

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

**April 1, 2021**

1. This meeting of the Santa Fe County & City Buckman Direct Diversion Board meeting was called to order by Commissioner Anna Hansen, 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. All votes were conducted by roll call.

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

2. Roll was called and the following members were present:

**BDD Board Members Present:**

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

**Member(s) Excused:**

None

**BDD Board Alternate Members Present:**

Peter Ives, Community Alternate – Former City Councilor

**Others Present:**

Rick Carpenter, BDD Facilities Manager  
Nancy Long, BDD Legal Counsel  
Kyle Harwood, BDD Legal Counsel  
Bernardine Padilla, BDD Public Relations Coordinator  
Randy Sugrue, BDD Operations Superintendent  
Jamie-Rae Diaz, City Administrative Assistant  
Marcos Martinez, City Assistant Attorney  
Greg Shaffer, County Attorney  
Jesse Roach, City Water Division Director  
Jay Lazarus, Glorieta Geoscience  
James Bearzi, Glorieta Geoscience

Sara Smith, County Constitute Liaison  
Daniela Bowman, BDD Staff  
David Frost, Snell & Wilmer Law Firm

### **3. APPROVAL OF AGENDA**

There were no changes to the agenda and Councilor Vigil Coppler moved to approve as published. Mr. Helms seconded and the motion passed by unanimous [5-0] roll call [5-0] vote.

### **4. APPROVAL OF MINUTES: March 4, 2021**

There were no changes to the minute and Mr. Helms moved to approve. His motion was seconded by Councilor Vigil Copper and passed by unanimous [5-0] roll call vote.

### **5. MATTERS FROM THE PUBLIC**

CHAIR HANSEN: Are there any members of the public who have signed up to speak?

JAMIE-RAE DIAZ (Administrative Assistant): Madam Chair, I have not received any notifications of matters from the public.

CHAIR HANSEN: Thank you. I will close matters from the public.

### **6. APPROVAL OF CONSENT AGENDA**

#### **8. CONSENT AGENDA**

##### **a. Resolution concerning LANL Site Wide Environmental Impact Statement (SWEIS)**

CHAIR HANSEN: There is only one item on the consent agenda and it is a resolution that both the City and the County have passed. Does anyone want to pull this off? If not, could I please have a motion to approve the consent agenda?

COUNCILOR VIGIL COPPLER: Move to approve the consent agenda.

COUNCILOR ROMERO-WIRTH: Second.

CHAIR HANSEN: May I have a vote.

**The motion to approve the consent agenda passed by unanimous [5-0] roll call vote.**

### **7. PRESENTATION/INFORMATIONAL ITEMS**

#### **a. Monthly Update on BDD Operations**

CHAIR HANSEN: Welcome, Randy, nice to see you.

RANDY SUGRUE (Operations Superintendent): Thank you. Madam Chair, members of the Board, BDD operations for the month of March 2021, include raw water diversions of 4.47 mgd approximately. Our drinking water deliveries through our

Booster Stations 4A/5A averaged 4.45 million gallons per day. Raw water delivery to Las Campanas averaged zero at this time. Our onsite treated and non-treated water storage was .02 million gallons per day average. BDD was providing approximately 71 percent of the water supply to the City and County for the month. We do have a brief regional demand drought summary on the second page. Our year to date diversions are depicted on the graph.

Once again, March BDD was a little bit above our annual average for the last 11 years. Our regional water overview included about a 6.3 million gallons per day City and County demand. Rio Grande flows have been significantly higher than we would have expected – around 650 cubic feet per second through March and they have increased a little bit just in the last few days. We have our graph of storage and our ENSO summary at the bottom. That's it, I stand for questions.

CHAIR HANSEN: Are there any questions from the Board.

Commissioner Hamilton.

COMMISSIONER HAMILTON: Well, nobody else piped up and asked. The flows might be a little higher than expected but they're still considered pretty low by everybody and the prognoses. What's the current discussion among you guys?

MR. SUGRUE: Thank you for the question. We'll have a more comprehensive review at the next meeting. We'll have a little more information as to snowpack in southern Colorado at that time and a better projection of San Juan-Chama and Rio Grande flows through this month of April. So at that time we're still hoping for the best. Again, the river is healthy at this time. Turbidity is quite low and we're not really seeing any runoff water yet, it's not quite warm enough. So we'll give you a much better update at the next meeting. I hope that will satisfy and answer all of your questions.

