

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

January 6, 2022

1. CALL TO ORDER

This meeting of the Santa Fe County & City Buckman Direct Diversion Board meeting was called to order by Chair Anna Hansen at approximately 4:20 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 CALL: Roll was called and a quorum was present as shown:

BDD Board Members Present:

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

Member(s) Excused:

None

BDD Board Alternates(s) Present:

Peter Ives, Community Alternate

Others Present:

Rick Carpenter, BDD Facilities Manager
Nancy Long, BDD Legal Counsel
Kyle Harwood, BDD Legal Counsel
Bernardine Padilla, BDD Public Relations Coordinator
Jamie-Rae Diaz, City Administrative Assistant
Antoinette Armijo-Rougemont, BDD Financial Manager
Monique Maes, City Finance
Jesse Roach, City Water Division Director
Marcos Martinez, City Assistant Attorney
Jay Lazarus, Glorieta Geoscience
James Bearzi, Glorieta Geoscience
Mary McCoy, City Finance Department Director

3. APPROVAL OF AGENDA

CHAIR HANSEN: There is one change requested by Councilor Villarreal and that is to move item 9.d, consideration and possible action on the MOU, up to right after the approval of the minutes so that she can hear part of this discussion.

Are there any other changes from staff?

RICK CARPENTER (Facilities Manager): Madam Chair, staff has no further changes. There were no changes to the published agenda.

Councilor Villarreal moved to approve the agenda as amended. Commissioner Hamilton and Councilor Romero-Wirth seconded. The motion passed by unanimous [5-0] roll call vote.

4. MATTERS FROM THE PUBLIC

CHAIR HANSEN: Jamie-Rae, is there anybody from the public who wishes to speak?

JAMIE-RAE DIAZ (Administrative Assistant): Madam Chair, there are some attendees in the attendees section but no one reached out to me to speak tonight. However, I received a public comment on item 9.b and I'll read that into the record: This is by Maria Shook. The comment is, There should be no limitation for public attendance. This is the prime reason planning commissions and governing bodies get away with passing illegal items. They are not held accountable for public presence.

CHAIR HANSEN: Okay, any other comments?

MS DIAZ: There are no other hands up in the attendee section for public comment.

CHAIR HANSEN: Okay, hearing none, I will close matters of the public and move on.

5. APPROVAL OF CONSENT AGENDA

8. ACTION ITEM: CONSENT

- a. **Request for Approval of annual payment to the Bureau of Land Management in the amount of \$68,034.50 for right-of-way rental fees**

CHAIR HANSEN: There is only one item on the consent agenda. It is a reoccurring item and I'm just going to let Councilor Villarreal know that this a request for an annual payment to BLM in the amount of \$68,000 for right-of-way and rental fee for the Buckman. It's a reoccurring expense we have every year. So with that, what's the pleasure of the Board?

COUNCILOR VILLARREAL: Move to approve the Consent Agenda.

MEMBER HELMS: Second.

CHAIR HANSEN: I have a motion from Councilor Villarreal and a second from J.C. Helms. Can we have a roll call vote.

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

6. APPROVAL OF MINUTES

a. December 2, 2021 Buckman Direct Diversion Board Meeting

CHAIR HANSEN: I want to read into the record for the statement from the Chairperson for the minutes. Also, I will state for the record and our minutes that the only matter discussed during our executive session of our last Board meeting on December 2, 2021 was the matter as stated in the motion to go into executive session and no action was taken.

I would like to know if there are any changes or corrections to the minutes by anybody. If not, what's the pleasure of the Board?

MEMBER HELMS: Move to approve.

CHAIR HAMILTON: Second.

CHAIR HANSEN: Including the statement that I just read into the record?

MEMBER HELMS: Yes.

CHAIR HAMILTON: Yes.

CHAIR HANSEN: Thank you.

The motion passed by 4-0 roll call vote with Councilor Villarreal abstaining.

9. ACTION ITEMS: DISCUSSION AND ACTION

d. Consideration and Possible Action on 2022 MOU between the US DOE, Office of Environmental Management, Los Alamos Field Office and the Buckman Direct Diversion Board Regarding Notification of Streamflow and Water Quality Monitoring in Los Alamos and Pueblo Canyons

MR. CARPENTER: Madam Chair, thank you. I am pleased that there's been a lot of work to get to the point where we're at especially in the last couple of days. But I think the MOU is really shaping up to be an improvement over previous versions and I think that Mr. Harwood would like to summarize some of the larger points.

KYLE HARWOOD (BDD Counsel): Thank you, Mr. Carpenter. Good afternoon, Madam Chair, and members of the Board including the wonderful new members who are joining us. It's as Commissioner Hansen and Rick have indicated this has been a long road. I'll just provide a couple of sentences of overview for those of you who may not be remembering. But we have had a series of memorandums of agreement with Los Alamos National Labs as it relates to the Los Alamos Pueblo Canyon system that drains about half of the LANL campus to the Rio Grande upstream of the Buckman Direct Diversion project intake. Those MOUs have historically addressed two main pillars of our relationship with LANL. One is the installation, management and operation of an early notification system. That early notification system is designed to give the operators at the water treatment plant notice of when there is stormwater discharging from LA Pueblo Canyon. We understand that there is a long history of legacy contaminants in LA Pueblo Canyon that get mobilized with rain and snow events as well as monsoon summer events and the precautionary principle that has been adopted since the initiation of the project is when we get the notification, we shut down diversions and

let that particular slug of contaminated sediment laden water pass by the intake without it being diverted and then to restart the diversion after that has passed. The second major pillar of the MOU has been a \$96,600 grant to the BDD to support the processing of water quality samples at the intake so that we can understand and characterize the contaminant flow in the Rio Grande both from LA Pueblo Canyon but also from locations further up stream.

We are currently operating on the fourth year of the third three-year MOU. We have extended this agreement twice. Once to the end of last year and then again until the second week of February with the intent of having both the Board and LANL sign as Commissioner Hansen described it the 2022 MOU.

We're looking at, as Rick indicated, some improvements over prior year MOUs. The main one being that with the input of our very capable technical advisors we've got to find a new flow monitoring station much lower in LA Pueblo Canyon, actually immediately upstream of the confluence of the Rio Grande and LA Pueblo Canyon arroyo that we feel will give us much better fidelity on when there are actual stormwater flows hitting the Rio Grande. There's been quite a lot of wordsmithing. Most of it improving clarity of the MOU which is why you do not have a formal redline to the existing agreement to the new one because it looks a little messy. The packet materials provided have the 2017 MOU and kind of an earlier draft. We've been working very hard through the holidays and since returning from holidays to get this as close as we can to a consensus draft that we are hoping can come back in February – perhaps even on the consent agenda for finalization before we time-out of our existing extension.

Before I turn to the details of where we are in the negotiations, this is sort of a briefing for the Board and we're obviously looking for feedback so that we can close this item out and bring it back to the Board next month for execution.

