

MINUTES OF THE
THE CITY OF SANTA FE & SANTA FE COUNTY
BUCKMAN DIRECT DIVERSION BOARD MEETING

September 3, 2020

This meeting of the Santa Fe County/City Buckman Direct Diversion Board meeting was called to order by Councilor JoAnne Vigil Coppler, Chair, at approximately 4:00 p.m.

In accordance with the Public Health Emergency Order issued by the State of New Mexico, and pursuant to the New Mexico Attorney General's Open Government Division Advisory during COVID-19, public entities are authorized to conduct virtual meetings.

[For clarity purposes, repetitive identification and confirmations of those on the line and their audibility have been eliminated and/or condensed in this transcript.]

Roll was called and the following members were present:

BDD Board Members Present:

Councilor JoAnne Vigil Coppler, Chair
Commissioner Anna Hansen, Vice Chair
Commissioner Anna Hamilton
J.C. Helms, Citizen Member
Councilor Carol Romero-Wirth
Tom Egelhoff, Las Campanas [non-voting]

Member(s) Excused:

None

BDD Board Alternate Members Present:

Peter Ives, Community Alternate
James Lightfoot, Las Campanas Alternate

Others Present:

Rick Carpenter, BDD Facilities Manager
Nancy Long, BDD Legal Counsel
Mackie Romero, BDD Finance Manager
Kyle Harwood, BDD Legal Counsel
Bernardine Padilla, BDD Public Relations Coordinator
Randy Sugrue, BDD Operations Superintendent
Greg Shaffer, County Attorney
Jamie-Rae Diaz, City Administrative Assistant
Joe Abeyta, City IT
Jesse Roach, City Water Division Director
Marcos Martinez, City Assistant Attorney

Raul Anaya, CliftonLarsonAllen
John Dupuis, County Water Division Director
Jay Lazarus, Glorieta Geoscience
James Bearzi, Glorieta Geoscience

3. APPROVAL OF AGENDA [*Exhibit 1: Agenda*]

There were no changes and Commissioner Hamilton moved to approve as published. Commissioner Hansen seconded. The Chair requested a roll call vote and the motion passed unanimously [5-0].

4. APPROVAL OF CONSENT AGENDA

COMMISSIONER HAMILTON: Madam Chair.

CHAIR VIGIL COPPLER: Yes.

COMMISSIONER HAMILTON: I wonder if we could take this item off consent because there are some non-controversial but interesting things that I think some questions would be good to discuss.

CHAIR VIGIL COPPLER: We have only one item –

COMMISSIONER HAMILTON: Yes, and I would like to take that item off consent.

CHAIR VIGIL COPPLER: Okay. Let's move on.

COMMISSIONER HANSEN: I would like to take it off consent also.

CHAIR VIGIL COPPLER: Okay. Do we have a motion to approve the consent and taking off that item?

Commissioner Hansen moved to approve the removal of the consent. Commissioner Hamilton seconded and the motion to approve passed by unanimous [5-0] roll call vote.

5. APPROVAL OF MINUTES: August 6, 2020 BDD Board Meeting

CHAIR VIGIL COPPLER: I would like to state and read for the record and our minutes that the only matter discussed during the Executive Session at our last Board meeting of August 6, 2020 was the matter as stated in the motion to go into executive session and no action was taken.

With that, do I have a motion to approve the minutes or any changes?

COMMISSIONER HAMILTON: So moved.

BOARD MEMBER HELMS: Second.

The Chair requested a roll call vote and the motion passed by unanimous [5-0] vote.

6. MATTERS FROM THE PUBLIC

CHAIR VIGIL COPPLER: Jamie-Rae, did we receive any matters from the public?

JAMIE-RAE DIAZ (Administrative Assistant): Madam Chair, there are none.

PRESENTATION & INFORMATIONAL ITEMS

7. Report on September 1, 2020 Fiscal Services Audit Committee (FSAC)

MACKIE ROMERO (BDD Finance Manager): Madam Chair, members of the Board, a Fiscal Services and Audit Committee meeting was held on Tuesday, September 1st. In attendance was myself, BDD Financial Manager, Rick Carpenter, BDD Facilities Manager, Commissioner Hamilton, John Dupuis from the County, James Lighfoot, Andrew Resnick and Tom Egelhoff, all from Las Campanas.

We discussed Informational item #10 and Discussion and Action item #16. Both of those items will be discussed in the agenda so I will go over those. There were no major issues or concerns. It was a short discussion and unless there are any questions or comments from those who attended, that is my report.

CHAIR VIGIL COPPLER: Thank you, Mackie. Do we have anyone that wants to say anything about that?

8. Monthly Update on BDD Operations

CHAIR VIGIL COPPLER: Randy Sugrue.

RANDY SUGRUE (Operations Superintendent): Thank you. Madam Chair, members of the Board. BDD operations for the month of August went reasonably well considering our obstacles, river flows and very dry conditions. Our raw water diversions for the month of August were approximately 8.96 million gallons per day. Our drinking water deliveries through our Booster Station 4A/5A averaged about 7.9 million gallons per day. Raw water delivery to Las Campanas, was approximately .84 million gallons per day. On site treated and non-treated water storage was about a quarter million gallons per day. We were providing actually a bit less than the report shows. A bit less than 61 percent of the water supply to the City and County for the month.

There is a brief regional demand and drought summary on page 2. Our year to date diversions are approximately depicted on the graph below. As rivers conditions were quite good considering turbidity has been low and we have had, essentially, no storm events to interrupt operations and we were able to divert significantly more than our average August diversions.

That's essentially it and I stand for questions.

CHAIR VIGIL COPPLER: Thank you. Commissioner Hamilton.

COMMISSIONER HAMILTON: It's just too interesting. It all makes sense but the river is still pretty low; right? And there were no difficulties diverting in August.

MR. SUGRUE: Because of the compact water release for the Albuquerque Middle Rio Grande Irrigation District, river flow is actually well above 500 cubic-feet per second. For this time of year, that's above average. So because there are no storm events of significance the water clarity is good and diversions have gone reasonable well. Demand, of course, is up because of the hot weather. So we and Canyon Road have been able to meet demand without any significant issues.

RICK CARPENTER (Facilities Manager): Madam Chair, Commissioner Hamilton, for this time of year we're doing better than we thought that we would have been doing. Both between San Juan-Chama and native water. There is a lot of native water in the river right now and we didn't anticipate that. It's going to drop off, and we know that, within a week or two and we're going to have to deal with it then. And the water quality is good. Turbidity is so low because we haven't had any thunderstorm events. For this time of year, the river – we're able to manage it really well.

COMMISSIONER HAMILTON: Okay, that's really interesting and you got to the other part of the question, which was what are we anticipating in the near future, so thank you .

