

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

February 1, 2024

1. CALL TO ORDER

This meeting of the Santa Fe County & City Buckman Direct Diversion Board meeting was called to order by County Commissioner Anna Hamilton, BDD Board Chair, at approximately 11 a.m. in the Council Chambers, City Hall, 200 Lincoln Avenue, Santa Fe, New Mexico.

2. ROLL CALL: Roll was called and a quorum was present as shown:

BDD Board Members Present:

Commissioner Anna Hamilton
Councilor Carol Romero-Wirth
Councilor Jamie Cassutt
Commissioner Anna Hansen
J.C. Helms, Citizen Member

Member(s) Excused:

Tom Egelhoff, The Club at Las Campanas

Others Present:

Nancy Long, BDDDB Legal Counsel
Kyle Harwood, BDDDB Legal Counsel
Bernardine Padilla, BDD Public Relations Coordinator
Delfin Peterson, BDD Administrative Assistant
Randy Sugrue, BDD Operations Superintendent
Jesse Roach, City Water Division Director
Kaitlyn Luck, Egolf + Ferlic + Martinez + Harwood, LLC
Jay Lazarus, Glorieta Geoscience, Inc.
Peter Hunt, Glorieta Geoscience, Inc.
Michaelene Kyrala, Las Campanas Water Cooperative
Justin Greene, County Commission Alternate

3. APPROVAL OF AGENDA

Commissioner Hansen moved to approve the agenda as published. Councilor Romero-Wirth seconded and the motion passed by unanimous [5-0] voice vote.

4. APPROVAL OF MINUTES

a. Approval of minutes from the January 9, 2024 Buckman Direct Diversion Board Special Meeting

Commissioner Hansen moved to approve the minutes as published. Councilor Romero-Wirth seconded and the motion passed by unanimous [5-0] voice vote.

5. PRESENTATION/INFORMATIONAL ITEMS

a. Monthly Update on BDD Operations

CHAIR HAMILTON: Seeing that our Facilities Manager is out, we'll go to Randy Sugrue.

RANDY SUGRUE (BDD Operations Superintendent): Madam Chair, members of the Board, I'll go ahead and do both presentations. Our monthly operational presentation for the month of January 2024, raw diversions averaged about 2.19 million gallons per day. That is now increasing somewhat. Drinking water deliveries through Booster Station 4A/5A was 1.9 million gallons per day. Las Campanas did not divert water for the month of January. Our onsite water storage variation was about 0.25 mgd.

BDD was providing approximately 31 percent of the water supply to the City and the County for the month. Our year-to-date diversions are depicted below. And, again, for the month of January BDD was about 2-million gallons as Canyon Road Water Treatment Facility maximizing their production of 4 million or a bit more in order to lower the reservoir levels.

The regional water overview for the month of January demand was around 6.2 mgd throughout the City. Rio Grande flows for January averaged approximately 500 cubic feet per second. At Canyon Road Water Treatment Facility/Nichols Reservoir was about 70 percent and McClure down to about 7 percent; 18 percent combined in preparation for anticipated snowmelt in the spring. The watershed inflow around 0.7 mgd. SJC storage in Abiquiu is at around 8,942 acre-feet and for 2024 there have been no SJC allotments that will arise in March or April I believe is when they first make their estimations of the allocations for 2024. That is shown on the graph below the storage of 8,900 acre-feet.

The El Niño/Southern Oscillation Summary of January 15th, of course, El Niño conditions are still observed and that El Niño is expected to continue for the next several seasons. With ENSO neutral favored during April and June. With that, I stand for questions.

CHAIR HAMILTON: Thanks so much. Councilor Romero-Wirth.

COUNCILOR ROMERO-WIRTH: Thank you, Madam Chair. ENSO neutral, have I heard of that term?

MR. SUGRUE: It's kind of a balance I think. It's not a strong El Niño generally favors wetter conditions and so it means that the higher temperatures in the Pacific are somewhat loose – and it comes to a neutral whether it's neither an El Niño or La Niña, you might say.

CHAIR HAMILTON: That's an oceanic temperature differential and when there's middle differential like La Niña is the opposite so you have two extremes and there can be years where it is not even or it appears that way.

COUNCILOR ROMERO-WIRTH: I don't think I've ever heard that term. You learn something new every day.

CHAIR HAMILTON: Any other questions on this. Thank you very much. Let's move on.

b. Report from the BDD Facilities Manager

MR. SUGRUE: I will read through Rick's memo on the Major Repair & Replacement Fund, the Facilities Manager was asked to provide updates as needed on expenditures. There are no major repair and replacement items to report this month; however, we did experience a failure on one of the three raw water pipelines between the diversion and Booster Station 1A. It was not a catastrophic failure but it's a significant leak. We have isolated that line and as the weather warms, we'll move ahead with assessing the repair. We don't have a hard cost estimate but it could well be around \$100,000.

CHAIR HAMILTON: I'm sorry; how much?