So before I get into the details, perhaps it's appropriate to stop there because I've talked for about couple minutes and see if there's any questions about where we are or where we're going.

CHAIR HANSEN: Kyle, I'm going to say a few words because I have been working very closely with Kyle and Rick and James on this. We have made a tremendous amount of progress. This afternoon I spent some time speaking with Michael Mikolanis who is the new EM director and he has been working with us to get this over the finish line. We had a few sticking points between Kyle and their attorney that we were able to resolve on the phone. And we are adding a few more things into it that I discussed with Mr. Mikolanis so that this is really one of the better MOUs that we have had in many, many years. There were just some sticking points between attorneys and I think between myself and the Environmental Manager we were able to resolve some of those and he has directed his attorney to go back and work with Kyle and get those items straightened out.

I also realize that there was a section crossed out at the very end about unless both parties agree to extend this MOU for an optional three years. That was in the previous agreement and Mr. Mikolanis agreed to put it in again so that we don't lose that. And he said that it probably just got taken out by his attorney but he understood that that was a much better option. And I will chime in with anything that Kyle wants to also talk about but during my conversation with him there was some concern about the E062 leaving this one monitoring station up at the top of LA Canyon, I believe it by the confluent and he

agreed to leave that in for a year until we know that the new station is actually working and I explained to him why we wanted this in as soon as possible. They don't want the six month agreement in there but they are willing – Mr. Mikolanis is from South Carolina and he didn't understand that we had a monsoon season here and that the early notification was really important to be installed before the monsoon season started. I explained that to him and he agreed that they would work on that and that they didn't want to be just held to a specific date – if it took seven months or it took four months – but that he promised me that he would work judiciously to get the station in. In December, myself and Kyle and James and Rick met with EM and San I at the site where the new monitoring station is going to go and I felt like it was a very positive meeting with San I and then we attended their council meeting and I wanted to make sure that this MOU and the agreement with San I and I shared that with Mr. Mikolanis and he agreed and thought that was a good idea. So I think a lot of the small really subtle points that we had been trying to resolve are now very close to being done and we will have an MOU by the next Board meeting.

I'll turn it back over to you and Kyle and James.

MR. HARWOOD: Thank you very much, Madam Chair. With that preamble, you don't leave much for me to do, Commissioner, but what I will propose to do now, unless there are any general comments or questions about where we are, I will go ahead and turn quickly now to the details some of which have already been covered. Hopefully, you can all see my screen.

This is the version that is in your packet. Obviously, the cover memo is a little thin because it's been a reoccurring item for this Board over the last couple of months. But turning now to the new proposed 2022 MOU with LANL. Obviously, we have the description of the parties, obviously, the background provides the context for this –

COUNCILOR ROMERO-WIRTH: Madam Chair and Kyle.

MR. HARWOOD: Yes, ma'am.

COUNCILOR ROMERO-WIRTH: We have two things in our packet. One says, LANL MOU final and the one says MOU version for January. I assume you're looking at the final, yes?

MR. HARWOOD: So what I think is in your packet –

CHAIR HANSEN: We have two copies in our packet.

MR. HARWOOD: Right, so what I'm showing is the first January XX 2022 which is the current draft future MOU and then what should begin on page 8 of your packet is the current 2017 MOU. Is that what you have?

COUNCILOR ROMERO-WIRTH: I don't know. We have two – it says 2021, 12/28, BDD LANL MOU version for January BDD packet. I assume given what we've heard about the developments this afternoon that the one we should be looking at is 2017, 11/20 BDD LANL final. But I guess we'll just watch what you've got and maybe somebody can let us know which of these versions is the correct one?

CHAIR HANSEN: I think that Kyle has up the one – the first one in the packet where it says January XX 2022 at the top.

COUNCILOR ROMERO-WIRTH: I don't have that one.

CHAIR HANSEN: I'm looking at the hard copy.

MR. HARWOOD: Does it look like this Councilor Romero-Wirth? Does it have this heading?

COUNCILOR ROMERO-WIRTH: No, it doesn't – the thing in the left-hand corner, January XX 2022, it does not have that.

COUNCILOR VILLARREAL: Madam Chair, actually this version that we're looking at is in the packet material.

COUNCILOR ROMERO-WIRTH: And which one is it?

COUNCILOR VILLARREAL: The one we're seeing on the screen, the 2021 –

MR. HARWOOD: Yes, I think that's right, thank you, Councilor Villarreal. And then the one that is dated 2017, Councilor Romero-Wirth is the current one that we have extended twice. It's the 2017 final.

COUNCILOR ROMERO-WIRTH: Okay, thank you.

MR. HARWOOD: Thank you and I'm sorry for any confusion. The one proposed for execution going forward is the one that has this header with the January XX 2022 on the top of it. With your indulgence, I won't spend any time on the background or the objectives. The objectives have been slightly rewritten for clarity but not any major conceptual changes. Obviously, the description of the authorities is the basis upon which the two entities can enter into this MOU. When we get into Section E which is the agreement principles we first cite the agreements with the Pueblo of San Ildefonso which for those of you who are not familiar with this section of world, the lower LA Pueblo Canyon watershed is pueblo land so we are hosted on their property for what is going to quickly become the new gaging station that I'm going to be discussing. So here's a rough description of the existing system: we have a set of gaging stations well up in the watershed some distance from the river and then we describe those gaging stations. The real advantage, and bear in mind that this is a little dated from some of the negotiations that Commissioner Hansen has shared with everybody but the real leap forward that we're taking in this new MOU is a new station down in the immediate vicinity of the confluence. It's actually right there where Otowi Bridge crosses the river, the LA Canyon drainage is entering the Rio Grande just immediately downstream on the south side of the highway and the proposal that Commissioner Hansen presented, the proposal that was also briefed to the San Ildefonso Pueblo Council last week, during the holiday week, was well received. There's some paperwork to approach with them to get this approved but the theory here is that we're going to go ahead and have a new gage installed to give the BDD operators better fidelity, as I said, on when streamflow through this LA Pueblo Canyon is actually reaching the river.

We have requested, as Commissioner Hansen indicated, that LANL commit to getting this new gage installed within six months. We're, as Commissioner Hansen relayed, we are still sort of working on the exact articulation of this hoped for deadline by which the gage would be installed and the diversion that comes to in February will reflect that conversation that's been happening even as late as a couple of hours ago. We have got commitments from LANL that the EO62 gage which is much higher up in the system, we've agreed that that should be and can be decommissioned when we know that the new gage is functioning as designed. So we are hoping that through a process where the technical staff can, by consensus of both parties, agrees that the new gage is working as designed, that that EO62 gage can be decommissioned. That's very important for LANL and one of the negotiating points. So it is different from the language here. This language contemplated a full amendment to this agreement and I believe at this point we're

recommending that the process be a little more informal but with the consensus of the technical staff from LANL and the Board.