CHAIR VIGIL COPPLER: Any other questions for Randy? Former-councilor Ives, nice to see you.

MR. IVES: Likewise and nice to be here. I had a question on page 2 of the update that shows the chart of the City of Santa Fe San Juan-Chama water in storage and at least what I'm looking at, it appears to only show El Vado and Heron. Is Abiquiu in there at all?

MR. SUGRUE: Yes, Abiquiu is the lightest area that is the highest amount. It appears to be about 16,000 acre-feet. You can't see next to the word Abiquiu, the gray square is quite light. I apologize for that.

MR. IVES: Yeah, it's totally off on the copy that I printed.

COMMISSIONER HAMILTON: I can see it on the electronic version but it is light. I guess it doesn't print well.

MR. IVES: If we look at the left-hand side of the chart, that light gray is Abiquiu and the dark gray is Heron?

MR. SUGRUE: There's a very light gray, there's a medium gray which is El Vado, that is on the left side a bit below 10,000 acre-feet and then Heron is gray and is about somewhat between 4,000 perhaps and 5,000.

MR. IVES: Am I correct in understanding El Vado is basically emptied of storage at this point in time?

MR. SUGRUE: That I don't have any answer to. Rick, can you interpret that?

MR. CARPENTER: Yes, but interpret might not be the right word. But the Corps of Engineers helps us straddle releases from Heron through El Vado into Abiquiu and we work with them. It's a collaborative effort but we work with them to maybe hold water in El Vado for a little while and then release it depending on what endangered species or rafting or what the conditions are on the river. But it does still end up in Abiquiu and we get to account for that and it's not water that is lost it is just water that is managed very well.

MR. IVES: I wasn't sure if it had anything to do with anticipated renovation work on El Vado and if they were trying to empty that out.

MR. CARPENTER: Not for us. That's for the bigger players on the river; the MRGCD, and Albuquerque and the Corps and the Bureau.

MR. IVES: Very good. Those were the only questions I had. Thank you.

CHAIR VIGIL COPPLER: Thank you. Randy, if this is one of the charts that we produce, is it possible to get in color the next time that you present?

MR. SUGRUE: I'll get with Jamie-Rae on that. It was in color at one

time and I believe they're printing the agendas in gray scale now. But there must be some solution for this that will make it a little more clear. Perhaps just a different chart type entirely. I'll look into that.

CHAIR VIGIL COPPLER: Don't go through too much trouble but just in case. Any other questions? Thank you, Randy.

9. Report from the Facilities Manager

MR. CARPENTER: Thank you, Madam Chair. Randy just covered pretty much everything I would have said and then sometimes I have an update on human resources and personnel but we know that's sort of just waiting for things to resolve themselves.

The one update I do have is that the BDD will be embarking starting tomorrow on a risk and resiliency assessment. We are required to do it by the AWIA. We need to do it by the end of the year. It's a good thing and something we all should be doing anyway. We may collaborate with the City for economies of scale and maybe save some money. We're not talking about a lot of money anyways -- \$10,000 to \$15,000 or maybe a little more. But it is something that needs to be done and we will be doing that. If the Board has any direction to us as staff on that we would be open to that and hoping that we could get good direction. It is something that we need to do. We'll be starting on that very, very soon.

If there are questions on that or direction that the Board would like to offer, we would like to have it.

CHAIR VIGIL COPPLER: Any questions for Rick? Thank you.

MR. CARPENTER: Thank you.

10. Presentation of the Buckman Direct Diversion Project Annual Financial Report for fiscal year ended June 30, 2019

MS. ROMERO: Madam Chair, members of the Board, per the Project Management and Fiscal Services Agreement, the fiscal agent's responsibilities include that after the end of each fiscal year and in accordance with the New Mexico State Audit Rule, that the BDD is to provide audited financial statements to its partners. On July 2, 2020 a report of independent certified accountants was issued by CliftonLarsonAllen, for the business type activities of the Buckman Direct Diversion fiscal year ending June 30, 2019.

The BDD is a single purpose governmental entity and has only business-type activities. The presentation of the financial statements includes consolidated activity of the following enterprise funds, the BDD operating fund, the BDD capital carve-out project fund, BDD emergency reserve fund and the BDD major repair and replacement fund. The auditors have disclosed the following audit finding which is a late submission of the audit report and prior year findings have been resolved in the auditors issued and unmodified report.

I do have Raul Anaya from CLA with us today. He'll go over the auditor's opinion of the report.

RAUL ANAYA (CLA): Thank you, Mackie. My name is Raul Anaya with the engagement principal on the engagement. We issued, as Mackie mentioned, an unmodified opinion which is a clean opinion: the highest opinion that an independent

auditor can give in that we believe the results contained in the financial statement are a fair and accurate result of what occurred during the year.

During our course work/test work, we also had one finding. It's a compliance finding which is the lowest level of finding, and that was related to an untimely submission of your audit. Your audit should be submitted in December 15, 2019 and as Mackie mentioned it was not submitted until July 2, 2020 about six months late. I have been working with Mackie and the City this year and we're hopeful that that finding can be removed.

CHAIR VIGIL COPPLER: Okay, thank you. Any questions from the Board? Commissioner Hansen.

COMMISSIONER HANSEN: So we really don't have too much control over being late. I appreciate that you will be working with the City to try and resolve these issues because I think it's important that we have a clean audit and there's no reason for us to have a problem except for that the City is consistency late. And as long as I have sat on this Board, the City has been late. I would hope that we could make progress.

CHAIR VIGIL COPPLER: Thank you, Commissioner. Any other Board members have comments? Former-councilor Ives.

MR. IVES: Thank you, Madam Chair. I was just going to say that given that it is an unmodified opinion with no material deficiencies or significant findings other than tardiness, congrats to Mackie in particular for the good work on the financial side and all other staff because that's a wonderful position to be in. So, good job. Thank you.

MS. ROMERO: Thank you.

CHAIR VIGIL COPPLER: Thank you. And I saw some people clap.

11. Update on Waters of the United States (WOTUS) Litigation

MR. CARPENTER: It's an interesting topic and we have some issues to work through that do pertain to the BDD either directly or indirectly and we are seeking Board input on how to move forward. Since this is mostly a legal matter, I will turn it over to our esteemed attorney.

KYLE HARWOOD (BDD Counsel): Thank you, Rick. I think the esteemed attorney is probably Nancy, but I'll go ahead and talk at this point.