MR. SUGRUE: One hundred thousand to excavate and it's not a duct [inaudible] pipe where you could really cut out a piece and put in a new piece. It is high-density polyethylene so they have to kind of weld it. It's a more complex process to remain. We'll give you, of course, updates as they're available.

This is an unexpected occurrence so it was not included in our MR&R Plan for this upcoming year.

On the BDD rebuild project, the technical working group is working with City Procurement in developing the RF!/RFP process and we will, of course, provide further information as that is updated.

We have current vacancies, there's a total now of five vacancies, three of which have been advertised and two will be advertised early next week so we are moving ahead as expeditiously as we can. I stand for questions.

CHAIR HAMILTON: Excellent. Councilor Romero-Wirth.

COUNCILOR ROMERO-WIRTH: Thank you, Madam Chair. Can you tell us which of the three have been advertised and which are going to be advertised.

MR. SUGRUE: They were supposed to all be advertised by today. But the first three have been advertised in the operations positions and show up on the City's website early in the week.

CHAIR HAMILTON: Go ahead, Councilor.

COUNCILOR ROMERO-WIRTH: I'm done.

CHAIR HAMILTON: I thought the finance had been advertised for awhile; so was it just advertised?

MR. SUGRUE: No, I believe you're correct, Madam Chair.

NANCY LONG (BDDDB Counsel): Madam Chair, I would just add onto the report on behalf of Mr. Carpenter, I think he intended to also let the Board know that the advertisement for the citizen member and alternate citizen member has now been released and published in the *New Mexican* and we hope will be on all the websites shortly. Our citizen member, Mr. Helms, and alternate citizen member, Mr. Ives, their terms are up this month in February. They do continue to hold over their two-year terms, they do hold over until their successor is appointed. We just need to go through that process of receiving

applications. We hope to have recommendations at the March meeting. The application deadline is February 23.

CHAIR HAMILTON: Okay, great.

COMMISSIONER HANSEN: Thank you, Madam Chair. I would just like to know about the procurement and the City and the RFQ and RFP; can you tell me where we are in the process? Have they been posted? Have they not been posted? Do we still have to do more with City Procurement? What's the deal?

MS. LONG: Madam Chair, I can answer that question, Board member Hansen and Board members. The technical working group I think as has been reported finalized the RFQ. We received many helpful and productive comments and it was definitely a group effort with Dan Frost at the helm drafting that document. So the RFQ is intended to be phase one of a two-phase process to get qualified firms, probably three qualified firms are what we're hoping for who will then bid on the design-build aspect of the project.

That document has been provided to City Procurement. We did have a meeting on it. They had many questions and we have made a few revisions but we need to get on the same page with them and, in fact, we have a meeting, Dan Frost is coming into town this evening and we have a meeting with City Procurement in person tomorrow to hopefully resolve it and get it out the door so it can be advertised.

CHAIR HAMILTON: And it was actually, just so that you know, several weeks ago that the tech committee turned it over to City Procurement. So it's been in there and working back and forth – just for a little more detail.

MS. LONG: That's correct. So hopefully we'll have more news for you next month that it is out.

COMMISSIONER HANSEN: We hope that it is released by then.

CHAIR HAMILTON: We certainly do. And that's the procurement for the design-build. There's also an RFP procurement for –

MS. LONG: An owner's representative.

CHAIR HAMILTON: And that's also with the City.

MS. LONG: That is also at the City.

CHAIR HAMILTON: Are they having similar problems with that or is that just on the list to do.

MS. LONG: That is just next on the list to do but we would like them to go at the same time.

CHAIR HAMILTON: Yes.

MS. LONG: There is no reason to hold that one up. I think that created some confusion because I sent them. I sent them in separate emails to City Procurement but I think we needed to have that first meeting to say, okay, these are two separate procurements but they are related. We did a lot of explaining and got some of their questions answered. So we hope tomorrow will be a very productive meeting.

CHAIR HAMILTON: Excellent. Are there any other questions?

COMMISSIONER HANSEN: Clarification. So there is one for design-build and there's one for –

CHAIR HAMILTON: The owner, the Board's project manager.

MS. LONG: For the design-build.

COMMISSIONER HANSEN: What's it called?

MS. LONG: It's the owner's representative for the design-build project. So we'll have someone who works on your behalf as the Board's representative to supervise and report and take direction.

COMMISSIONER HANSEN: A project manager.

MS. LONG: Essentially, that's what it is. But calling it project manager was getting confusing so we switched to owner's representative. But you're absolutely right that's really what it is. It's a manager for that project.

COMMISSIONER HANSEN: It's a glorified project manager.

MS. LONG: That's correct.

CHAIR HAMILTON: They might find that insulting, Hey you, glorified project manager, could you come report to us.

COMMISSIONER HANSEN: Thank you. I appreciate the information because I feel like we have not been really – we haven't had very much information as the Board. I know the technical working group has been working diligently to get all of this stuff figured out. So thank you.

MS. LONG: Thank you.