I'll just keep going. Another big issue has been this \$96,600 grant. This is monies that the BDD project uses to do sampling at the BDD intake. This is part of a package of changes. This is a very important one to the Board. This is federal grant funding to support important sampling. We've had quite a lot of discussion about document sharing between the two entities. We used to have a lot more document sharing related to an annual meeting. The most current MOU removed the annual meeting process. This MOU is adding back in an annual meeting process and we're quite hopeful that reinitiating the annual meeting process between the staffs will really help with document exchange so that we're understanding LANL's data collection and reporting and they can understand better how the project operates and the issues that are important to the project.

We had initially requested some customized reporting of LANL reports, we've now moved off of that request and are going to be accessing those reports through the common database now that some of those issues have been sort of facilitated between the two parties. There is a little bit of a typo here, I apologize. But this sentence will probably be rewritten to be a little clearer. There was an earlier phase in the negotiations where we – what happens right now is that DOE requests LANL fund some of the stormwater sampling that happens up in the upper canyon and we kind of rely on that sampling effort and so does NMED. We had an earlier position that so long as they do fund those sampling efforts we'll rely on them and if they stop funding NMED, we would ask the lab to substitute their own funding for it. We've sort of moved off of that position. We're developing a stronger relationship with NMED that they will continue to request it and our working understanding is that LANL will fund it. So we're sort of articulating our reliance on that and we'll be asking for some clarification from NMED in a separate process that they will continue to make this a priority as they have.

Lastly, we've got the reinstitution of an annual review meeting process. This is starting to articulate some of the standard agenda items that will be at this meeting. This list will get a little longer based on some other edits that we've been doing this past week or two. This is a list of the standard agenda topics. And my proposal to the Board is that Rick and I would come ahead of the annual meeting and brief the Board on what the agenda topics are and make sure we get guidance from the Board on what questions and issues you want to make sure are addressed during the annual meeting and we would come back after the annual meeting and report out the results of the meeting so that you have good visibility on this relationship going forward.

We've updated some of the client contacts. As many of you know, I work under a subcontract with Nancy, so we've gone ahead and listed her as the Board's general counsel as we have in the past. It's been drafted for execution by the Board chair on our side and Mr. Mikolanis for the Environmental Management side at LANL.

I hope – I know that's a rather rapid review of the number of edits. I apologize if I lost anybody going through it that quickly.

CHAIR HANSEN: So before I call on Councilor Villarreal, I also ran this by Mr. Mikolanis that we add a sentence to the MOU that highlights and recognizes that the early notification system is a shared goal of both the Board and LANL and that the Board and ENS provide front line notification of changes to Rio Grande water quality so

that we can turn off diversions at the river when Los Alamos and Pueblo Canyon is discharging to the Rio Grande. I think this is implicated in the new MOU and all and previous MOUs but I would like to have it clearly stated as a principle and he agreed to that and then also the 2017 MOU had a sentence that I mentioned earlier about being able to extend the contract for up to three years by mutual agreement and he agreed to that also. And I will go to you Councilor Villarreal because I know you're on a timeline.

COUNCILOR VILLARREAL: Thank you, Madam Chair, and it's great to be on this Board to be working with my colleagues and the BDD staff. And I'm excited to learn a lot more. I know some things but there's probably a lot more that I need to be updated on. I just wanted to thank you all – I actually read the minutes and they were very helpful to get me in tune with what this agreement was about and some of the concerns and questions especially as it related to sampling so that was super helpful.

I have to run off to a doctor's appointment that was scheduled a long time ago. I don't have any questions. I was just assuming that all of the highlighted sections of the document are the areas that we modified and have been in discussion and so assuming we'll get that updated final version next month, I think the only other question I had is kind of random but at the end it says this MOU is not legally enforceable and I didn't understand that. I thought that MOUs were legally enforceable.

MR. HARWOOD: The format that we have used for this MOU, Councilor Villarreal since inception is that this is not a contract, it's not a settlement agreement, it's not a consent order, it's not a stipulation. It is essentially a written document evidencing an informal relationship between two neighbors. So that is language that has been in there since the beginning and that is the kind of MOU this is. Certain MOUs can have enforceability provisions. This one does not. So it fits into a slightly different box that in the federal world, sort of speak, and we have been fortunate enough to have good working relations with LANL and a lot of visibility with the federal and state delegations on this relationship such that its lack of formal enforceability has not been a hindrance to us.

COUNCILOR VILLARREAL: Okay, thank you for the clarity on that. Madam Chair, do we need to vote before I leave because I do need to jump off in a minute.

CHAIR HANSEN: Unfortunately, I think that we still have a few more changes to make that's why I had this discussion with Mr. Mikolanis today to make sure that we had just a few more of these final items taken care of. So I think that we will be able to put this on consent as Kyle said at our next meeting or have it on as a discussion item. But most of the things that we have talked about I have to say, Mr. Mikolanis has been very accessible and is very willing to work with us and is trying to build faith which is more than anything that we have had in the past and is very responsive to a number of issues, even some of the issues that I had brought up that happened at the San I council meeting, he agreed with me that that was inappropriate and – so I feel that we are developing, working to develop a trusting relationship but also making sure that it is in this MOU and that we are covered to the best ability that we can.

COUNCILOR VILLARREAL: Thank you, Madam Chair and thank you all for your great work on this and I'll try to jump on the executive session if I'm able to depending on when I get out of this appointment. So blessings to all of you and I'll see you soon.

CHAIR HANSEN: Yes, welcome and thank you for being here.

COUNCILOR VILLARREAL: Thanks, great to be here.

CHAIR HANSEN: Okay, next, did I see your hand raised Commissioner Hamilton?

CHAIR HAMILTON: No, I was waving goodbye. Sorry.

CHAIR HANSEN: Any other questions from the Board? Yes, Mr. Ives.

MR. IVES: Thank you, Madam Chair. Just a couple and I'm looking at E.2, that first portion there where it talks about both the streamflow data and also visual verification. How does the visual verification work?

MR. HARWOOD: We are –

CHAIR HANSEN: From what I understand, the new visual station is a radar station but I will let Kyle and Rick give you a more detailed answer.

MR. HARWOOD: It's a radar station.

MR. IVES: So what is it you're looking at?

MR. CARPENTER: Directly at the ground, counselor Ives, with some degree of coverage over the channel but it will be a directly down pointed radar station.

MR. IVES: So basically, you get a visually of water going through whatever area the camera is picking up?

MR. CARPENTER: Yes, that's what is different about this location because it's so close to the confluence of the Rio Grande. Before, if you'll recall, we were measuring it at 5 cubic feet per second. We're not going to do that anymore. We're just going to say, there's either flow or there isn't flow: it's a flow, no-flow. And probably a lot better indicator of what we need to know.