So you have in your packet you have a memo attempting to summarize the various litigation ongoing around the country on the WOTUS rule. There have been some questions from this Board in prior months about the status of Waters of the United States or as the new rule as it is known as the Navigable Waters Protection Rule. If you take a look at the memo, we've spent most of our time digging into the third case that is discussed which is where New Mexico and 16 other states and the District of Columbia and the City of New York has filed a lawsuit in northern California. I can speak briefly to any of these cases. I've taken a quick look at them. But the one that we have spent the most time understanding is the case described at point 3. This matter is on the agenda as an informational item at the request of the Board at a prior month, that we update the Board on these ongoing lawsuits. I'll stand for questions and just noted that if there is additional information that the Board would like, that's why this matter is on the agenda.

CHAIR VIGIL COPPLER: Commissioner Hansen.

COMMISSIONER HANSEN: Thank you, Madam Chair and thank you, Kyle and Rick. Can we file an Amicus brief with the Attorney General's Office in New Mexico and California?

MR. HARWOOD: I would feel more comfortable, Commissioner, discussing those details in an executive session which we can schedule for next month's meeting if you like. Specific possible litigation postures of the Board are probably more appropriate in executive session. I'm happy to work with Rick and Nancy to get that on an executive session for next month if you'd like to discuss active steps that the Board can take beyond these monitoring steps that you've asked us to do in the past.

COMMISSIONER HANSEN: I would like to know what our options are in that regard so if we could put this on the agenda for executive session I would be appreciative.

MR. HARWOOD: We'll try to make sure we have current information for that executive session if that's the desire of the Board.

CHAIR VIGIL COPPLER: Commissioner Hansen, do you have anything else?

COMMISSIONER HANSEN: No, I appreciate your update on all of this. I did wonder why we didn't join the District of Colorado suit or if that's even a possibility.

MR. HARWOOD: That lawsuit uniquely, Commissioner, was over the Rio Grande in Colorado.

COMMISSIONER HANSEN: Okay. And then what about number 5?

MR. HARWOOD: That one we are monitoring. We often get phone calls from colleagues, for example, New Mexico Wilderness Alliance, and if I recollect correctly, at least Nancy and I were not contacted but I don't know if lawyers for the City and the County were perhaps contacted about that. But what I will do for our executive session is I will check in with the New Mexico Wilderness Alliance and confirm the status of that matter and whether there might be something helpful the Board could do in that case.

COMMISSIONER HANSEN: And then, Madam Chair and Kyle, what is New Mexico Environment Department doing? Are they doing anything about this considering that we don't have primacy.

MR. HARWOOD: So they're doing a couple of things. I think on the legal front it's fair to say that the attorneys at the New Mexico Environment Department are working closely with their colleagues at the New Mexico Attorney General's Office. If your question is making sure that there is regulatory coverage or regulatory gap-filling for lack of a better word, we do talk with John Verheul who has addressed this Board in the past on NMED activities and I check in with him pretty regularly and I know that they have a very, very full plate right now with regulatory rulemaking and the last I heard on the primacy question that you specifically mentioned is that they were still evaluating it.

COMMISSIONER HANSEN: Okay, Madam Chair, thank you very much. And thank you, Kyle.

CHAIR VIGIL COPPLER: Okay, does anybody else have any questions on this item?

MR. IVES: One quick question, if I might, Madam Chair. Kyle, could you just explain what Chevron deference is?

MR. HARWOOD: Oh goodness, I was hoping someone would ask me that.

Chevron deference, in a nutshell, is the court's predilection to give the agencies some presumption of correctness in the development and application of their rules. There is a big – I'd say there's a fairly large, sort of philosophical fight going on in various cases across the board about whether it's appropriate and necessary to give those agencies that presumption. And what I'm not prepared to talk to in detail tonight but which I have been following generally is that the fight over Chevron deference and the court doesn't actually follow the political fault lines that you sometimes see in cases, and that's probably a more interesting issue that has been coming up recently. And of course, we're experiencing a big change in our judiciary with a lot of the appointments at the federal level. It will be very interesting to see if that deference to agencies continues going forward as it has in the past and it's not always upheld but it is an analysis.

MR. IVES: And I'm certainly familiar with the principle but wasn't sure if that was the name for what I have understood to be the case and I would only close by noting that I would have assumed that Chevron deference prior to the current administration had probably run in an opposite direction on those issues. So it's interesting that that preference might be used by different administrations for different points of view over the course of time. I'm not sure that that's the case, but, thank you.

MR. HARWOOD: It is being very carefully scrutinized right now as to whether it should continue in the way it has. I would be remiss if I did not hand the microphone to my colleague Ms. Long who may have something to add.

NANCY LONG (BDD Board Counsel): No, I don't have anything to add. I haven't looked at it in light of these cases in your memo that you've listed.

MR. IVES: Thank you.

CHAIR VIGIL COPPLER: Thank you all. Anybody else have any questions for Kyle on this item? Seeing none, thank you, Kyle.

12. Request for Approval of Buckman Direct Diversion and Canyon Road Water Treatment Plant Operator Exchange Program [Removed from Consent Agenda]

JESSE ROACH (City Water Division Director): Madam Chair, members of the Board, thank you. I brought this idea up in an informational context at the last Board meeting and now I am looking for formal approval from the Board of a proposal. Just briefly I would say that we at the City would like to increase understanding of the operations at both plants to operators at both plants. We believe that this increased understanding will provide enhanced resiliency and succession options at both plants and add professional options for the operators at those plants and hopefully more efficient operations through a greater set of experience brought to bear at problems at each plant by a wider set of eyes and improved communications between operators.

We're proposing two different sorts of exchanges and in each case one thing to be aware of is that operators have a specific level as certified by the New Mexico Environment Department so when we talk about these exchanges we're essentially talking if a level 2 operator from one plant works at another plant for eight hours, then at some point the opposite level and time should come to the other plant. The simplest to imagine would be a simultaneous exchange and this would be when both plants are operational and then a water operator of a given level at one plant would work at the other plant and vice versa. That would occur during the same pay period.

The other sort of exchange option would be if one or the other plant were shut down a water operator who normally would be working at the shutdown plant could be moved to work at the plant that is still operational. The proposal here is that we account for these – that we would account for the time that a BDD operator works, of a certain level, works at Canyon Road and if at the end of the fiscal year – and I should point out now that in this memo that I provided in the section labeled “cost, accounting of exchanges,” I mistakenly put calendar year in two places there. This should occur in a fiscal year. The idea would be that at the end of the fiscal year we have tracked the times that any operator normally at BDD has worked at Canyon Road and vice versa then we square those off and if there have been additional hours worked by a BDD operator at Canyon Road, those hours would then in final billing be reconciled as City-only costs. If on the other hand, the opposite is true, there would be no harm to BDD and that would just be a cost that the BDD has.