RICK CARPENTER (Facilities Manager): Madam Chair, if I could add to that. We do plan to have a presentation at the next Board meeting on that topic, low flows, snowpack, runoff, storage and what it all means for the Rio Grande in general. And then a component of that as a separate presentation would be Randy and myself presenting to the Board what does that all mean for the BDD and how might that impact our operation. So we'll bring that as a package to the next Board meeting.

CHAIR HANSEN: Okay, thank you Randy and Rick. I'll go to member Ives.

MR. IVES: Thank you, Madam Chair. Just a quick question of the Buckman Diversions what is the rough percentage breakdown between San Juan-Chama and rate of Rio Grande waters?

MR. SUGRUE: At this time we are maximizing our native water diversion just, again, hedging against the possibility that in the future through the summer and fall native flows may not be up to our ability to divert them. So we are diverting more native water at this time, much more than San Juan-Chama water.

MR. IVES: And if you can't divert native waters in the fall do you think you'll still be able to divert San Juan-Chama waters?

MR. SUGRUE: That remains to be seen but we are very hopeful. Again, our discussion on our diversion structure and our ability to divert at very flows, hope will answer that question a little more comprehensively but we have a high confidence that BDD will be functional all through the year.

MR. IVES: And do you have any sense of the native water that has been diverted how many gallons have gone to the City versus – how many acre-feet have gone to the City versus how many acre-feet have gone to the County?

MR. SUGRUE: I do not have that number in my head. But actually if we look at my report, page 3, you can see in March we diverted about 425.4 acre-feet total. The division between City and County at this time of the year, late winter, is probably about 80 percent-20 percent, something to that effect. Again, that's real approximately.

MR. IVES: Okay, thank you. Thank you, Madam Chair.

MR. SUGRUE: You're welcome.

KYLE HARWOOD (BDD Counsel): Board member Ives, you may be remembering also from our environmental approvals that our window for diverting San Juan-Chama window is larger than that for diverting native water.

MR. IVES: I can't say as that was fresh in my mind but I was just interested to know how performance was going under the agreement signed between the City and the County in relation to native water diversions.

CHAIR HANSEN: Thank you, member Ives. I was wondering the same thing as to how much native water we were using. So I appreciate the question. Tom, I see Tom's hand up.

MEMBER EGELHOFF: I guess this would be a good time to ask this question. So I know the water sharing agreement kind of maximizes native water but what would happen in a situation where you're taking mostly native water in the spring and then you're not taking San Juan-Chama water, how would that affect the projected volumetric percentages between the City and the County?

MR. SUGRUE: Tom, the City, County, Las Campanas partnership essentially allows the diversion amounts that don't really affect the usage amounts. We would that out after the fact. If we maximize our native waters early in the year and then we offset that by diverting more San Juan-Chama water later in the year there's not really anybody in arrears at that point. The only time that the issue really comes up is if BDD is offline completely and we're not diverting any water and then the County is drawing off of the City's other sources.

So, again, it's accounted and balanced out after the fact. So it's more on an annual basis than on a month-to-month basis even.

MEMBER EGELHOFF: The reason I ask is that I've got in a bit of a bind with my board last year because calendar-wise more water than like 5 percent projection. So it's more like 9.something percent. But one of the reasons it was 9.something percent is the City took less than their projection which raises the percentage for the County and Las Campanas, if you know what I mean. So if we start the season and I've projected 5 percent volumetric and the County has projected 25 percent and the City has projected 70 percent, it doesn't take a whole lot of less water for the City – let's say 65 percent – to really affect my percentage or the Club's percentage if you know what I mean.

MR. SUGRUE: I do. That's more of a financial question and that's a little outside of my purviews certainly. But I do believe that part of that last year was due to the fact that the City was maximizing their use of the Canyon Road Treatment Plant waters especially earlier in the year in order to prevent spillage – the reservoirs were brim full. But again as that converts into your percentages of treatment costs and such, that's

outside of my department.

MR. CARPENTER: So, Tom and Madam Chair, the question you're asking is fairly complex and it is more of a financial question and if you would like to have a discussion with me later tomorrow or early next week, we can get into the details of that.