CHAIR HAMILTON: Thank you and thanks for that question. It is very important. Are there any further questions on that or the facilities report in general?

c. Presentation and Update on the 2022 Annual Report of the Middle Rio Grande Endangered Species Collaborative Program

CHAIR HAMILTON: As I understand it, you shouldn't even be here today because it's your birthday. [Birthday cheers were expressed]

KYLE HARWOOD (BDDDB Counsel): I am pleased to be here on my birthday. I'll take tomorrow off.

Madam Chair, members of the Board, I am here today for an item that we rolled from last fall when we had some very full agendas. If you all remember, we had John Rhoderick come from NMED and we took a lot of time talking about NMED updates and this item got squeezed off of that agenda and then it was also rolled from our December meeting which we cancelled and then our January meeting which got rescheduled but it slimmed down. So that's why the annual report says 2022 because it was printed late last summer/ early last fall when I was going to present it to you in October.

You have copies in your packet and I also got a set of nice printed glossy ones that I put at everyone's tables so you probably have more than enough copies of this. But I just wanted to explain where the annual report came from.

For those of you who don't know, the BDD Board has been participating informally with the Middle Rio Grande Endangered Species Collaborative Program since 2007. More recently, in 2019, I believe it was, the Board requested to be a full executive committee members and the rest of the executive committee agreed unanimously. So Rick is the member and I'm his alternate. And we have generally been very interested in the status of the Rio Grande silvery minnow because part of the Board held environmental permits from the Fish & Wildlife Service, the Forest Service, the BLM have our project tied into the Rio Grande silvery minnow. So the health of the silvery minnow is a material factor for this Board.

And then the late breaking news is that we have three new species that are going to have listing decisions made. Two of the three will have listing decisions made before this summer and the third one before the summer of 2025 and this is a big deal because these three species actually historically had resided above Cochiti. Whereas, the minnow is all below Cochiti, historically it was through the whole stretch but the critical management area for the minnow is below Cochiti so it has a great deal of affect on Albuquerque and the Middle Rio Grande Conservancy District. These three species are above Cochiti species in the tributaries to the Rio Grande. Again, a little bit more background: petitions were filed 10 years ago with the service to review the status of these species. At the beginning of Covid, Wildearth Guardians and some other NGOs actually sued the Service for their failure to follow their own schedule for reviewing the status of the species and making the species listing decision. And the court order that came out from that requires for the Rio Grande chub and the Rio Grande sucker there be a listing decision posted in the Federal Register by this summer. And then for the Rio Grande shiner by July 2025.

Why is this important? It's important because every record of decision has what we call the four reopener clauses which means that our biological opinion may be reopened when there is a new species listed. That is paraphrasing but you get the gist. So we need to be following these three species listing quite closely in order to understand how they may affect the BDD intake project and whether or not our biological opinion will be reopened to review the effect of our project on the species. Now, I am hopeful but cannot guarantee how that process will go. I've been in contact with Fish & Wildlife Service and other partners like Interstate Stream Commission on monitoring this development and there will be more to come in the future but this is the update I have for you today.

So, quickly back to the minnow. We have some very good minnow numbers last year. If you all remember, last year was a very strange hydrology year. There is a critical number and I won't get too far into the weeds on this but the metric for measuring the health of the silvery minnow is an acronym, which I'm burdened by liking acronyms. This acronym is CPUE which is a Catch Per Unit Effort, which is a biological term for how fish you find when you apply a certain process with nets and how many of the fish you find in a 100 square-meter area of the river. I'll stop there. There are numerics that go along with this metric, for example, the relevant metric is .3. If less than 0.3 CPUE Rio Grande silvery minnow are discovered during a catch season, it triggers all sorts of alarm bells under the biological opinion. The only reason I share that number with you is because our number from last fall was 5.68. So you can see we are way above one of the main thresholds.

Hopefully, that's enough detail for today. I'm here to answer any questions you might have about threatened and endangered species.

CHAIR HAMILTON: Thank you. Are there question? Commissioner Hansen.

COMMISSIONER HANSEN: Thank you, Kyle. Thank you and happy birthday. I just want to say how refreshing it is to hear good news about the Endangered Species Act and collaboration and the program that is happening in New Mexico. I consider it one of the most acts that has happened in the last 50 years to protect our environment. It is the canary in the coal mine, for sure, if we don't keep our biological brothers and sisters healthy, well and alive we're not going to be healthy, well and alive. Thank you. I just wanted to thank you for this. I am so glad to hear about the silvery minnow doing so well.

CHAIR HAMILTON: Thank you. Councilor Romero-Wirth.

COUNCILOR ROMERO-WIRTH: Thank you, Madam Chair. Happy birthday. I hope you're going out to dinner or something or maybe your kids will make you dinner.

So I missed the three new species. The chub, something and then the shiner.

MR. HARWOOD: Chub, sucker and shiner, yes, ma'am. And we don't do them any favors with their names. And they're all a lot bigger than the silvery minnow which is small. All the other ones are big but not so big that you would go fishing and eat them.

COUNCILOR ROMERO-WIRTH: And they don't make a good fishing tail. I caught one of these suckers.

CHAIR HAMILTON: Thank you. Any other questions.