So with that change to not calendar year but instead to fiscal year, I would stand for question and hope that that form we consider requesting these operator exchanges. Also perhaps once I answer any questions to this, I would like to talk about how this fits into a City-County agreement that we’re calling, “The BDD Shared Pool” that we have reached the point of agreement at a staff level. And so we’d like to bring the terms of that agreement into the discussion as well.

CHAIR VIGIL COPPLER: Okay, thank you, Jesse, for the introduction. Commissioner Hamilton.

COMMISSIONER HAMILTON: I pulled this to actually be able to have related questions for Jesse and John Dupuis about the shared pool issues and how it was sort of indirectly related to the consent item so that’s really all I was interested in doing. If Jesse you and John could talk about the shared pool thing and how it relates.

CHAIR VIGIL COPPLER: I’m going to call on John Dupuis.

JOHN DUPUIS (County Water Division Director): Thank you. One of the things that I wanted to recognize is that the operator exchange program is one that the County utility can very well understand and see the benefits of and appreciate and for those reasons support Jesse in those efforts to accomplish that better understanding from operators for the different systems. I think our entire community has benefitted from those efforts and I wish him the best in succeeding to implement that program.

Additionally, one of the topics that Jesse mentioned was the BDD shared pool and Commissioner Hamilton mentioned that she wanted some further discussion and I appreciate the opportunity to discuss it further. And I, on a very high note, mention it does support the operator exchange program in that it allows greater operational flexibility without what is noted in the memo on this agenda item which is the exchange must be symmetrical and where there are not symmetry, the City pays for the cost associated with the asymmetry. So that’s a burden that if able to be overcome with other means allows for better implementation of the program, the BDD shared pool can allow for that. Mostly, it allows for the utilization of the County’s underutilized native water rights to be utilized for the benefit of the community in multiple ways. One of those benefits that I was trying to allude to, would allow shutdown of the BDD without any expense to the County different than if the BDD was operating. Therefore, allowing the operator exchange program to be much more flexible without incurring that asymmetry. The intent of mine is to bring the BDD shared pool terms to the County Commission and

I believe that Jesse has a similar process but I believe it does have to go through the Public Utilities Committee first and then through the City Council.

I just wanted to have the opportunity and I appreciate the opportunity to discuss those and stand for any questions if there are more details that anyone would like to hear about.

MR. ROACH: Madam Chair, if it pleases the Board, I would just give a very brief overview of what the BDD shared pool will do.

CHAIR VIGIL COPPLER: Okay.

MR. ROACH: Where probably most people on this call are familiar with this annual optimized water resource accounting that the BDD has is that during the course of a year when BDD is operational there may be times where more native water is taken and later times when all San Juan-Chama water is taken and we agree to sort of share those resources for the benefit of both partners. BDD's shared pool sort of takes this one step further by allowing the – when BDD diverts native water, treats it and then it is delivered to the City that water can be credited into what we're calling the shared pool. And then that water can roll over from year to year and be withdrawn by the County when BDD goes off line. Now if BDD goes offline for an unexpected reason, it is drawn down in a certain way but it also allows the City the flexibility to take BDD off line for operational efficiencies without, as John mentioned, financially impacting the County. It provides operational flexibility to the City and it provides some backup – or in some way you can think of it as a way for the County to be able to store some of their native water through this accounting exchange.

CHAIR VIGIL COPPLER: Okay, comments, questions from anyone. Commissioner Hansen and then Councilor Romero-Wirth.

COMMISSIONER HANSEN: Thank you, Chair, Jesse and John. Last year or the year before we worked on salaries and pay at the two facilities. so now do we have operators who have the same income level or the same hourly pay at both facilities, is this one of the things that we're heading towards or have we done this and it's now been finalized?

MR. ROACH: Madam Chair, Commissioner Hansen, that's the direction that we are heading towards, a set of job descriptions that are equivalent across both treatment plants. At the moment there's still I would say BDD operators are paid more and that sort of process will take time and attrition to fully implement.

COMMISSIONER HANSEN: Since BDD is considered a specialist plant, are we lowering the salary of BDD employees or are we bringing up the salaries of the Canyon Road people? I mean, is there really equity here for our operators? Are they getting paid what they expect?

MR. ROACH: Madam Chair, Commissioner Hansen, the answer to that is that no current BDD employees – salaries are not being reduced. Some Canyon Road operators did see a salary increase but the operators at BDD also in some ways had the top level of where they could get changed. So there was some – I would say there was some reduction to the career potential of those operators. This gets back to a different issue that I am not an expert on. It was something that I came into just as I was starting. I would be happy to gather more information if you need it but I am not the most expert on this issue.

CHAIR VIGIL COPPLER: Let me jump in on this point because it was probably a year ago that you all will recall that the compensation plan was being formulated and at that time this Board asked me to take the issue to the City prior to comp plan implementation. So I met with the City Manager, who was Erik Litzenberg at the time, and discussed all of the different qualifications between Canyon Road treatment operators and BDD operators because the Human Resources Office had declared that the BDD operators would be lowered in salary range with the comp plan. Well, apparently, nobody agreed with the Board or maybe they didn't understand it because I didn't get any feedback back after my meeting. And so as a result with the comp plan the salary ranges for the BDD operators were reduced to the Canyon Road operators. Nobody lost any salary but I think that's what Mr. Roach is referring to when it had some impact on their career effect but really what it did was lowered the top of their range because the Canyon Road operators were less.

The discussion was that the qualifications and the previous HR director and deputy director totally supported that the Canyon Road operators and the BDD operators were definitely different in their qualifications and should not have changed. That was the opinion when this came up before from the previous HR people. But with the comp plan and everybody being new and not really realizing, I don't think, it just happened anyway. So that is what happened. Our BDD operators were reduced in salary ranges to be equal to the Canyon Road operators and that's what we have today.

Commissioner Hansen, did you have any more?

COMMISSIONER HANSEN: Thank you, Madam Chair, for that reminder and explanation. I am still concerned about the reduction of not necessarily – the limits of what an operator can move up to and having a career path for operators still does concern me but I also recognize that this operator exchange program will have some benefits possibly to both bodies. There's just something that doesn't settle quite right with me and I might not be able to explain it but I'll leave it there at the moment.

CHAIR VIGIL COPPLER: Okay, thank you. Councilor Romero-Wirth.

COUNCILOR ROMERO WIRTH: Thank you, Madam Chair. I just want to be clear that what we're voting on tonight and what is on the consent agenda is this operator exchange program and that the shared pool teaser, if you will, is not on the agenda and we are not approving that at the moment because we don't have anything in our packets that refers specifically to that agreement or the outline of what that is.

CHAIR VIGIL COPPLER: Do you have any questions of anyone about that?

COUNCILOR ROMERO WIRTH: No. I just want to confirm and be clear that we are not approving the shared pool agreement tonight because that is not listed on our agenda and we have nothing in our packets pertaining to that.