MR. IVES: Okay. I guess I had always presumed it was a certain amount of flow where the concerns were raised as opposed to any flow or no flow or flow.

MR. CARPENTER: Right, so further up the channel where the E1099 was, the presumption was that 5 cfs at that location would reach the Rio Grande but now we're going to put the station close enough to the Rio Grande where we don't need to measure the actual flow only that it is there or is not there.

MR. IVES: So that paragraph goes on to say that visual verification of stream flow, the BDD at the following gaging station locations to enable BDD staff to make decisions regarding facility operations, including temporarily ceasing diversion of water from the Rio Grande. So what is the protocol there?

MR. CARPENTER: The protocol is that we will get a signal, actually it will be an alarm and we would automatically cease diversions until there is no more flow at that location.

MR. IVES: Interesting. I appreciate that clarity, that's very straightforward. So the real concern obviously is any flow coming into the Rio Grande from that point on Pueblo Canyon.

MR. CARPENTER: Correct.

MR. IVES: Okay. And then the stations that do the stream flow data are actually measuring flow and do they all feed down into that one so that the final visual is basically gives us clear direction in all instances as to what our pathway forward in terms of extraction of water from the Rio Grande.

MR. CARPENTER: It's not a sampling station. It is just a flow monitor.

MR. IVES: Yeah, but everything else flows down through that point.

MR. CARPENTER: Correct, yes. That's the bottleneck and that's why we are happy with that location.

MR. IVES: Got you. In page 4 of 6, E.5, end of the first paragraph it says, "EM-LA will also copy the BDD Board on correspondence from EM-LA to NMED regarding this plan and report," but there are two reports that are referenced above. Should that be expanded to cover both reports or is it meant to be limited to one report or another in which case we may want to specify which.

MR. CARPENTER: I don't know. Mr. Harwood, maybe you want to expand on that.

MR. HARWOOD: I think what you're going to see in the new draft, counselor Ives, is that this topic is largely getting moved to the annual meeting where we can work through the current reports, we can ask questions about them, we can ask for updates too and whatever responses have been received back from NMED and that I believe is going to be one of the changes that you'll see in the next draft. We'll make sure that we get all of our singulars and plurals correct in the final that we bring to you next month.

MR. IVES: My only follow up question is, if we're going to do this at an annual meeting would we want any of that information sooner than an annual meeting if it occurred say in the first month of the following year?

MR. HARWOOD: We haven't prescribed when the annual meeting is going to be. I suspect we will be requesting that the annual meeting for this year happen in the next 90 or 120 days so we can get a good handle on how we're going to function under the new MOU and get things sorted out before our time of greatest concern which is monsoon season. That is, we're all planning on a monsoon; right, hopefully. So what we're basically doing is we are reviewing reports that are being provided by LANL to NMED primarily. So we are kind of feeding into their regular report, comment, review, approval process and the annual meeting will allow us to dialogue with our counterparts at LANL with whatever is then current during the annual meeting but also then to build out a working relationship probably at the technical level to keep up with that regular cycle of reports. And whether we keep the annual meeting kind of in the spring or we move it to the summer or we move it to fall, we've always struggled with whether we should meet ahead of the season or whether we should meet at the end of the season and review what has happened. We'll certainly be coming back to you with updates on how things are unfolding and what we think is working and hopefully our consensus on how to do this. But the annual meeting process I think will play a much bigger part on maintaining an active working relationship with LANL and getting the Board's questions addressed.

MR. IVES: And really I am just an advocate for more communication than less when it comes to that so if there is updates on those reports or information that would be of significance to BDD, I would certainly hope it is being transmitted more frequently than in a final report before the annual meeting.

MR. HARWOOD: Very good. And as I said, we'll schedule the meeting and we'll come to you before it happens and collect a more nuisance direction like this from you all and then we'll report back at the meeting that follows the annual meeting.

CHAIR HANSEN: I guess, Kyle, one of the other sticking points that we were having that Kyle and John were discussing was they also wanted, LANL, wanted to

know when else we close the diversion at other times. And those are reports that we don't do. So they requested so, okay, if you don't do those reports could you at the annual meeting give us a verbal report of telling us what other times you might close the diversion. And I explained to Mr. Mikolanis that a couple of years ago we put up a coffer dam and we closed the diversion or if there is high turbidity in the river we close the diversion. If the water is too low we close the diversion. So you know, I tried to give him some examples of that and he instead of requesting a written report he asked if it could then be part of the annual review so that they could also understand that and his reasoning for it was that they also are looking at data and were just interested in how the Buckman Direct Diversion operated.

Mr. Mikolanis has asked to have a tour of the Buckman Direct Diversion and we did try and schedule that but then he had to leave town, so he has asked again at some point, but I think it now needs to wait until the spring or when it's not quite so cold so that we could show him diversion – he was just interested in how it operated.

MR. IVES: Got you. That was all I had.

CHAIR HANSEN: Okay, are there any other questions from the Board?
Thank you very much.

7. PRESENTATION/INFORMATIONAL ITEMS

a. Monthly Update on BDD Operations

CHAIR HANSEN: Randy Sugrue, BDD Operations Superintendent, welcome.

MR. CARPENTER: Madam Chair, Randy Sugrue similar to Councilor Villarreal has an appointment so he cannot attend this meeting. I'll cover his report.

There's not a lot of things to update the Board on this time of year. Demand overall is down, around 6 million gallons per day. The BDD is supplying about 70 percent or so of that. Turbidity is very low so that's good. One issue that we have encountered the last couple of weeks is, we do have some icing on the screens at the river in the mornings. We can go down there and knock off the ice or just wait for it to melt but then we have to pump a little harder than we otherwise would but it's not an issue. We are able to deal with it. From an operational perspective this is a pretty easy time of the year.

Mr. Sugrue did provide a short memo that is in your packet and I'm happy to answer any questions that the Board may have.

CHAIR HANSEN: Are there any questions from the Board? Member Ives.

MR. IVES: Thank you, Madam Chair. Just one quick question, Rick. On the front sheet in section one it talks about raw water diversion at 4.46 million gallons per day, drinking water deliveries of 4.27 million gallons a day but indicates that the deliveries to Las Campanas were zero and then it says onsite treated and non-treated storage of 0.19 million gallons per day average. If that's presumably that storage is not accruing it's simply an amount of – on a daily basis you have total storage of 0.19 but if we're diverting the 4.46 everyday does that include then the storage that had been accrued from a prior time or how does that get handled?

MR. CARPENTER: Madam Chair and Councilor Ives, that's a good

question. It depends on how we're operating that day and how the rest of the system is behaving. We can simply pass that water through our system or we can store it. As you are aware, we have quite a lot of storage capability onsite. So it just depends on how in coordination with the rest of our system we choose to operate. It can be passed through or it can be stored. It can be storage from a previous day.