6. ACTION ITEMS: DISCUSSION AND ACTION

a. **Consideration and Possible Action on a BDD Board comment letter to United States Department of Energy (DOE) Chromium Cr(VI) Interim Measure and Final Remedy Draft Environmental Assessment (Draft EA), Los Alamos, NM**

MR. HARWOOD: Thank you Madam Chair. Jay Lazarus and I have collaborated on this. We did have a briefing on your January Board packet to present the topic and get some feedback from the Board before the deadline, but because it dropped off the regular meeting to the rescheduled meeting in January, we are now back tonight with a memo, a technical memo that Jay's going to present and a draft letter for your consideration. Please note the signature blocks are our old Board because I suspect that on the agenda is changes to the leadership potentially and changes to our composition. So just know the signatures are old ones and place holders. Also, to let you know that the deadline for this comment letter is before our next meeting. It is at the end of February but before our March meeting. So we do need action from you this evening on whether you'd like us to send something and what you'd like it to say. And I will let Jay introduce his recommendations and we'll field any questions from there. Thank you.

JAY LAZARUS (Glorieta Geoscience): Thank you, birthday boy. Chair, Board members, thank you for the opportunity. So I'd like to introduce Peter Hunt from our staff. His name is on this memo. Peter does a lot of our heavy lifting. You guys and gals need to know who Peter is.

As a NEPA requirement for part of the chromium remediation at Los Alamos, the Lab went out on a very tight 45-day comment period schedule to provide comments on four different alternatives that they're considering to remediate the chromium. Alternative 1 –

COMMISSIONER HANSEN: It's a hexavalent chromium plume.

MR. LAZARUS: No, it's not just hexavalent. It's total chromium and hexavalent is part of it.

COMMISSIONER HANSEN: If it was just a chromium plume, we wouldn't be so concerned.

MR. LAZARUS: We're concerned about the hexavalent because of health effects but the way they have it specifically written is "Draft Chromium Interim Measure." That is what comes from the Lab in the NEPA process.

COMMISSIONER HANSEN: When I'm in D.C. next week, they're going to hear about it. I feel like it's wrong to call it a chromium plume when it has hexavalent in it, hexavalent chromium that is deadly to human beings.

MR. LAZARUS: No argument from me. I think we understand how the Lab presents things sometimes.

COMMISSIONER HANSEN: Thank you and thank you, Madam Chair.

CHAIR HAMILTON: Yes.

MR. LAZARUS: The first proposed methodology was to continue to pump, treat and reinject. The second proposed methodology was to pump and land apply, meaning sprinkle the treated water on fields. The third proposed methodology was to do an in situ type of treatment and the fourth proposed methodology – and I can't make this stuff up – was just to have natural attenuation and let it sit in the ground as is.

We started getting involved in this years ago at the beginning of Covid 1, if you may, looking at their water rights application for the injection and extraction wells. And we were concerned about depletions on the main stem. As John Rhoderick said at the meeting a few months ago, they're very much in favor of the Lab continuing the extraction but they shut them down because of the injection. Peter has gone through all of the numbers, the meter readings on the injection and the extraction and the Lab is literally reinjecting almost every drop that they're extracting. So they're in balance. But that's what the problem is because they're not inducing a cone of depression. They're just pushing or smearing the plume around with injecting the same amount of water that they're extracting. So, alternative #1 which was continue what they're doing is a no go because it's not working and they're just pushing it around. Alternate #2, which is to pump, treat and land apply will create that cone of depression and allow for hydraulic or hydrologic capture. That is the alternative that we're recommending that the Board recommends before it signs off in this letter to EMLA and the Lab itself. And the one thing we can say is that the treatment system that they're using is effective. It's pulling out all of the chromium and so it's a good system but they just don't have their hydraulics in balance enough to create the cone impression that is needed to actually control this plume. And I'll stand for any questions, any questions about the treatment system or injections – and Pete will be happy to help answer questions too.

CHAIR HAMILTON: Okay, great. Commissioner Hansen.

COMMISSIONER HANSEN: Thank you, Jay. I basically agree with your recommendation. What I want to know is where could they or where will they spread the water? Once they treat it, the hexavalent chromium and they transfer it back into chromium where can they then deposit this water? That seems to be their breaking point; they don't know what to do with the water except to reinject it.

MR. LAZARUS: Well, they have specifically said that they would look to do a piping distribution system to move the water from the – treated exchange facility, the treatment plant, to these locations or also truck it. Trucking sounds insane. We deal with 4,000, 5,000 gallon liquid manure trucks. You don't get even distribution. It's really labor intensive and putting in the piping for where they're going to land apply is going to be their best most efficient. And they did not provide any maps, Commissioner, of any proposed land, what we call "land application areas." As it's going along, the treatment system is working, the water is clean. So the thing I would be curious about for them is what they're going to do in the wintertime because under the – we manage, our firm manages probably 30 or 40 groundwater discharge permits in multiple states and we can't land apply our effluent,

the treated effluent, when soils are either saturated or frozen. So I don't know that there is a detailed plan on what dirt they're actually going to put it onto. What grasses or fields they have and what they're going to do in the winter, if they're going to have storage ponds that may or may not freeze and they haven't gone into any detail which will be their next step. Hopefully, they'll go with alternative #2 that we're recommending that the Board sign off on.

