supports NWNM's position in this litigation because the BDD Board agrees that the 2016
20 Order on Consent, which replaced the 2005 Consent Order between NMED and DOE"
21 and then it says, "does not sufficiently protect the BDD Project," and it states and "other
22 Rio Grande water users from potential impacts of contaminated LANL runoff." And, as
23 you know I have struggled here trying to understand some of our statements that were not
24 being protected. So in your memo to be done in December I certainly would appreciate
25 very much seeing detail on how it is that we are asserting the 2016 Order on Consent
26 does not sufficiently protect the BDD project and how the 2005 Consent Order did.

27 COMMISSIONER HANSEN: Madam Chair, I feel like that's kind of
28 what I was just asking him with the marking up of the 2016 Consent Order is how we are
29 not being protected.

30 COUNCILOR IVES: That's part of the equation. I want to understand
31 then how the 2005 order actually did protect us cause, again, we've not heard any
32 position statement that we have nuclear materials in our drinking water that we process
33 and deliver to our various constituents. So I'm just trying to understand really – and I
34 understand that people are not happy with the change in consent order and certainly not
35 happy with the waiver of the millions of dollars of penalties. I understand all of that.
36 But, again, our task is more narrow than just LANL cleanup. So, again, I'm struggling to
37 understand the specifics that lead us to draw these conclusions and that's what I'm
38 hoping you will address in your memo for the Board.

39 MR. HARWOOD: I will.

40 CHAIR HAMILTON: I guess we can leave it there. Are there any other
41 questions on this item? Okay, that was item 9.

42 MR. HARWOOD: Yes, would you like to move on to item 10?

43 CHAIR HAMILTON: Yes.
44

1 **DISCUSSION AND ACTION**

2
3 **10. Recommendation and Possible Action regarding BDD Board membership in**
4 **the Middle Rio Grande Endangered Species Act Collaborative Program**
5 **(MRGESACP) Executive Committee**
6

7 MR. HARWOOD: Item 10 is on a slightly different topic which is the
8 BDD Board's continuing involvement with the Middle Rio Grande Endangered Species
9 Act Collaborative Program Executive Committee. As my memo points out, Rick and I
10 have attended those meetings for the last eight years and the recommendation from staff
11 and counsel is that the Board ask to be a signatory to that program. You've got a draft
12 letter on page 2 and 3 and then there's some bylaws and there's also in the back of this
13 tab there are some of the recent, two of the recent newsletters that have been prepared by
14 the Collaborative Program. So it's just a quick review of the materials behind this packet
15 item.

16 You've heard us speak about this in past meetings and then just to remind you all
17 which is in our proposed letter on page 2 of the packet, the biological opinion that covers
18 the project under federal law does have a requirement that the Board participate. So for
19 the last many years that participation has been informal and it's been under the wing of
20 the Interstate Stream Commission. This recommendation here today is that the Board
21 would become more of a full participant and signator. If it's not clear, the letter starts a
22 process that the Collaborative Program goes through to evaluate whether or not they wish
23 to have the entity requesting to participate will in fact be asked to participate. So there is
24 a signature process later if our request for membership is accepted. So the reason this is
25 under discussion and action is whether to send the letter requesting membership. There
26 will actually be a further step if our membership request is accepted.

27 CHAIR HAMILTON: Yes, Commissioner Hansen.

28 COMMISSIONER HANSEN: So, thank you very much for bringing this
29 forward and I know you mentioned it at last month's meeting. And I think it's important
30 for us to be a signator and that's why I wanted to recognize you for attending the Rio
31 Grande Water Fund and I feel that this is another organization that is important for us to
32 be a signator to.

33 I would like to move to send the letter and request membership in the Middle Rio
34 Grande Endangered Species Act Collaborative Program, and also I would like you to add
35 all of our names.

36 COUNCILOR VIGIL COPPLER: Second.

37 CHAIR HAMILTON: I have a motion and a second. Do I have any
38 further discussion? Councilor Ives.

39 COUNCILOR IVES: Thank you, Madam Chair. What is the net effect of
40 changing our status from participating informally to becoming a member?

41 MR. HARWOOD: Over the past we have sort of not been at the table.
42 We've had to -- if we had a question or wished to observe something, we've had to do so
43 through the Interstate Stream Commission staff and this would have us more fully
44 engaged in the process and able to provide input. Rick, I don't know if you want to add
45 anything.

46 MR. CARPENTER: It's just that. We would be more participatory and

1 actually physically have a seat at the table but we also get to vote. Right now we don't
2 get to vote.

3 COUNCILOR IVES: I'm just trying to understand what, if any,
4 obligations come with this by virtue of becoming a participatory member in that sense.