MR. IVES: Yeah, I just wondered if the numbers given if we were storing almost .2 million gallons per day what was happening to that accrued storage because it didn't seem to be reflected in either of the deliveries. I don't know if it is stored before delivery, I would presume.

MR. CARPENTER: Yes, generally that is the case. And we try to keep about 20 million gallons in storage overall in the system. This time of year it doesn't bother us too much because the water is pulled so that's not an issue either. So it's really just how we operate the system overall on any given day.

MR. IVES: I was just thinking the deliveries should maybe be upped by the 0.19 if that's being moved out to allow for additional storage to accrue.

MR. CARPENTER: And that can happen but it doesn't always happen.

MR. IVES: Okay.

CHAIR HANSEN: Thank you very much. Any other questions from the Board? Seeing none, we'll move on.

7. b. Report from the Facilities Manager

MR. CARPENTER: Thank you, Madam Chair. I don't have a whole lot to report out on. I was going to summarize our activities on LANL and the MOU but we've covered that. We have had a lot of other discussion that [connectivity issues-43 minute in]

MR. HARWOOD: Thank you, Rick. There's one small matter. NMED does this comment cycles that are quite quick and they don't hardly ever match up with the BDD Board packet meeting cycle. So we're aware of another comment deadline next week and we are, with your permission, going to go ahead and submit some comments to the three out of three list process that are consistent with prior Board approved comments. So, again, I apologize for the slight wonkiness of that but I did want to let you know. Our normal process as many of you know is to bring draft comments particularly if they're new topics or new areas and have you sort of approve those before they go in. The nature of this comment cycle has to do with the setting with TMDLs or total maximum daily loads for some of the segments, both the segments of the Rio Grande above Cochiti and one of the stream segments on the Pajarito Plateau running through LANL. So, again, apologies for the wonky cycle of comments and Board packets and meeting schedules but we wanted to let you know unless we hear concerns today that we'll go ahead and submit comments consistent with Board approved comments in the past.

CHAIR HANSEN: Okay, I'm going to go first to Councilor Carol Romero-Wirth.

COUNCILOR ROMERO-WIRTH: Thank you, Madam Chair. Will we and can we get a copy of those comments either by email or in the next Board packet just so we know what you've said.

MR. HARWOOD: Absolutely, Councilor. With your permission – well, let me ask, would you prefer we just send them to the Board directly when submitted or would you prefer to see them as an agenda item?

COUNCILOR ROMERO-WIRTH: I kind of think we should get them when they're submitted.

MR. HARWOOD: Very good. We'll get them out to you expeditiously for your information and if you would like any prior comments also in the same email so you have a sense of the issues, let me go ahead and do that. You cannot read it if you're not interested but if you don't have it, it's probably hard to find.

COUNCILOR ROMERO-WIRTH: I think that's probably a great idea, thank you.

MR. HARWOOD: Very good, we'll make sure we do that. Mr. Bearzi, I think you are – I see you on there, we'll be relying on you to help us do that. Okay. Very good.

CHAIR HANSEN: Thank you.

MR. HARWOOD: Oh, there's James [Bearzi], very good thumbs up, great. Thank you.

CHAIR HANSEN: Nice to see you, James. Yes, I think that's a great idea. Thank you, Councilor Romero-Wirth. Commissioner Hamilton.

CHAIR HAMILTON: Not necessary. That's exactly what I was going to ask.

CHAIR HANSEN: Okay, great. It sounds like we're all on the same page.

COUNCILOR ROMERO-WIRTH: Great minds.

MR. HARWOOD: There you go.

CHAIR HANSEN: I have one question for you, what about an administrative assistant?

MR. CARPENTER: Yes, Madam Chair, thank you for reminding me. We slowed down a little bit over the holiday season. The cycle that we're in right now is that it is actually on my plate to follow up on doing reference checks. That's on my schedule for tomorrow and hopefully we'll be able to start thinking about making an offer very, very soon.

CHAIR HANSEN: Okay, that's great. Thank you. Let's move on.

c. Update regarding termination of PNM Electric Facilities and Service Agreements for Booster Station 2A and for the Water Treatment Plan effective as of October 9, 2021

CHAIR HANSEN: Antoinette, nice to see you, welcome.

ANTOINETTE ARMIJO-ROUGEMONT (Accounting Supervisor): Good afternoon, Madam Chair and members of the Board. I have an update for you on the final two agreements with the PNM facilities charges. There were originally four agreements, one for each PNM account at the facility. The first two agreements terminated last year and these are the final two which terminated in October and they are for Booster Station 2A and the main water treatment plant. We will no longer be billed the unused facilities charges as we have paid our investment credit. We estimate that we'll be saying about \$20,000 to

\$30,000 per year. These agreements began on July 1, 2011 and we have no further obligations under these agreements.

CHAIR HANSEN: Thank you, Antoinette. Any questions from the Board? Okay, great, thank you.

d. Status Update on BDD Audit as prepared by the City of Santa Fe

CHAIR HANSEN: Welcome, Mary, we are happy to have you here and thank you for taking the time to join us.

MARY MCCOY (City Finance Department Director): Hello all. Thank you for having me, members of the BDD Board. Madam Chair, I have a presentation prepared to give and then we are available to stand for questions as well.

CHAIR HANSEN: Okay.

MS. MCCOY: I will go ahead and share the presentation and I apologize to Councilor Romero-Wirth, this will be the second time that she has heard this presentation because we've also given this update to the finance committee of the governing body. Bear with me, we have quite a lot of slides, about 27 and I'll go ahead and give you the abridged version because I know you have a lot of business to attend to this evening. Our goal is to be able to set a common – a level of common understanding amongst all of our entities that rely on the City of Santa Fe's financials to be completed. We're going to give an overview of the financial audit, fiscal responsibility as well as the City of Santa Fe's financial performance, our ratings and financial facts. We're going to take a bit of a look back in history and former Councilor Ives I am glad to see you on the call today. You'll be very familiar with the fraud risk assessment that was performed while you were still a councilor with the City of Santa Fe. I'm going to update the Board as to our accomplishments in these last few years to give perspective to what has put us in this situation today and all of the hard work that the teams from all the departments including the BDD staff have been working on to get us to the point where we're at today. I'll review a few of the FY challenges that we had with the FY20 audit and review our action plan for the FY21 and FY22 audit as well as give you a detailed look at where we stand now with our audit prep for FY21.