CHAIR HAMILTON: As a follow up to that, how can they get – are these concerns reflected in the letter?

MR. LAZARUS: Yes, ma'am.

CHAIR HAMILTON: Because it's not that the concept of reinjecting was flawed. It's where they put the wells and how deep they put them that's the problem. You have to understand your hydrology and it's the same with land application. You could apply it in poor places, so are they going to be permitted without ever designating their area of application?

MR. LAZARUS: Chair, Board, under groundwater discharge permit, the Environment Department will require maps of the lands that they will be land applying it to.

CHAIR HAMILTON: Okay. Councilor Romero-Wirth.

COUNCILOR ROMERO-WIRTH: Thank you, Madam Chair. Let me just make sure I have this straight. So the thing that we're recommending is the second option which is to pump, treat and land apply.

MR. LAZARUS: That is correct.

COUNCILOR ROMERO-WIRTH: Okay. But we don't know where they are planning to land apply – where they are planning to apply the stuff that is pumped and treated.

MR. LAZARUS: That is also correct. And then my assumption would be based on permits that we manage for a lot of other folks and other industries is they're going to need monitoring wells or Vadose zone monitoring at their land application fields.

COUNCILOR ROMERO-WIRTH: Okay. And I think for me and probably for some other new folks in the room, you said something about being worried about stemmed depletion.

MR. LAZARUS: Main stem.

COUNCILOR ROMERO-WIRTH: Main stem depletions; can you talk more about that in this context.

MR. LAZARUS: With the initial extraction and reinjection the aquifer was in the balance. They weren't taking out any more than they were putting back in. So hence no potential depletions on what I call the main stem, on Rio Grande. This way if they're going to have approximately 1,600, 1,700 acre-feet which equates to about 2.2 cfs, which isn't a lot in the river, but – Kyle always makes me nervous when he talks about the biological thing, okay, and every little bit out of the river, you know, is deaths by a thousand cuts. We may not see that 2 cfs in our intake, but overtime as we're seeing less snow pack less runoff every 2.2 cfs is going to count. So we just want them – and then the way they wrote their permit application which they got coached on by State Engineer staff incorrectly. They asked for emergency authorization to pump and then they'll come back with a return flow credit plan later. If we had filled out an application like that it would have never gotten through the front door [inaudible] probably gotten fired. It's illegal not to have your return flow plan right up front. So the State Engineer gave them emergency authorization to do this without an approved return flow credit plan.

MR. HARWOOD: You may remember that both Santa Fe County and this Board protested that application five or six years ago and it is pending.

COMMISSIONER HANSEN: It is what?

CHAIR HAMILTON: Pending.

MR. HARWOOD: Pending.

COUNCILOR ROMERO-WIRTH: All right. If they land apply the pumped and treated water then that would then create a cone of depression near the river.

MR. LAZARUS: It would create a cone of depression in their wellfield, in their extraction wellfield which would pull back the water, locally grab the chromium but over time that cone of depression will enlarge until it finally hits the river or the springs that feed the river. Like Sandia Spring is like a 500 gallon a minute spring on the east side of the plateau that discharges to the river. So it will eventually reach out over time.

COUNCILOR ROMERO-WIRTH: And they don't have to have a plan to make that cone whole again, to make the river whole again.

MR. LAZARUS: They do need to have a plan but not today. Whereas, you and I would have needed it yesterday.

COUNCILOR ROMERO-WIRTH: Well, also back to your endangered species piece, that has an impact there too, doesn't it?

MR. LAZARUS: That's 5,000 cuts.

COUNCILOR ROMERO-WIRTH: So they don't have to have a plan today, it's just a pending matter?

MR. LAZARUS: Six years at the State Engineer in our world is unfortunate but not short. It is a pending matter. What I would think – I'd like to see what option they're going to pursue and then maybe go to the State Engineer and ask them to start acting on the return flow credit plan and force the Lab to republish. You can't do a return flow credit plan without publishing it so the public has input into it. So we can go back to the State Engineer at that point. I want to know for my technical intake, I want to know what option they're going to proceed with before we go to the State Engineer to ask for action because right now based on injection and extraction equaling each other there's no hit to the river.

COUNCILOR ROMERO-WIRTH: Madam Chair, do you address the need for the return flow credit plan in this letter that we're sending?

MR. LAZARUS: Not in so many words. What we say, we continued operation of the ion exchange treatment system with land application of treated water –

COUNCILOR ROMERO-WIRTH: Tell me where you are?

MR. LAZARUS: Last full paragraph, first page of to whom it may concern letter, last full paragraph on that page.

COUNCILOR ROMERO-WIRTH: And what does it start with?

MR. LAZARUS: Based on the analytical data in the DP-1835 quarterly reports from the IX treatment system the Board supports Option 2, continued operation of the IX treatment system with land application of treated water to create the needed cone of depression with the caveat that Rio Grande depletions be fully offset.