5 MR. CARPENTER: Councilor, I don't think that our obligations would
6 become anything more than they already are. We are already attending the meetings.
7 We do provide input it is just now it would be more formal.

8 MR. HARWOOD: And if you're concerned about additional cost outside
9 of the staffing of the meetings, should know that many of the restoration projects that are
10 undertaken by the various water entities up and down the middle Rio Grande those are
11 done by separate contracts between the parties that wish to participate and have an
12 interest in participating or are required to participate because of conditions of their
13 environmental permits for their projects.

14 And so to give you a slice of old history we were sort of cautioned or encouraged
15 to participate informally for many years because it wasn't clear how those projects were
16 going to be funded and implemented and as the pattern and practice has developed over
17 the years, Rick and I feel confident that we're not going to get drawn into expenses
18 without this Board choosing to participate in a project.

19 COUNCILOR IVES: I have understood the City participation in
20 Buckman is the San Juan-Chama water and that is actually not obviously Rio Grande
21 native water and therefore, the biological opinion which relates to Rio Grande native
22 water was something, to a degree, separate and apart from City consideration. And we've
23 always, I believe, taken the position that there is no capacity by the Board to act on the
24 Rio Chama water; and I correct in that understanding?

25 MR. HARWOOD: So of course the Board manages the project diversion
26 of the City and County and Las Campanas water rights. So if you wanted to isolate the
27 City's interest you would observe in the Collaborative Program that first of all, all of the
28 San Juan-Chama and native diversions are in the baseline of the 2016 biological opinion
29 model. So it's important to know that all diversions are in that minnow-focused model
30 that's used for management of the river. And also that San Juan-Chama water is a big
31 part of the Collaborative Program in terms of Bureau buy-backs for increased flows
32 through the water short years. So there are a lot of interconnections.

33 But, yes, I think the point, if I understood what you were getting at, is that San
34 Juan-Chama water has by federal rider been taken out of the mandatory set of water that
35 can be used for the minnow but it is still all really very connected I think it is fair to say.

36 COUNCILOR IVES: I certainly don't disagree with anything you just
37 said but I worry, I suppose, a little bit by joining whether or not we give any capacity to
38 third parties over the City's San Juan-Chama water.

39 MR. HARWOOD: I don't know how that would happen. And, if
40 anything, we're more thoroughly in the group of folks that are actively managing the
41 water whereas right now we're a little outside of that. So many of the other San Juan-
42 Chama contractors are folks that have mixed portfolios of water rights are in this
43 Collaborative Program and I think the better way to think about it is that by more fully
44 being part of this group we are all together as a group of water owners and water
45 diverters of different flavors of water.

46 COUNCILOR IVES: Okay, thank you.

1 CHAIR HAMILTON: Are there other questions on this? We have a
2 motion and a second.

3
4 The motion passed by unanimous voice vote.

5
6 **11. Buckman Direct Diversion letter to Governor Lujan Grisham and letter to**
7 **NMED Secretary Kenney regarding a Petition by Amigos Bravos for**
8 **Determination that stormwater discharges in Los Alamos County contribute**
9 **to water quality standards violations and requires a Clean Water Act Permit**

10
11 MR. HARWOOD: I'm trying to get through these expeditiously. Let me
12 first apologize regarding this letter because it does not have the whole Board's list of
13 names and signatures. So that will be added immediately.

14 This letter has not gone yet unlike the letters under 8 and 9. This is a letter that if
15 you recollect we had an executive session last month on the two lawsuits and even in the
16 time since we had that conversation the New Mexico Environment Department has
17 changed their letter to the EPA. So if you remember what Rachel Conn described to us
18 was the Martinez administration had sent a letter suggesting the EPA not designate Los
19 Alamos County as an MS4 Permittee and in the time since we've been discussing this the
20 current Michelle Lujan Grisham administration has sent a letter reversing that, asking
21 EPA to set the designation of MS4 for Los Alamos County. And, again, how this relates
22 to the project is MS4 has to do with stormwater runoff that can activate legacy
23 contaminants and get them to the river. So this is all about source water quality at the
24 intake not about the safety of the water we deliver to our customers but about the cleaner
25 the water the better, the cheaper to treat at the diversion intake.

26 So this is a letter, as you know we have been asked to write a letter in support and
27 so this letter has actually been revised from the first version it was after the last meeting
28 expressing an appreciation for the administration's recent change and urging NMED to
29 perhaps consider an even more active role than just reversing their request. In fact,
30 perhaps get involved in the litigation that Amigos Bravos has with the federal
31 government. As you probably recollect, Rachel Conn pointed out that they're suppose to
32 have 180 days to respond and it's 1,080 days or more so this is where we stand on this
33 topic. I stand for questions.