CHAIR VIGIL COPPLER: Right. What we are being asked to do is to approve them proceeding with the operator exchange plan. Thank you for that. Anybody else have any comments? Do I have a motion?

COUNCILOR ROMERO WIRTH: Move to approve.

COMMISSIONER HAMILTON: I'll second.

The Chair requested a roll call vote and the motion passed by unanimous [5-0] vote.

DISCUSSION AND ACTION

13. Update and Possible Action on LANL MOU

MR. CARPENTER: Thank you Madam Chair and members of the Board. This is mostly an update but we're still looking for direction from the Board if the Board would like to do that. We are going to enter into the next phase of negotiations with LANL on the MOU. There are any number of items that Karl Harwood and Jay Lazarus from GGI have done a really good job of outlining what the priorities are. We tried hard not to necessarily prioritize them but the Board should be aware of what they are and not the least of which in my mind is the E-109.9 gage that we would like to have replaced somehow. Jay, you're the expert on this, do you want to weigh in on this or can you? Are you able to do it?

MR. HARWOOD: Let me provide a little more context, Rick, before we hand off some technical questions to Jay. What the memo covers is some fairly old news now. This memo was initially on the agenda for June and got pushed to July and then got pushed to August and now is pushed to September. So some of the information contained in this memo dates back to earlier times in the year when the Lab initially went into COVID-19 restrictions and there was some news media coverage of their suspension of environmental monitoring activities. You'll see under number 1 we talk about that, that June and July activities. I'm going to let Jay speak to the field trip that was conducted here in a minute because that's a very interesting, I think, update for the Board that happened some months ago. But let me just finish my kind of contextual overview.

We have continued to kind of prompt the Lab for response to the Board's May term sheet that you all approved that we take to the Lab and ask for everything that we want to see in the next iteration of our Board LANL MOU. I've been gently prompting to get some kind of response from staff up on the hill, there have been all sorts of various pandemic postures. They have been slowly opening and then slowly closing and stopping and such. As of today, funny how things happen on Board meeting dates, as of today, I've been informed that we'll have a written response from the Lab either the end of next week or Monday of the following week and so we expect to have a substantive update for the Board on the LANL MOU negotiations at the October meeting and that is good news.

We've been patient and obviously there have been extraordinary times as we all know. We had a schedule, the Board might recollect we had schedule from late last year or early this year that had a many month process where we thought we might be doing this and we thought we might be doing that. I think it's fair to observe at this point in the year that we've essentially lost all of the float in the schedule. When we get written responses in the next week or 10 days we're going to need to bring you a substantive update in October, perhaps even roll up our sleeves and bring you something for your consideration in November because there's only the meeting in December before we reach the end of the year which is our goal line.

We do have some alternatives that we will be briefing you all on as we get closer to the end of the year. But the goal that this Board set out for staff and consultants and which LANL agreed to was to have a draft MOU for 2021 before the end of the calendar year and that's still our goal and it's still the goal that LANL has committed to.

So I'm just noting that we lost most of the flow that was in the calendar basically for reasons of the pandemic but we're very much hoping to bring you and we don't know what

we're going to get from them yet, I'll be perfectly honest. We had a pretty long list of things that we felt confident were reasonable requests and we can provide more of an update in October.

MR. CARPENTER: If I could just add to that. Kyle did a great summary of where we're at why we are where we're at. COVID certainly isn't a help. There has also been some turnover at the Lab so we have some new faces and some new names and we're having to do get used to each other and educate them as much as we can. But the schedule is still the schedule and Kyle is doing a great job of letting them know that the schedule is still the schedule and so we'll keep the Board updated as needed.

MR. HARWOOD: Thank you, Rick, that's a great point. We will have had three site office managers in 2020 already who are essentially the client for the NNSA lawyer that I work with, that's my counterpart. He will have had three clients just this year in the site office manager position. Thank you for that Rick.

The only other last piece I want to do before I let Jay talk about the field trip that this Board did encourage GGI to do is that at the very end of my packet you'll see the written last three pages, it's a little buried, I apologize. On the last three pages of page 12 and 13, excuse me, that last two pages of my packet item was the LANL response to the media coverage that said they had suspended cleanup. It's not terribly clear what it is and I apologize but it is the Lab's press release around that and you'll see the kind of explanations that they provided there. With all of that introduction I do want Jay to just walk us quickly through the results of his field trip so we can get to any Board questions. I'm sorry to talk so long and potentially rush this part but Jay do you want to weigh in on your June visit?

JAY LAZARUS (Glorieta Geoscience): Actually, thank you, Madam Chairman, Kyle, Board members, actually it was James and my partner Paul Drakos that did the field trip so I'm going to turn it over to James now.

JAMES BEARZI (Glorieta Geoscience): Thanks, Jay. Thank you Madam Chair, members of the Board and Jay. This is James Bearzi, I am one of the scientists who work for Glorieta Geoscience and as Kyle's memo said on June 10th Paul Drakos and I went on a little field trip up there and a little bit of background. We had tried to get DOE and LANL to take us on a field trip with the main focus being to put eyes on the ENS locations, the actual locations that Buckman Direct Diversion uses for the early notification system. Between as Rick said a number of site manager turnover and then the COVID thing, we ended up reaching out to the New Mexico Environment Department Oversight Bureau. So we conducted this field trip in concert with them from publicly accessible lands to be able to see these.

The first topic, and you can see it in the packet, was to look at the different locations for the ENS and there are right now there are functionally four of them. I won't go into the details and I'll be happy to stand for questions but the most substantive one is where it says, E 109.9 and that was a location that was part of the ENS system but it hasn't been functional in a number of years because of flood events. All of the machinery is there. All of the sampling is there. Everything is there it is just that the flume itself by which they take samples and measure flow, is partially buried with sediment from likely the floods in 2014. Rick and Kyle have been urging DOE to rebuild it. That's part of the MOU negotiations and that's a very high priority.

Another focus of the field trip was to look at grade control structures in Los Alamos and Pueblo canyons. Think of them as sediment dams. They decrease the steepness of the

channel and so sediments that might otherwise make it to the Rio Grande might get stuck in the channel because it isn't steep enough anymore. The laboratory has built a number of these both in Los Alamos and Pueblo canyons and they are in various states of disrepair and function. Some of them still work just fine. Some of them don't work at all. One of the focus that we want to put on the MOU is to get Los Alamos to do a formal evaluation of these.

Another thing that we looked at were some of the Consent Order priorities as they might affect the Board. That would contaminate sites that are in Los Alamos and Pueblo Canyon watershed that would have potential to migrate downstream. Particularly, we are looking at Technical Area 21 which if you know anything about Los Alamos that up what is called DP Road. So there's the hardware store and the parts store, it's where you hang a hard left when you get up to the old Hilltop House at the Y up there. We took a look at those as well and we'll be urging DOE to make an accounting of where they are on those and how they prioritized those Consent Order items.