MEMBER EGELHOFF: Okay, thanks.

CHAIR HANSEN: Thank you. Are there any other questions from anybody? Okay, thank you very much.

**7. b. Report from the Facilities Manager**

MR. CARPENTER: Yes, Madam Chair and members of the Board, thank you and good evening and happy Good Friday and I hope you all have a good Easter weekend.

I have a few items. I won't take a lot of your time. One is a positive item, an update to the Board, the BDD superintendent position has been vacant since mid-December. We have been able to fill that position, formally fill it starting this week with Jason Valencia who was currently a BDD employee and now he has been elevated to the maintenance superintendent position. He's extremely competent and looking forward to working with him as is the rest of the staff. So I wanted to make that announcement so that position has been filled as of Monday.

Along the same lines, the accounting supervisor is still vacant but we are making good progress in filling that. We have a candidate to that we have made an offer to and that offer has been tentatively accepted. We're working through the process with Human Resources. I don't know how long that will take but we have made significant strides since the last Board meeting in filling that position as well. And as you know, that's a very high profiled position. So I wanted to let the Board know that.

Also, it's been a while since we talked about the Source Water Protection Plan. The team that is working on that now had a meeting just yesterday to sort of resurrect that effort. Covid sort of stepped in the way of that because the next step is the public meeting process and that's hard to do with Covid but we are working on that. And we hope to bring a formal presentation to the Board very soon on a reminder of the scope of work, the intent, a timeline and how we expect to proceed going forward. Hopefully, we'll be making some progress on that as well very soon.

And then lastly there has been a lot of activity on the Triennial Review. I know that's important to the Board. And if it's okay with you, Madam Chair, I would like to invite Kyle Harwood just briefly update the Board on where we stand on that issue.

CHAIR HANSEN: Mr. Carpenter, that would be fine. Welcome, Mr. Harwood, we look forward to hearing from you. Please give us your update on the Triennial Review and issues.

MR. HARWOOD: Thank you, Madam Chair. Good evening Board. Yes, as you all know we came to you in March and recommended that we do not take a formal position in the triennial review. There has been a veritable storm of activity over the preceding weeks since our last Board meeting with filings in the triennial review and other matter adjacent to the triennial review. Many of these steps have been late breaking with respect to this agenda and this packet. So we'd like to suggest that we bring you a full

readout and recommendations and associated budget at the May meeting in executive session. And with that, I stand for any questions, Madam Chair.

CHAIR HANSEN: Are there any questions from the Board?

MR. HARWOOD: Thank you, Madam Chair.

CHAIR HANSEN: Okay, and thank you. Rick, is there anything else?

MR. CARPENTER: No, that concludes my presentation and I would stand for questions as well.

CHAIR HANSEN: Are there any questions from the Board for Mr. Carpenter? I do have one question or item. It has come to my attention that Rick does not have – the Buckman Director Diversion does not have its own administrator. I'm grateful that we have Jamie-Rae but she works for the City and that we do not have our own administrator. I think with all the things that might be happening and are about to happen with the BDD that it might be something that maybe we need to add to the budget is looking into having an administrator for the Buckman Direct Diversion. So I am just making that suggestion. It's not on anything but I have recognized that that might be something that that Board needs coming up.

COUNCILOR VIGIL COPPLER: Madam Chair.

CHAIR HANSEN: Yes.

COUNCILOR VIGIL COPPLER: Having come off the chairmanship and working with Mr. Carpenter and staff over the last year I do believe that your suggestion is well taken. It could be that Mr. Carpenter spends much too much time doing – not because he doesn't want to do his own job, but certainly because things have to get done. So I think if you had an assistant as you suggest, it would help him make an even greater impact on the job that he has at hand. So I think that's a very good suggestion that you have and I don't know if it's too late for budget preparation or not but I guess Mr. Carpenter can determine that. Thank you.

CHAIR HANSEN: Thank you, Councilor Vigil Coppler. Anyhow, I hope we can take a look at that and see what is possible in the future. That was all that I had with the facilities manager.

### **c. Update on San Juan Chama Return Flow Pipeline Permit**

MR. HARWOOD: Thank you, Madam Chair. I'll just briefly introduce my memo that I coordinated with Dr. Roach on and then we can hear from him and we can hear from him and any questions the Board might have.