34 CHAIR HAMILTON: Yes, Commissioner Hansen.

35 COMMISSIONER HANSEN: I would like to move to approve the
36 Buckman Direct Diversion letter to Governor Lujan Grisham and to Secretary Kenney
37 regarding the petition by Amigos Bravos for determination that stormwater discharges
38 from Los Alamos Canyon [sic] contribute to water quality standard violation and require
39 a clean water permit.

40 COUNCILOR VIGIL COPPLER: Second.

41 CHAIR HAMILTON: Thank you. Motion and a second; any discussion?
42 Yes.

43 COUNCILOR IVES: Thank you, Madam Chair. So the motion states
44 affirmatively – could you read that back?

45 MR. HARWOOD: That we send this draft letter, that's the paraphrase.

46 COUNCILOR IVES: That would have been very simple. Do we have the

1 text out of curiosity?

2 COMMISSIONER HANSEN: I read the motion from the agenda; okay. I
3 read the motion; is that not adequate?

4
5 The motion was repeated as the agenda caption: Buckman Direct Diversion letter to
6 Governor Lujan Grisham and letter to NMED Secretary Kenney regarding a Petition by
7 Amigos Bravos for Determination that stormwater discharges in Los Alamos County
8 contribute to water quality standards violations and requires a Clean Water Act Permit

9
10 COUNCILOR IVES: No, if the motion mirrors the agenda statement it is
11 perfectly fine.

12 COMMISSIONER HANSEN: Yes, I just read it.

13 CHAIR HAMILTON: Yes, it definitely mirrors that word for word. Is
14 there further discussion? There's a motion and a second.

15
16 The motion passed by unanimous voice vote.

17
18 CHAIR HAMILTON: Thank you so much, Mr. Harwood. You carried
19 the weight of this one.

20
21
22 **MATTERS FROM THE PUBLIC**

23
24 CHAIR HAMILTON: Is there anybody here from the public who wants to
25 address the Board? Once again, is there anybody here from the public who wants to
26 address the BDD Board? I'm going to go ahead and close matters from the public.

27
28 **MATTERS FROM THE BOARD**

29
30 CHAIR HAMILTON: Are there Matters from the Board besides me? Yes,
31 Councilor Ives.

32 COUNCILOR IVES: I was interested and I think you've already covered
33 it for our next meeting on the status of the testing –

34 CHAIR HAMILTON: Excellent, yes, I think we have that with Rick
35 agreeing to give us a status update. Are there other matters from the Board?

36 With respect to the last meeting, I want to state for the record and our minutes that
37 the only matter discussed during the executive session of our last Board meeting which
38 was on October 3, 2019 was that the matters stated in the motion to go into executive
39 session and no action was taken.

40 COUNCILOR IVES: Second.

41 CHAIR HAMILTON: Oh, I don't think we need a second this just needs
42 to be read into the record to inform everyone that it was as stated in the motion and we
43 didn't take any actions.

44
45 **NEXT REGULAR MEETING: Thursday, December 5, 2019 @ 4:00pm**

46 The January meeting will occur on the second Thursday, January 9th

1
2 **EXECUTIVE SESSION**

3 **In accordance with the New Mexico Open Meetings Act NMSA 1978 Section**
4 **10-15-1(H)(7), discussion regarding pending litigation in which the BDDDB is**
5 **a participant, including without limitation: *Buckman Direct Diversion Board***
6 **v. *CDM Smith, et al.*, First Judicial District Court Case No. D-101-CV-2018-**
7 **01610**
8

9 MS. LONG: Yes, Madam Chair, you should ask for a motion to adjourn
10 the meeting and go into executive session in accordance with the New Mexico Open
11 Meetings Act NMSA 1978 10-15-1(H)(7) for discussion regarding pending litigation in
12 which the BDD is a participant including without limitation: *Buckman Direct Diversion*
13 *Board v. CDM Smith, et al.*

14 CHAIR HAMILTON: I would entertain a motion.

15 COUNCILOR IVES: So moved.

16 COUNCILOR VIGIL COPPLER: Second.

17 CHAIR HAMILTON: Thank you. May I please have a roll call?
18

19 **The motion to go into executive session passed by unanimous roll call vote:**

20 Chair Hamilton	Aye
21 Councilor Ives	Aye
22 Commissioner Hansen	Aye
23 Board Member Helms	Aye
24 Councilor Vigil Coppler	Aye

25

26 **ADJOURNMENT**
27

28 Chair Hamilton declared this meeting adjourned at approximately 5:05 p.m.
29

30 Approved by:
31
32

33
34

Anna Hamilton, BDD Board Chair
35

36 **ATTEST TO:**
37
38

39
40

GERALDINE SALAZAR
41 SANTA FE COUNTY CLERK
42
43

44 Respectfully submitted:
45

46 Karen Farrell, Wordswork

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DRAFT

- Subject to Approval –