CHAIR HAMILTON: Two pages in.

COUNCILOR ROMERO-WIRTH: Yeah, I was looking at the wrong letter. Okay, so were there just two options. They can't continue with the current because they're pulling it out, treating it and putting it back in and that's just moving the plume around and

that's not good. The second one is to pump, treat and land apply. What were there the others?

MR. LAZARUS: The third one was an in situ type treatment where they would be injecting some kind of oxidants into the aquifer and they haven't really gotten any technology behind that. And the last one was what we call monitored natural attenuation, which means –

CHAIR HAMILTON: Doing nothing.

COUNCILOR ROMERO-WIRTH: The status quo. Let me insert words in the blank. Tell me the technical word again.

MR. LAZARUS: MNA, monitored natural attenuation.

CHAIR HAMILTON: Did you by chance address the issue and I may be wrong but what I understand the problem with pumping, treating and reinjecting is where they're reinjecting. You could reinject closer to the river so that you're not spreading plume around and you're making the river whole. You can do that. Right now what they're doing is taking the water out, treating it and they could put it back in the river maybe if they treated it, but neither of those two options are being considered.

MR. LAZARUS: That's correct. There's land ownership issues with San I also.

CHAIR HAMILTON: There's always problems but they don't discuss them in the EA?

MR. LAZARUS: This was pretty what I consider to be EA-light.

COMMISSIONER HANSEN: Like?

MR. LAZARUS: Light, l-i-g-h-t.

CHAIR HAMILTON: It wasn't adequate, light.

MR. LAZARUS: It gave the concepts – they're following the NEPA process which they will have to respond to every comment that is made and then we'll see which option they select.

CHAIR HAMILTON: I guess, I thought the letter was great but now that we're talking about it I'm starting to feel like comment is really, really important with the caveat that Rio Grande depletions be fully offset might be too subtle for them. Do I need to say more before you respond? Do you get my drift?

MR. HARWOOD: One way to deal with that, Madam Chair, is to reference our pending protest of the extraction well system that is pending. Let me just explain the pending a little bit more. For several of the intervening years, it wasn't clear whether this pump, treat and reinject was going to work and that's why we see all the dust up last year with NMED ordering them to stop and that's part of where this EA comes from. So, early on we thought it would have been fairly simple to settle the matter and have them do what everyone else in the state has to do with respect to a return flow plan. Now I think it's good that we didn't try to do that because if NMED directs them to do pump and treat and land apply or something that will have a real effect on aquifer and potentially affect the main stem.

Getting back to this topic, if we think that this is too subtle what we can do, with your permission, is draft a much clearer reference to our pending protest and the issues that we raised there and how we are concerned that certain pump and treat scenarios needs to account for the effects of the regional aquifer and the Rio Grande and make this a little more explicit.

CHAIR HAMILTON: I would very much like to hear what the Board members think and also both of you, if you think there is a reason not to do that, I would like to hear it. I am fine with your recommendations as well.

COMMISSIONER HANSEN: I am all for a stronger letter because if it's EA light, we could EA heavy.

CHAIR HAMILTON: That could easily ignore on purpose. They would get it, a technically astute person would get it but they are ignoring things anyway. So that's just the source of my concern.

MR. HARWOOD: All right.

MR. LAZARUS: As much as we wanted to keep it to one page we can add a paragraph.

CHAIR HAMILTON: Thank you. And I also commend you for catching all of this stuff.

COMMISSIONER HANSEN: And then, Madam Chair, if you're going to make it a little longer you can actually put the paragraph spaces in between the letter. At the end of the third paragraph there should be a paragraph space and then right after "fully offset" there should be another paragraph space.

MR. LAZARUS: We could do that.

COMMISSIONER HANSEN: It will add a little bit to it but I think we can still keep it front and back.

CHAIR HAMILTON: Commissioner Greene had a question then Councilor.

COMMISSIONER GREENE: Happy birthday first off. Thank you. And it's wonderful to be on the BDD even as an alternate it is an honor.

First, pardon me for a little bit of my novice-ness to this but how long is it expected to take to cleanup? Decades, hundreds, perpetuity?

MR. LAZARUS: Not in perpetuity. But we're seeing some indications in our lingo that the upgrade in monitoring well of this plume is increasing in concentration. So that could be a result of, there might be more mass of total chromium in the system that was anticipated or that the reinject is somehow pushing it back up gradient. But the mass loading on the aquifer of the contamination – it's a big question right now because they're reinjecting really good quality water. What they're doing is just pushing the plume around.

COMMISSIONER GREENE: So using my rudimentary physics and hydrology, if you pull it out and you don't put it back in, that negative then might suck more down towards the river.

MR. LAZARUS: And that's what we're asking them to offset, Commissioner.

COMMISSIONER GREENE: And how – without reinjecting, how would we offset that?