Just a brief overview and I'm sure all of the members are familiar with these terms, but a financial audit differs than fiscal responsibility. A financial audit, of course, is an independent examination of an organization's financial statements to make sure that they are fairly and accurately represented. Whereas, fiscal responsibility is a government pursuit to have essentially a balance budget at the end of the day. What is financial performance and our financial health to review the financial performance of an organization is to review the statement of net position and whether or not the City in our case, net position has improved overtime or if it's declining over time. So to give you a little bit of an overview of what the City's net position we use year to year comparisons for this. Our net position actually increased from FY19 to FY20 by \$13.6 million. This covers our governmental activities which are the funds such as the general fund that capture all of our fire and public safety or internal service type functions to our business type activities which are all of our enterprise including, for example, water, wastewater, environmental services. Here's a brief overview of the financial audit opinions, again, given that our audit is presented to you on an annual basis as well you'll be very familiar with the different types of audit opinions. The City of

Santa Fe had an unmodified opinion which is here in green. This is the best opinion out of the four different types of opinions. There's also a modified opinion that falls under three different categories, qualified opinion, adverse opinion or disclaimer of opinion which is the worst. So we definitely want to point out that the City has had an unmodified opinion meaning our financial statements are accurately represented.

When we combine the financial audit opinion as well as the financial results we're able to understand where we fall in this four – if we break it into a four box matrix. Right now where the City is falling is the fact that we have an unmodified opinion and improving that position so that's the best option that we have out of this four box matrix. As recently, and just remind the members of the Board, as recently as fiscal year 17 the City had a qualified opinion which is again not -- one of the less desirable outcomes so a lot of work for fiscal year 18, 19 and 20 has gone into ensuring that we would be able to maintain an unmodified opinion with improving financial results.

Most recently the Fitch and Standard & Poor's, which are two independent rating agencies have affirmed the City of Santa Fe's AA+ and AA rating and included a stable outlook for the City of Santa Fe. This is very important because these two ratings – independent rating agencies review our financials and then confirm to the public and any stakeholder what they are reviewing in terms of our financial statements or financial results is positive and is stable. They have cited that the City's strong budget management and our proactive fiscal management through the pandemic were part of their excellent ratings.

Slide number 8 just has a few quotes from both Fitch and S&P about the City's strong budget management as demonstrated by our efforts to maintain sustainability in anticipation of our pandemic induced revenue pressures and our significant restructuring of our operations during the pandemic.

Moving on, we went through this rating agency in order to be able to refinance our subordinate lien GRT revenue. So the City was able to in the fall sell \$13.5 million of our subordinate lien GRT revenue and in doing so we were able to save taxpayers about \$1.3 million.

The next few slides contain financial facts about how complicated our financial structure is, just to be able to put into perspective the size of the City and the complexity of our operations. So the City of Santa Fe has under outstanding debt of over \$200 million. Out of this outstanding governmental activity we have about \$80 million in debt backed by GRT revenue and lodger's tax close to \$600,000 in outstanding revenue back by loans and close to \$20 million in outstanding property tax supported by a general obligation debt. In addition, we have about close to \$100 million in bonds that's backed by a specific operational revenue sources so this could be anything from our enterprise, for example, water and wastewater debt.

Moving on, I'll just continue on forward to review our capital asset administration, this is significant and this is nothing new to the Buckman as you all have additionally significant capital assets. For the City of Santa Fe we have \$700 million both in our governmental and our business type activities. This is for the fiscal year ending June 30, 2020. These capital assets include everything from land and buildings to vehicles and parking facilities. In FY20 are construction and progress across all different City facilities totaled close to \$40 million, again, both in governmental and business type funds and this covers everything from street paving to building renovations and even our traffic calming

projects. So, again, a significant amount both when we talk about our outstanding debt that we have to actively manage as well as our outstanding capital assets.

Again, this is a look back and this will be familiar as well because this made front page of the newspaper several times in 2017. The McHard Accounting firm was hired to do a fraud risk assessment that identified extremely high risk of fraud for the City of Santa Fe. We have categorized the three main problem areas for that fraud risk assessment which was about 40 pages into three main areas: a failure of our internal audit function and external audit functions as well as a lack of internal controls. So over the series of the next slides I'll go ahead and review what the problems were and what the City has done over the last few years to correct those problems.

The McHard Accounting firm in its recommendations on how to correct for the high risk of fraud did make these two important points: that the City had to prioritize recommendations in their report to implement them in a logical, meaningful and cost effective way. In order to implement too many recommendations all at once, but less all of the recommendations simultaneously, McHard report stated would doom the City to failure of our efforts. So we've really taken this to heart and been able to prioritize over the last few years what recommendations we carry forward and prioritized. Here we have one of the main problems identified in the McHard report as the internal auditors office failed to uncover or address many obvious issues over the years. Our internal auditors also failed to note the issues and the internal audit function, which was internal to the City staff, was not particularly effective. So in response to that problem identified, the City outsourced our internal audit functions to an accounting firm with appropriate experience and certifications to comply with our internal audit standards and the City's ordinance including a peer review process. In 2018, the City performed a risk assessment again it was outsourced audit function and now in 2022 we're getting ready to perform another risk assessment. The internal audits that have performed since the 2017 McHard report include the ones that are listed here to for the four fiscal years since the McHard report.

Improvements with our financial audits: the McHard report identified that while the City of Santa Fe changed audit firms from one audit firm to the next so we were technically in compliance with the State auditor's audit rules, some members of the audit team did not change. They actually stayed on the City of Santa Fe's financial statement audit engagements by moving from firm to firm. So individual members of the City's audit team remained the same for many years. According McHard accounting firm that led to a level of familiarity and complacency that may result in missed findings. And, again, as I mentioned earlier, as recently as FY17, the City had a qualified adverse opinion in our financial statements. So since then, the City has issued an RFP, it's a competitive bid process for audit services and has awarded the City's audit contract to CliftonLarsonAllen. The City has also performed other audits including an audit conducted by the IRS in the calendar year 2016 and 2017, our lodgers tax audit as well as a performance audit of the police department which was performed by an outside organization called the Police Foundation. So we're moving forward and continuing on with multiple different types of audits.

The last major problem which covers a significant area were problems with the lack of internal controls as identified by the McHard accounting team which was due to a series of issues including an antiquated accounting system, lack of control over computer access rates, a lack of financial and other written policies and procedures and employees who had

no training for their jobs. So the City's number one priority to be able to respond to the McHard report's assessment to a lack of internal controls was to implement a new enterprise system called Tyler Munis Financial and Human Capital Management System. We implemented this modern accounting system before, as many of you will remember, we were on a green screen, it was a home built system built back in the late 1990s and so it took a major initiative to be able to implement this modern new accounting system primarily to be able to move away from our antiquated internal controls.

CHAIR HANSEN: Mary.

MS. MCCOY: Yes.

CHAIR HANSEN: We appreciate all of this but really one of the things that we are really concerned about is and as it is 5:30 – we wanted an explanation of why the audits are late and what we can do at BDD to get our part of the audit done on time. We don't like having our audits late and so, is there a way that you can help us get our cash balances on time so we don't have to have a late audit? That is our concern.