So we came to the Board in February with the description of the changes necessary to the BDD Project Permit to be consistent with the proposed return project. At that time, the Board was very clear that it wanted to have an update on the permit particulars that were going to be requested of the agencies and so this memo in your packet under item 4.c, the last two sentence paragraph under background and summary describes what the City will seek of diversion capacity, excuse me, will seek an increase of diversion capacity only. So that's the first concept that we did talk about several months ago. So this doesn't require any changes to the infrastructure going from the river to the treatment plant or beyond the treatment plant. So it's an increase of diversion capacity. So permission to divert up to this new number of 16814. And then of San Juan-Chama water only. So as we discussed the last time this was also a key part of the project as proposed and that number is derived from

taking the maximum transmission and treatment capacity in the project already and multiplying it simply by the number of days in the year. So that's where you get the new San Juan-Chama diversion number and as this is an informational item, we are not asking for action but there will be an outreach and scoping schedule that I think will be finalized shortly. I'm sure that we can provide that as an update to the Board. Just to remind the Board, as I described it several months ago, this return project has three major components as I think of it: one is getting the treated effluent from where it is at the wastewater treatment plant down to the river, all the right-of-ways and pipeline. The second big component is the Santa Fe River component and the third component is the deliveries to the Rio Grande and the increase diversions from the Rio Grande and the matter before the Board really is those increased diversions from the Rio Grande when all of those other components are in place. So I'm just sort of reminding you of how we discussed it several months ago. With that, I'd like to hand it off to Jesse, thank you.

JESSE ROACH (City Water Division Director): Thank you, Kyle. I don't have anything else materially to add but I am happy to answer any questions.

CHAIR HANSEN: Okay, are there any questions from the Board? Seeing none. Thank you, Dr. Roach and Mr. Harwood.

## **9. MATTERS FROM THE BOARD**

CHAIR HANSEN: Are there any matters from the Board? I would like to follow up on Councilor Vigil Coppler's suggestion about the budget hearings that she brought up last time and that she attended. I'm wondering where the City might be in their budget hearings and I would ask if that is something that we need to discuss in the next month?

MR. CARPENTER: Madam Chair, I think it might be appropriate if Dr. Roach could reply to that. I think he is probably closer to that information than I am in terms of status of the progress.

DR. ROACH: Madam Chair, members of the Board, I apologize, I am not ready with specifics on the budget process. Perhaps Councilor Romero-Wirth may know more.

COUNCILOR ROMERO-WIRTH: Madam Chair.

CHAIR HANSEN: Yes, Councilor Romero-Wirth.

COUNCILOR ROMERO-WIRTH: So the budget hearings for the City, I am just checking here, begin I believe April 13<sup>th</sup> and they'll run about two and a half weeks. I have not seen a schedule as to what is being presented when but I am certainly happy to inquire about having the BDD budget presented during those hearings and find out when that might happen.

CHAIR HANSEN: Okay, that sounds good. I think that would be important. I know that we in the County are also going into budget hearings also. So we can stay in communication about that, that would be great.

COUNCILOR VIGIL COPPLER: Madam Chair.

CHAIR HANSEN: Yes, Councilor Vigil Coppler.

COUNCILOR VIGIL COPPLER: Thank you. I suggest that you make a phone call or email Mary McCoy the finance director so that you can get on the schedule. I know those schedules are probably being prepared maybe as we speak and it seems like

there should be time to get BDD on the schedule. Once the schedule is set they could take up all the time slots and so that would maybe be a little harder to get on the agenda for budget hearings later. And then you also want to choose or suggest some dates that you are available. I suggest that you make contact as soon as you can to get that ball rolling.

CHAIR HANSEN: Okay, I appreciate that. Maybe Rick and I can work on that together. I think this might be where an administrative assistant would be really helpful. Is that okay with you, Mr. Carpenter?

MR. CARPENTER: Absolutely, anyway I can help.