MR. LAZARUS: They would have to come up with – when we do water rights applications of groundwater we look at effects on the nearest surface water body. Very often it is retiring farm land, so many acres of such and such consumptive use depending what basin you're in. So they would have to go out and they would either have to permanently commit to 2.2 cfs maybe of Los Alamos County-San Juan Chama water because they're part of the application or they would have to find water rights in the Middle Rio Grande to offset their depletion of effects on the river.

COMMISSIONER GREENE: So part of my concern is that by not reinjecting at least in a strategic position in a spot to, you know, stabilize the aquifer there, if this is a

negative void there, right, for sucking stuff out. They are sucking stuff from a plume that is further away from the Rio Grande closer to the especially if there's more up there that we don't know about and it is then progressing down there.

CHAIR HAMILTON: No, I think there's a misconception – you don't have a good geographic picture. Part of the reason sucking it out and reinjecting it balances and is spreading plume out, leaving the cone of depression is an acceptable temporary mitigation because it's holding and it becomes a hydrologic barrier and Jay or Peter could maybe explain it a little. It's keeping it.

MR. LAZARUS: You're making a funnel. So you can funnel in the aquifer and everything is flowing down gradient or downhill in the aquifer towards the funnel. We like the funnel because it's capturing the contamination.

COMMISSIONER GREENE: I like the funnel too. I'm just scared there's a secret source above the funnel that we're now making a faster path to that. So it's just a concern and maybe it's like – if there's more in another location that it could end up exacerbating it and there may be some other treatment that needs to be done up above at the source.

CHAIR HAMILTON: You can't regulation on mystery sources. You have to know what we have. But you can – one of the reasons it would deplete the river of 2. whatever cfs is because it's sucking from the river toward the –

COMMISSIONER GREENE: Absolutely. I understand that. I understand that. But it is also sucking from the plume, wherever that is, because that's a proven direction where it's actually running to from the plume to where the sucking is. So this is my concern about not treating the plume at the same time.

CHAIR HAMILTON: You are treating the plume. You're sucking the water –

MR. LAZARUS: If I may. They are treating the plume. We just don't know if the mass of contamination in the plume has been fully defined.

COMMISSIONER GREENE: That's my concern, right. That it's a mystery plume. I think one of the aspects of the letter that could be put in there for clarification is the disingenuous nature that the Commissioner mentioned about the differences of chromium, right. That please don't classify this as chromium when there are two types of chromium, or maybe more, but that there's some that is going to kill us and some that is maybe benign and so on. To actually show some clarification in that and that we are showing that they're trying to hide a little bit of that.

And then another concern about the land application is that if you put land application right above the plume you're just pushing water into the aquifer and it may stabilize it but it seems like it would be, you know, exacerbating by pushing it down and around and the same thing. So some level of moving it away into a spot that people know is not contaminated would be a better solution than applying it, right, where it is sucked out of the ground and then you're just pushing the plume around.

MR. LAZARUS: Peter and I do a lot of land application of nutrients in different areas and other treated water. And we plan our application so the water doesn't percolate below the root zone.

COMMISSIONER GREENE: Sure. And then lastly, some mention of the endangered species that it could affect. That there is this potential, and maybe not. because that may open another can of worms or a can of fish.

CHAIR HAMILTON: I am not sure we want to make recommendations –

COMMISSIONER GREENE: Well, we may not.

CHAIR HAMILTON: That's for the Board but as an alternate you are free to ask questions.

COMMISSIONER GREENE: Yeah, so anyway just putting it out there.

Maybe that's something that the Board wants to take under advisement. But I'm just new here and I'm interested in you opening up a can of worms. So thank you very much.

CHAIR HAMILTON: Thank you. Councilor.

COUNCILOR ROMERO-WIRTH: So you mentioned and I guess since we're talking about what should be in this letter and I completely agree that it should be short and sweet and targeted, there might be other things you want to have them consider that they're not maybe identifying at the moment. And since they have to answer every comment is it worth making a few suggestions? You said something, I think you were talking about injection and where you do that and how you do. Maybe I misunderstood you. Maybe that wasn't the nature of the things that they're not really thinking about that maybe they should be.

MR. LAZARUS: Councilor, the way that we could add something there, that we'd like a map of their proposed land application areas and where their proposed monitoring wells will be.

COUNCILOR ROMERO-WIRTH: Okay.

MR. LAZARUS: I think that to comply with the terms of their groundwater discharge permit.

COUNCILOR ROMERO-WIRTH: Okay, yeah.

CHAIR HAMILTON: Thank you. Michaelene.

MICHAELENE KYRALA (Las Campanas Water Cooperative): I quick thing.

CHAIR HAMILTON: By all means.

MS. KYRALA: Aside from the other changes that are being made, could the letter possibly updated to correctly reflect the entities that make up BDD?

CHAIR HAMILTON: Yes.

MS. KYRALA: That would be wonderful. Thank you.

CHAIR HAMILTON: Yes, thank you. Other comments or questions? Do we need to make a motion to accept this with the changes as discussed?

MS. LONG: Yes, Madam Chair. You're looking for action.