That's really the gist of the field trip. It was really good and also to connect with the New Mexico Environment Department and collaborate with them. We had the bureau chief of their Oversight Bureau as well as technical staff. So I appreciate the opportunity to brief the Board on this, Madam Chair, thank you.

MR. LAZARUS: James, could you please maybe elaborate a little bit on the access that NMED has from San I.

MR. BEARZI: Madam Chair, members of the Board, E-109.9 is about 3,000 feet upstream in Los Alamos Canyon from the confluence with the Rio Grande and it is right over the guardrail from 502. And it is on lands of San Ildefonso Pueblo. Right next door to E-109.9, and when I say right next door it's not even a stone's throw it's more like spitting distance, is the Environment Department. They have a sampling station there too that functions almost the same as E-109.9. They call theirs E-110. It's an auto sampler. It's measures flow. The only thing that it doesn't have is telemetry. The Environment Department has an MOU with San Ildefonso Pueblo so that they can have that sampler there. Under that MOU their data are embargoed for 60 days so that the Pueblo can review it. Functionally, the only thing that E-110 would need to be useful for us would be telemetry because they don't have a real time way to get data to pretty much anywhere. They have a data logger on site. Our MOU with San Ildefonso expired some years ago and that's another issue to get it done. So also at that location you may recall that BDD staff put in what's known as a radar station at that same location to see if that could work. I know that staff are not confident in the data and even San Ildefonso Pueblo has had its own sampler that was used many years ago very near that same location. So there's a lot of sampling that is trying to happen right now and right now the only one that is working is the Environment Department's. Thank you.

CHAIR VIGIL COPPLER: Commissioner Hamilton.

COMMISSIONER HAMILTON: Thanks for all the reports and the information is really good. But what limited red flag senses I have don't really – are lit up at this point. To me this is nothing that is happening at the federal level but everything to try to reduce measure on federal installation to do any kind of compliance. And I don't actually – COVID is a reason to make field sampling more difficult but it's not really a reason to make coordination on this kind of an agreement substantially delayed. I've been working on all kinds of federal projects virtually. So, to me it's more like a red flag that it's now

September and they've given absolutely no response. I just can't help but ask you guys, I know there's been a lot of personnel turnover. You don't have a good idea of what they're going to come back with. Do you have any sense with respect to the people, the new people that are in and whether they're being responsive? Because without that, I kind of expect in October to find out that they're not going to agree to things that we think are important and it's going to put us – and maybe there's no value in anticipating this. I have no idea what I'd do if they do and if we have any options to do anything if they come back with negative input. I wonder if any of the three of you could speak to that a little bit.

MR. CARPENTER: And, Madam Chair and Commissioner Hamilton, if I could, Madam Chair, may I interject?

CHAIR VIGIL COPPLER: Yes.

MR. CARPENTER: So we did get sidetracks with the whole COVID thing. We have been sidetracked because they have had so much turnover which is frustrating and it takes a long time to get these people educated on the issues themselves, much less the nuances of how this whole thing is suppose to work. But as I tried to say and Kyle has been doing a great job behind the scenes, the schedule is the schedule and we're not going to stand for it if we bust that schedule. And if it does look like it's going to happen, we're going to come back to the Board and we're going to say that we're worried that we might bust this schedule and now it's time to maybe do something else, if elected officials need to get involved or whatever. We'd like to keep it on the staff level. We think that's where it is most efficient. And that's my goal and that's what I can represent to the Board as we will stay on schedule as best we can.

COMMISSIONER HAMILTON: I just want to make it clear that this is in no way reflecting on how you guys have been handling this which I think is great and I do understand the staff turnover. I just feel a little bit suspicious about what Los Alamos is going to come forward with and that is all I was questioning.

MR. LAZARUS: Madam Chair, I would like to respond to Commissioner Hamilton's observation about field work during COVID. We at Glorieta, we've been doing field work in increasing amounts since about the third week of May following very strict New Mexico Environment Department protocols for how we are keeping ourselves and our employees safe. So we've been drilling, we've been drilling wells, we've been sampling, we've worked out of state so by following strict protocols the Environment Department has shared with us, is about as strict as I've seen and detailed, people can do field work safely.

CHAIR VIGIL COPPLER: Thank you.

MR. HARWOOD: I want to observe a couple of things because our colleagues up at the Lab may be watching this discussion on YouTube so I think what we want to finish the conversation with ultimately is that we are hoping for the best and planning for the worst in their response. And we do need them to provide us something in writing in the next 10 days as they have indicated that they will do. And as soon as we get that response which is delayed from May for reasons that we've already discussed, I'll be communicating that to the Board and coordinating with Nancy on ways of getting you those updates if something between this meeting and our next meeting is needed. And that's about the most we can do from this point in the calendar. We understand your concerns and I think the Lab understands your concerns and in the event we communicate directly with the Lab folks, which I do expect to do next week, I will take all of this energy and concern and make sure it is clear to them.

COMMISSIONER HAMILTON: Thank you. I appreciate the response. Thanks very much.

CHAIR VIGIL COPPLER: Okay, Commissioner Hansen.

COMMISSIONER HANSEN: Thank you, Madam Chair. So as you know one of my big concerns has been E-109.9 and getting an agreement with San I. It seems that we had an agreement with San I that was signed in 2014 but I don't see that the chair of the BDD every signed it. I don't have a copy that has a signature on it. Negotiating with San I, both DOE – but having us to be able to have telemetry and sampling at the moment the stream is moving is important to BDD because that's part of our early notification system. What I'm wondering is, is anybody talking to San I and if we are who are you talking to? And is it lawyer to lawyer or do we need some more gentle persuasion from elected officials to try and figure out what to do about getting this station E-109.9 back up and running because I feel that that is really imperative to BDD operations and I do believe that Daniel and Dani and a number of other staff members also feel that it is very important. I think Mr. Bearzi and Jay Lazarus also recognize that that is important to us as well Kyle and Rick. And so that – sampling is a very important issue to me and I want to know what we can do to move this forward.