MS. MCCOY: Okay, great. I can go ahead and we can provide you this presentation that identifies all of the corrective action that we have taken in the last few years to be able to get us to having a more robust accounting system to be able to have a new staff with different types of certifications, to be able to have updated policies and procedures all which do lead us to making efforts to having an on time audit. Developing trainings for our staff so that they are able to manage the reconciliation process, to be able to manage the functions within our Tyler Munis system – all of these improvements do lead up to having an on time audit to be able to address the concerns that you have identified, Chairwoman Hansen. I'll go ahead and just move forward through some of the challenges we had in FY20 which led to our late audit in FY20 including turnover in key positions, and having other priorities that took precedence in the middle of the pandemic like processing our Cares Act money. At this point, we have identified five key steps in our action plan including hiring an audit coordinator who will be responsible for coordinating onsite both with City staff, BDD staff and all department staff to prepare for our – for all of the deliverables that need to submit to our auditors. We have formed a special focused audit team for both FY21 and FY22 audits including staff from all of our different departments. We are also working with four different accounting firms to assist us to be able to get your cash balances very quickly and we are also – just a reminder that we're continuing to fill our critical positions across all city departments including the finance department that has about 20 critical positions that are still vacant. We are also conducting an independent review to assess our systems, processes and structures involved in our annual closed process in our audit preparation to ensure that we're taking the appropriate corrective action so our audit is not late in the future.

The audit status which is, Chairwoman, what you were requesting from this presentation, this slide gives you a highlight of all of the items that have been completed in our closed process – everything from deliverables from budget and procurement and payroll to a preliminary reconciliation of our investment, bank accounts of all of our workman's comp, general liability, you know, of all of our revenues, revenues from our central revenues like gross receipts taxes as well as the revenues coming in to environmental services and we're happy to report that thanks to Antoinette and your team, that we did receive a little while ago the BDD did submit the March through June 2021 billing to the Public Utilities Department so we're able to process that billing as part of our year end closed process. So

all of this is what our teams have been working on to be able to move forward towards submitting our trial balance to the auditors. Continued, we have reconciliations about 5,000 accounts across all 70 City departments that are underway and these major accounts that are listed on page 25. And moving forward, what the status update is what are our next steps are is through the month of January to March of the current year we're going to continue our reconciliations and correcting journal entries that we may have, for example, taking the billings from BDD and being able to post them to our Public Utilities Department and correcting and reducing the severity of our findings from last year and in addition, as I mentioned earlier, conducting our independent assessment and implementing any recommendations to ensure that we are on time with our FY22 audit.

Our goal is to produce a trial balance in our schedule of expenditures of federal awards by March 31st. This will produce our trial balance and allow cash to be reconciled which is what we will turn over to the auditors which will allow the auditors to begin to commence the audits both with BDD as well the City. So the April 1st is the target date for our external auditors to start the audit and we, in coordination with CLA we have set a target date for them to complete the audit of June 30th. So with that, Madam Chair, I will stand for questions.

CHAIR HANSEN: Thank you very much. Questions from the Board?
Commissioner Hamilton.

CHAIR HAMILTON: I really appreciate the presentation. I wonder if it would be appropriate for us to get a copy of it. I see that it's not in the BoardDocs, it would be really great to be able to look at it.

MS. MCCOY: Yes, of course. Madam Chair, Commissioner Hamilton, we can provide this.

CHAIR HAMILTON: Thank you.

CHAIR HANSEN: Is that all you have, Commissioner Hamilton?

CHAIR HAMILTON: Yes, at this time.

CHAIR HANSEN: Mr. Ives.

MR. IVES: Thank you, Madam Chair. Mary, it's good to see you. I was going to correct one factual statement which was we had actually started the process of switching to Tyler before the McHard was ever published or out or probably even asked for simply because it was clear to a number of us on Council prior to that that various IT systems were in dire need of updating so it was actually spoken of at the time of the McHard report that the implementation of that system hopefully would resolve many of those perceived possible areas for fraud to occur. So it's great to see it happening.

CHAIR HANSEN: Commissioner Hamilton.

CHAIR HAMILTON: Thank you. Now you mentioned that cash balances accounts and it was my understanding from a loose timeframe of a couple of years ago, maybe three years ago because Covid takes one whole year out – it's like a missing year, at that time there was an attempt made to identify which aspects of the City process were holding up the BDD process and it's my recollection that cash balances was one of the things that held it up. So you're shaking your head and one of the questions was did you still think that was likely and the corollary to that question to that was, is there a way to further separate the way cash balances were managed so that BDD results wasn't so dependent on having the City's result finalized? It's nice to see this action plan that would

get the whole City audit on time which if it happens will address the BDD concern but so would making a little more separation. What's the possibility of that?

MS. MCCOY: Madam Chair, Commissioner Hamilton, thank you for the question. That's an excellent question. I really do see it as two parts. One is to have a target as we talked about in the corrective action for our findings to attain a month end to close process. So that's fancy accounting language for saying, let's not wait until the end of the year to reconcile our accounts for the entire City including BDD all at once. Let's tackle this in a 1/12 basis. Former Councilor Ives probably remembers this from his time on the Council, this has been our goal, right? As to be able to close each month. So in the month of August we are closing out all the transactions and reconciling all the transactions that occurred in the month of July. And by taking that 1/12 approach we will be able to – by the time we get to June, we're only reconciling the month of June we're not reconciling from July 1st through June 30th. This is a basic building block of being able to have financial statements that are up to date. So that's one key piece. For example, and I know we've all been short staffed and we're all, throughout the pandemic and the frozen positions, but being able to have the BDD reconciliations be done is a really key important piece of the entire pictures. Being able to have those billings. being able to show that we're submitting those billings at least on a quarterly basis to the entities will be a key piece of being able to have the financial statements up to date and be prepared for the audit. In addition to that, being able to have a goal of not having the cash commingled and what I mean by that is, through our reconciliation process by doing it on a monthly basis we'd be able to have very clear reports on what the cash accounts are for all of the entities where the City is the fiscal agent. So that includes SWMA, BDD, and of course the City.

CHAIR HAMILTON: Thank you, that seems to make good sense and it reminded me that I think there was some discussion of remedying that issue of commingling all of the accounts a few years ago and then the suggested corrected actions of separating them was overtaken by the replacement of the financial system, you know, bringing up the new financial system. So hopefully maybe we can move forward with that. Were those similar recommendations? Am I remembering that correctly?

MS. MCCOY: Madam Chair, Commissioner Hamilton, yes, that is correct and that is still our goal. I think at this point being able to produce a month end close process is the first step and then we'll be able to have those accounts reconciled on a month by month basis which was the foundation for us to be able to separate and segregate into different accounts as you had mentioned. That is still the goal, absolutely, again, for all three entities. Not only for the City but also for BDD and SWMA.

CHAIR HAMILTON: Great. Thank you.

MS. MCCOY: Yes.