CHAIR HANSEN: I want to remind everybody that this month is Earth Day. The County is doing a number of things for Earth Day. We're doing plantings in each of the five districts. Mine is aligned with San Ysidro River. Commissioner Hamilton's I believe is by the Arroyo Hondo Fire Station. We're doing some planting of pollinators and trees and willows along the river. But in all the places we are putting pollinator plants. In Pojoaque, I believe it is at the ball fields. I don't remember exactly where it is in District 3 but I think in District 5 out in Eldorado I know that Commissioner Hughes is also doing planting so I want to wish everybody a 51<sup>st</sup> Earth Day and I think that water is definitely one of the issues that we need to remember on this Earth Day and how precious it is and how much we need to pay attention to our water.

Is there any other matters from the Board?

**10. NEXT MEETING: Thursday, May 6, 2021 at 4:00 p.m.**

CHAIR HANSEN: It is likely that we will have a special meeting in between then. So we will have the next meeting before that. 5.25

**11. 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 BDDDB is a participant, specifically; *Buckman Direct Diversion Board v. CDM Smith, et al.*, First Judicial District Court Case No. D-101-CV-2018-01610**

CHAIR HANSEN: I would like to ask Ms. Long our Board attorney.

MS. LONG: Yes, Madam Chair, if you might ask for a motion to go into executive session in accordance with the New Mexico Open Meetings Act, NMSA 1978, Section 10-15-1(H)(7) for discussion regarding pending litigation in which the BDDDB is a participant, specifically Buckman Direct Diversion Board vs. CDM Smith, et al., with the case number as indicated on your agenda. And then take a roll call on that.

COUNCILOR ROMERO-WIRTH: So moved.

COUNCILOR VIGIL COPPLER: Second.

CHAIR HANSEN: Is there any other comment that we need to make on last's month executive session?

MS. LONG: Yes, Madam Chair. I would just have you state for the minutes or I can do that as well, that at our last Board meeting of March 4, 2021, the only matter discussed during executive session was that as contained in the motion for closure and no action was taken at that meeting. If we can have that indicated in the minutes



please. And thank you for that.

CHAIR HANSEN: And Councilor Romero-Wirth, do you agree with that addition?

COUNCILOR ROMERO-WIRTH: Sure.

CHAIR HANSEN: And Councilor Vigil Coppler?

COUNCILOR VIGIL COPPLER: Yes.

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

Councilor Romero-Wirth	Aye
Board Member J.C. Helms	Aye
Councilor Vigil Coppler	Aye
Commissioner Hamilton	Aye
Chair Hansen	Aye

[The Board met in executive session from 4:35 p.m. to 5:31 p.m.]

Councilor Vigil Coppler moved to return to open session noting the only discussed was that as listed on the agenda and no action was taken. Councilor Romero-Wirth seconded and the motion passed by unanimous [5-0] roll call vote.

**a. Potential action regarding case discussed in Executive Session**

COUNCILOR ROMERO-WIRTH: Thank you, Madam Chair. I would move that the Buckman Direct Diversion Board approve the settlement agreement with the joint venture defendants in the lawsuit described on our agenda as *Buckman Direct Diversion Board vs. CDM Smith, et al.*

CHAIR HANSEN: May I have a second?

MEMBER HELMS: Second.

CHAIR HANSEN: I have a second from J.C. Helms.

**The motion passed by unanimous [5-0] roll call vote.**

CHAIR HANSEN: And for the record, I will read into the record, the Buckman Direct Diversion Project represents a significant investment by the City and the County to provide quality drinking water to their residents. The Board takes this obligation to protect that investment very seriously. The project has been the subject of an ongoing dispute which ultimately caused the Board to take on the challenge and risk of filing a lawsuit. The Board has vigorously prosecuted that lawsuit and the claims in the lawsuit have also been vigorously disputed by the defendant. Today the Board approved a settlement with some of the defendants. No party to the settlement has admitted fault or wrongdoing. The settlement will, however, allow the Board to address some of the difficulties encountered at the project since its completion. The lawsuit will continue against the other defendant.

Thank you. And with that I would like a motion adjourn.

**ADJOURNMENT**

Upon motion by Member Helms and second by Councilor Vigil Coppler, Chair Hansen declared this meeting adjourned at approximately 5:35 p.m.

Approved by:

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Anna Hansen, Board Chair

Respectfully submitted:

Karen Farrell, Wordswork

**ATTEST TO**

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Kristine Bustos-Mihelcic  
SANTA FE CITY CLERK