MR. HARWOOD: Thank you, Commissioner. I think it is fair to say that there are a number of connections with San Ildefonso. I have spoken to John Dupuis the County Water Division Director over the last year or two about different requests that might be conveyed to San I. I will say that from my perspective – if it's okay, let me take a big step back. The current MOU that we're operating under is a three-year MOU that was negotiated and recommended to this Board by a prior facilities manager. And this Board has been experiencing this MOU and identifying things that it wants to improve in the next MOU and the Board is as involved, if not more involved, in the MOU than it ever has been since we did the first one which I worked on 10 years ago. So it seems to me that the relationship with San Ildefonso in LA-Pueblo Canyon needs to follow from the MOU negotiation with the Lab. That's kind of how we've set it up. We've had a number of issues that we want to talk to San Ildefonso about. There are issues outside of LA-Pueblo Canyon for example that we want to San Ildefonso about and we have had those conversations or the beginnings of them. But when it comes specifically to the LA-Pueblo Canyon monitoring stations that are E-109.9, E-110, other locations that GGI might identify that are even better than those two sites, that whole conversation with San I seems to follow from our basic umbrella agreement with the Lab. We've got to get agreement on the terms, agreement on cost sharing, agreement on the locations and then to the extent that some of those locations are on Pueblo land I do think that we're going to need to bring all of the skills and people including the many County staff and County elected officials that deal with the Pueblo on lots of different levels, all of those relationships and connections are going to probably be needed because these are complicated issues that involve placing equipment on Pueblo land which is fairly – not your everyday project.

So from my perspective the LA-Pueblo Canyon issues with respect to San Ildefonso do need to follow from the MOU negotiation. We are doing a new MOU negotiation that I, again, I am hopeful, I am not overly hopeful Commissioner Hamilton, but I am hopeful that we are going to get an earnest response to our reasonable requests from earlier this year. But I do want to say that a lot of the San Ildefonso issues flow from a successful umbrella agreement with the Lab of which the ENS is one of three main pillars in that MOU, and it's

perhaps the most important one for explaining to the public how the water does not divert water from the Rio Grande when there are significant LA-Pueblo Canyon flows. That is the design of the ENS.

I hope I have answered the question without talking too much.

CHAIR VIGIL COPPLER: Thank you, Kyle.

COMMISSIONER HANSEN: Madam Chair, I recognize that first things first sort of speak, but I think it is also incumbent and I didn't get an answer to my question about the agreement from San I that was signed by Governor Terry Aguilar; was that ever signed by the BDD chair who was Joe Maestas at that time?

MR. HARWOOD: I believe so. Nancy may remember more than I do. I have not looked in my archive for a countersigned copy of that, I'm sorry.

MS. LONG: Madam Chair and Commissioner Hansen, I believe it was signed by the chair at that time and I can verify that.

COMMISSIONER HANSEN: Okay. So that was almost six years ago. I think that the EM managers need to understand from us how important it is that we have a station that we know when the flows are happening in LA-Pueblo Canyon and that negotiating with the Pueblo is a priority and I don't think we can put this on John Dupuis to do. I think this is something that we need to put on DOE-EM and the Buckman attorneys, obviously, but we really need to be very clear that this is not an acceptable answer because the early notification system is incredibly important to the Buckman Direct Diversion. We've been lucky this year, the monsoons have been light. But it still doesn't give us – we still haven't had the information that we need to shutdown the plant if we have a serious runoff. I'm just expressing my frustration.

MR. CARPENTER: And, Madam Chair, if I could just interject a little bit on that. Commissioner Hansen, we do have the information we need to shut down the plant. The radar station is up and functional. We get real time data from it. The problem is that it is not the type of system that we would like. We don't get to sample the water. We don't know what the constituents are. We don't get to characterize the flood flows. But at no time is the BDD exposed to a risk that it shouldn't otherwise be taking.

MR. HARWOOD: And we will take your concerns, Commissioner Hansen, and combine them with the feedback from the Lab and I suspect this is just the preamble to the conversation that we're going to have in October about the MOU.

COMMISSIONER HANSEN: Yes, and I agree with you Rick that it is also really important to know what the constituents are, what is coming down the hill and what is flowing into the river. So that is another reason why sampling is so important. Thank you for listening to me, I appreciate it. And thank you for all of your hard work everybody on this MOU. I hope that the Lab is doing as hard of work and is as committed as we are to making this a successful MOU.

CHAIR VIGIL COPPLER: Thank you. Rick, is there anything else you need on this item? I think it ended up being a discussion or did you want any action?

MR. CARPENTER: Madam Chair, members of the Board, I think this is what we were hoping for, just general direction. I will leave it up to the attorneys if we need action at this point. But I certainly know what I need to do going forward.

MR. HARWOOD: I don't think we were asking for anything specific, Madam Chair. We just wanted to notice is in case you had additional direction for us but

this has been, as Rick said, a productive conversation and we're looking forward to bringing you something to actually act on in October.

CHAIR VIGIL COPPLER: Okay. I think we've spent a great deal of time talking about this and as long as you have what you need, I think we will move to the next item.

MR. CARPENTER: Thank you.

14. Update and Possible Action on NMED Triennial Review

MR. CARPENTER: Thank you, Madam Chair and members of the Board. I see that we're coming up on 5:30 and we still have a very long executive session. I'm not going to spend a lot of time introducing this item. Kyle, do you want to just take it over, briefly please.

MR. HARWOOD: I'll try and do this as quickly as possible. As you all know, GGI has been doing sort of a surveillance level review across the landscape of regulations on all the things that are in process at the State level; partly in light of changes in WOTUS, partly because the change of administration here in New Mexico last year and also as a result of regular regulatory proceedings. I think we still have James on the phone, let me just cut to the chase, which is the second and third pages of this memo which are quite literally a draft of a letter, a comment letter, to New Mexico Environment Department regarding 303-D and 305-B integrated report. It was released for public comment. The public comment does run next week which is why this is on your Board agenda as an action item. I think the memo is pretty clear about what's going on and the draft letter may be a little less clear because it does get into some of the technical comments that your Board technical consultants have recommended that a letter like this be sent. So I'm going to suggest that we hear any feedback from the Board and let myself or James or Rick respond to it but this is a recommendation to the Board to send this comment letter to NMED before the end of next week.

CHAIR VIGIL COPPLER: Okay, thank you. Councilor Romero-Wirth.

COUNCILOR ROMERO WIRTH: I'm not seeing the draft letter in my packet. Is anybody else having that issue?

[A discussion locating the draft ensued; it was placed on the screen and found]

CHAIR VIGIL COPPLER: Commissioner Hansen.

COMMISSIONER HANSEN: I think it's really important that we send this letter. I read this over last night and I thought it covered a lot of the points that you were trying to make and I support sending this letter to NMED on the issues of the Clean Water Act Integrated Reports.

MR. HARWOOD: Thank you.

CHAIR VIGIL COPPLER: Thank you. Any other comments? I support it too. Mr. Carpenter, would you like a motion on this or do you have consensus?

MR. CARPENTER: I think that Kyle and Nancy and I would like the Board to take action on this if we could ask.