CHAIR HANSEN: Thank you, Mary. I appreciate you taking the time to come here. I feel very strongly about not having late audits. I have some experience with the City around the 2008 bond and the 2012 bond and audits that happened then and I think that if we can see in the next year the cash balance and billing and then Antoinette can work with you to make sure that we get this so we can get these things on time, that would make my concerns with the City much more palatable. So that is my request for you to please work with us, work with Antoinette so that we can get our cash balances and we can get the billing done so we can have our audit done on time and we are not being penalized, sort of speak, because your audit is late.

MS. MCCOY: Absolutely, Chairwoman Hansen, we look forward to continuing to work with Antoinette. We are very excited that she is with BDD and it's a pleasure to work with Antoinette so we look forward to continuing on and ensure that we're all hitting our goals in the coming year.

CHAIR HANSEN: Okay, I think there's probably more questions but we have limited time as all boards do and we started a little late unfortunately. So if I don't see any other questions from the Board, I want to thank you very much for taking the time to come here. I want you to know how important it is that we don't have a late audit. We would like the City to not have a late audit. We would all of the accounting to look really good and shine. So that is my hope and wish for you for the new year.

MS. MCCOY: Thank you.

9. ACTION ITEMS: DISCUSSION AND ACTION

a. County of Santa Fe Water Policy Advisory Board Appointee from BDD

CHAIR HANSEN: I believe I had spoken with Tom Egelhoff and asked him if he would be willing to serve on the County of Santa Fe Water Policy Advisory Board. He has agreed. So I would like to appoint him to that position. We have a representative that needs to serve on our Water Policy Board from the BDD and so with that – I don't think I need a motion but if the Board wants to vote on it, I am more than willing to entertain a motion to appoint Mr. Egelhoff to the Santa Fe County Water Policy Advisory Board.

NANCY LONG (BDDDB Legal Counsel): Madam Chair, yes, I would recommend taking a motion on this because of the way it is positioned on the agenda.

CHAIR HANSEN: Okay. So could I please entertain a motion?
Commissioner Hamilton.

CHAIR HAMILTON: I would be happy to move that we appoint Tom Egelhoff the BDD representative on the County's Water Policy Advisory Committee.

MEMBER HELMS: Second.

CHAIR HANSEN: I would be happy to second it or did you second it
J.C.?

MEMBER HELMS: I did, sorry about that.

CHAIR HANSEN: No, I'm happy to have you second it.

The motion passed by unanimous [4-0] roll call vote. Councilor Villarreal was not present for this action.

CHAIR HANSEN: Thank you, Tom, and thank you for your willingness to serve on this board. We look forward to you participating in our County Water Policy Board.

b. Consideration and Possible Action on Resolution 2022-1, Determining Reasonable Notice for Public Meetings of the Buckman Direct Diversion Board and allowing the Board to continue to Limit Public Attendance at Meetings Provided there is Sufficient Means to Allow

Remote Participation and Allowing the Board to Cancel any Meeting to Preserve the Public Health, Safety, and Welfare and Allowing for Alternate Forms of Attendance by its Public Members

CHAIR HANSEN: With that, may I have a motion to support this resolution or is there any discussion? Nancy, do you want to say anything?

MS. LONG: Madam Chair, members of the Board, as you're aware this is an annual requirement under state law that we determine our reasonable notice for the Board. Our resolution has stayed fairly consistent every year. But starting in 2020 we did add the public health pandemic related restrictions that can be allowed for public meetings and those don't seem to be going away anytime soon, that allow for other than in-person attendance by the Board and also the public, although we do allow for the public to attend and listen all of our meetings. So this resolution is really unchanged from our last year's Open Meetings Act Resolution and I would recommend that you approve it for this year.

CHAIR HAMILTON: Madam Chair, I would move to approve.

COUNCILOR ROMERO-WIRTH: Second.

The motion passed by unanimous [4-0] roll call vote. Councilor Villarreal was not present for this action.

c. Appointment of the Citizen Member and Alternate Citizen Member to the Buckman Direct Diversion Board

CHAIR HANSEN: We discussed this at our last meeting and I believe the wrong information got put in our packet. We had decided to just reappoint our citizen member and alternate. And if anybody has any questions of concerns please let me know but otherwise, what is the pleasure of the Board?

COUNCILOR ROMERO-WIRTH: Move to approve.

CHAIR HAMILTON: Second.

MS. LONG: Madam Chair, if I could ask the maker of the motion and the second to include in that that the effective date for these terms February 3, 2022.

COUNCILOR ROMERO-WIRTH: I accept that, and move to approve as stated by our attorney.

CHAIR HAMILTON: As do I.

The motion passed with Commissioners Hamilton and Hansen and Councilor Romero-Wirth voting in the affirmative. Mr. Helms abstained and Councilor Villarreal was not present for this action.

CHAIR HANSEN: Thank you. We look forward to your continuing participation, Mr. Helms and Mr. Ives and thank you for serving on the Buckman Direct Diversion Board.

d. Consideration and Possible Action on 2022 MOU – [See Page 3]

10. MATTERS FROM THE BOARD

CHAIR HANSEN: Are there any Matters from the Board? Hearing none, I will move on.

11. NEXT MEETING: Thursday, February 3, 2022 at 4:00 p.m.

12. ADJOURN

13. EXECUTIVE SESSION

- a. **In accordance with the New Mexico Open Meetings Act NMSA 1978, §10-15-1(H)(7), discussion regarding pending litigation in which the BDDB is a participant, specifically: *Buckman Direct Diversion Board v. CDM Smith, et al.*, First Judicial District Court Case No. D-101-CV-2018-0610**

CHAIR HANSEN: I'm going to go to Ms. Long for the motion for adjournment and executive session.

MS: LONG: Yes, Madam Chair, the motion should be to adjourn and go into executive session in accordance with the New Mexico Open Meetings Act, NMSA 1978, 10-15-1(H)(7), for a discussion regarding pending litigation in which the BDD is a participant, specifically for the case of *Buckman Direct Diversion Board v. CDM Smith, et al.*, with the style of the case as listed on the agenda.

COUNCILOR ROMERO-WIRTH: So moved.

COMMISSIONER HAMILTON: Second.

CHAIR ROYBAL: We have a motion by Councilor Romero-Wirth and a second by Commissioner Hamilton. Can I have a roll call vote, please?

The motion to adjourn and go into executive session passed by unanimous [4-0] roll call vote as follows:

Commissioner Hamilton	Aye
Commissioner Hansen	Aye
Councilor Romero-Wirth	Aye
Mr. J.C. Helms	Aye
Councilor Villarreal	Absent

[The Board adjourned and met in executive session at 5:55 p.m.]

ADJOURNMENT

Chair Hansen declared this meeting adjourned at approximately 5:55 p.m.

Approved by:

Anna Hansen, Board Chair

Respectfully submitted:

Karen Farrell, Wordswork

ATTEST TO

KATHARINE E. CLARK
SANTA FE COUNTY CLERK