COMMISSIONER HANSEN: I will move to approve to send this letter to the Clean Water Act and report to staff or Ms. Guevara.

MR. HARWOOD: Thank you.

CHAIR VIGIL COPPLER: Do I have a second?
COMMISSIONER HAMILTON: I'll second.

The Chair requested a roll call vote and the motion passed unanimously [5-0].

15. Update and Request for Ratification of the BDD Board's protest of the U.S Department of Energy and Los Alamos County's Water Right Transfer Application for Cr6 Remediation under OSE File No. RG-00485, et al.

MR. CARPENTER: Thank you, Madam Chair. This is not a new item for the Board to recognize and consider. We have filed a protest. We were under a strict timeline to do so to reserve our seat at the table. Kyle did a great job of it. This is simply as it states in the agenda item, a ratification by the Board that we did in fact file that protest and we will be following through with it. If there is an attorney on the call that wants to add to my comments, please do so briefly.

MR. HARWOOD: Thank you, Rick. Very briefly, we are asking for a vote. This is the first regularly scheduled Board meeting. As you all know this deadline came up between the agenda and meeting date of our last meeting so this is the first regular meeting since the protest has been filed and we would just ask in order to be abundantly compliant with the Open Meetings Act in the same way that Santa Fe County ratified the protest shortly after filing it, we would ask you to vote to endorse this protest. And for all other questions or comments, I'd like to suggest that we take it up – and we do have this item list under our Executive Session where I will be providing some additional details. But for this agenda item it is only that vote, Madam Chair.

CHAIR VIGIL COPPLER: Thank you. Commissioner Hansen.

COMMISSIONER HANSEN: I want to thank everyone, Kyle, Rick for all your comments, especially your comments to the press. I want to move to approve the ratification of the BDD Board protest to the US Department of Energy –

MR. HARWOOD: Protest of RG-00485, et al.

COMMISSIONER HANSEN: Yes, OSE, et al. Thank you.

COMMISSIONER HAMILTON: Second.

CHAIR VIGIL COPPLER: Any further discussion?

The Chair requested a roll call vote and the motion passed unanimously [5-0].

10. Discussion of Amended Fiscal Year 2021 Annual Operating Budget in the amount of \$8,763,715 plus \$626,705 in contributions to the Major Repair and Replacement Fund.

a) Request to ratify and formally adopt the amended for 2021 Annual Operating Budget in the amount of \$8,763,715 plus \$626,706 in contributions to the Major Repair and Replacement Fund

MS. ROMERO: Thank you, Madam Chair and members of the Board, the budget that was presented to the Board last meeting and I just wanted to go ahead and note the changes rather than going through the whole budget. The difference between the budget that was presented last meeting was that we increased this budget for your approval by

\$110,000 and that was to increase our overtime. Now our overtime is fully funded at \$150,000 and then we also added money back into the budget to cover a vacant planner/scheduler position which will be re-classed. The funding to fill that position mid-year was also included in this budget. So those are the two changes to this budget and I will stand for any questions.

CHAIR VIGIL COPPLER: Before we go to any question, I just want to state that the City had a meeting with Councilor Romero-Wirth, myself, the Mayor, the Finance Director and I don't remember who else – not very many people – and Mr. Roach and Shannon Jones and we all agreed that the budget that BDD first presented which is this budget before you, was adequate and the City gave their blessing to the budget that the BDD wanted and that's the budget before you. Commissioner Hamilton.

COMMISSIONER HAMILTON: I just want to express my appreciation of the effort that was put out to put these revisions in. Thanks very much.

CHAIR VIGIL COPPLER: Any other comments?

BOARD MEMBER HELMS: Yes, I'd like to say something.

CHAIR VIGIL COPPLER: Yes, go ahead JC.

BOARD MEMBER HELMS: I just want to say that I noticed our first budget eight months ago was at 10.3, then it went down to 9.3 and we all squawked. Now it's at 9.4. I'm going to assume that the staff at Buckman believes in this budget. I think Rick Carpenter has told me so that you stand by it and you can make things work with this budget; I'll accept that because you're the professionals. But I do want to say that in this entire process I got an unpleasant feeling that lines of communications, the pathway, went from City Council to City staff, City staff to Buckman staff and finally up to Buckman Board. I do not think that is the correct path. I think if the City has views to make, serious views at the budget level, not operational but budget level, they should go to the Board not put pressure on Buckman staff which then in turn puts pressure on the Buckman Board and that's not the way it works, it seems to me. I have a funny feeling that's what has been going on and I may be wrong. I don't expect anyone to confirm it but that's my opinion. For the record, I am supporting this budget.

CHAIR VIGIL COPPLER: Thank you. Any other comments? We need a motion?

COMMISSIONER HAMILTON: Motion to approve.

BOARD MEMBER HELMS: Second.

The Chair requested a roll call vote and the motion passed by unanimous [5-0] vote.

MATTERS FROM THE BOARD - None were presented.

NEXT REGULAR MEETING: Thursday, October 1, 2020 at 4:00pm

EXECUTIVE SESSION

In accordance with the New Mexico Open Meetings Act NMSA 1978, §10-15-1(H)(7), discussion regarding pending litigation in which the BDD is a participant, including, without limitation, : 1) BDD Board's Protest of the U.S Department of Energy and Los Alamos County's Water Right Transfer Application for Cr6 Remediation under OSE File No. RG-00485, et al. 2)

***Buckman Direct Diversion Board v. CDM Smith, et al., First Judicial District
Court Case No. D-101-CV-2018-01610***

CHAIR VIGIL COPPLER: I want to make sure everyone has the invitation to the Executive Session; does everyone have that? All right. I would ask that in the interest of time that you get the invitation and sign in again.

Nancy Long, do you want to take us into executive session?

MS. LONG: Yes, Madam Chair, you should ask for a motion to adjourn and go into executive session for those purposes as stated on the agenda in accordance with the New Mexico Open Meetings Act .

COMMISSIONER HANSEN: Madam Chair, I so move.

CHAIR VIGIL COPPLER: Okay, thank you.

COMMISSIONER HAMILTON: Second.

The motion to adjourn and go into executive session passed by unanimous [5-0] roll call vote as follows:

Councilor Vigil Coppler	Aye
Commissioner Hamilton	Aye
Commissioner Hansen	Aye
Councilor Romero-Wirth	Aye
Mr. J.C. Helms	Aye

[The Board adjourned and met in executive session at 5:45 p.m.]

ADJOURNMENT

Chair Vigil Coppler declared this meeting adjourned at approximately 5:45 p.m.

Approved by:

JoAnne Vigil Coppler, Board Chair

Respectfully submitted:

Karen Farrell, Wordswork

ATTEST TO

YOLANDA Y. VIGIL
SANTA FE CITY CLERK