COUNCILOR ROMERO-WIRTH: Hold on. In terms of the signature plate, these are the voting members.

CHAIR HAMILTON: Yes, but the signatures are going to have to be – we can assure that in the body of the letter that describes the BDD that this is accurate.

COUNCILOR ROMERO-WIRTH: I don't want to cause confusion about who is making decisions and who is making these recommendations and comments and I think we need to be careful about how our governance structure works.

CHAIR HAMILTON: Exactly, purely the voting members of the Board on the signature blocks.

COUNCILOR ROMERO-WIRTH: Okay, thank you.

COMMISSIONER HANSEN: I think she was referring to the first paragraph.

CHAIR HAMILTON: Yes.

COMMISSIONER HANSEN: Okay, so I make a motion, Madam Chair, to accept the letter with all the suggested changes that the Board has given you and to add a few things to make it more detailed. And what is the date – what is the deadline for this letter?

MR. LAZARUS: The third week of February sometime, the 24th, but before the next meeting.

COUNCILOR ROMERO-WIRTH: Madam Chair.

CHAIR HAMILTON: Yes, Councilor.

COUNCILOR ROMERO-WIRTH: I do think that –

CHAIR HAMILTON: I have a motion. Can I get a second then we can do that under discussion or –

MR. HELMS: Second.

COUNCILOR ROMERO-WIRTH: You got a second.

CHAIR HAMILTON: Oh, I did. I missed that. Okay, so under discussion, Councilor.

COUNCILOR ROMERO-WIRTH: Somebody needs to review these changes prior to releasing it.

COMMISSIONER HANSEN: I think we all have to sign it anyhow so it'll be sent to us.

COUNCILOR ROMERO-WIRTH: Right, but I don't want to get a bunch of cooks in the kitchen because we're not going to meet again and I don't think we can conduct business – we'll get a rolling quorum problem.

CHAIR HAMILTON: I would suggest the next chair review the letter.

COUNCILOR ROMERO-WIRTH: And I'm happy to have the chair and vice chair.

CHAIR HAMILTON: That's fine too.

COUNCILOR ROMERO-WIRTH: Just so we have representative.

CHAIR HAMILTON: Is that acceptable to everybody? Yes, Councilor Cassutt.

COUNCILOR CASSUTT: Thank you so much. I just want to make sure that I understand. I noted two changes that were mentioned. One, to have stronger language about the impertinence of making the river whole again. And then the second asking for a map about where the land apply would occur in the monitoring wells. Did I miss any other changes that were discussed? I want to make sure I know what I'm voting on.

COMMISSIONER HANSEN: Yes, I also requested editorial changes of spacing and then Michaelene requested that besides limited partner of Las Campanas, I believe what she wants is it says, Las Campanas Club and Las Campanas Coop.

COUNCILOR CASSUTT: Thank you for clarifying.

COUNCILOR ROMERO-WIRTH: But, Madam Chair, maybe we could get a summation from the folks that are going to be writing this just to make sure.

MR. LAZARUS: And then the other addition was to make sure that they understand that it is Chromium III and Chromium VI.

COMMISSIONER HANSEN: Yes, I would completely support that.

MR. HARWOOD: Councilor Cassutt, there are four changes.

CHAIR HAMILTON: Great and does anybody else recall any other changes. Would you mind going through all four listed changes for the record.

MR. LAZARUS: The first one is to make sure then understand the difference between total Chrome III and hexavalent chromium. The other one which I'm not sure because I thought we had it covered with the members of the Board being City, County and Las Campanas.

COMMISSIONER HANSEN: Just to be clear on that since you don't understand it. There are two entities in Las Campanas. There is a Las Campanas Club and there is a Las Campanas Coop Sewer and they are separate entities. In the beginning it was one entity but then it divided. So I'm just being clear.

CHAIR HAMILTON: My suggestion is that we let Nancy advise them and make sure that is corrected about how to word that.

MR. LAZARUS: And we want a map of their proposed land application areas and where their groundwater monitoring wells or Vadose zone monitoring points will be. We want a detailed reference to the application that we protested and talked about main stem offsets even though previously they didn't need it because injection was equaling extraction.

CHAIR HAMILTON: Okay and the editorial changes.

MR. LAZARUS: The typos.

COMMISSIONER HANSEN: Not typos: spacing.

MR. LAZARUS: Spacing.

CHAIR HAMILTON: Does that sound good to everybody? Excellent. So I have a motion and a second, all those in favor. Any opposed or abstentions?

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

CHAIR HAMILTON: Thank you for the detailed and good work on this because you caught a lot of things. We very much appreciate it.

MR. LAZARUS: Thank Peter.

COUNCILOR ROMERO-WIRTH: And Madam Chair, I just want to say that this is the kind of thing that we should be weighing in on. I appreciate having this in advance where we can talk about it and we can make sure we understand it and we can add value in what ultimately gets submitted. So I just want to say I really appreciate how we're working here and I think it's a difference than we have seen in the past. And I just want to validate that and highlight it and say, Yea Team.

b. Election of Chair and Vice Chair of the Buckman Direct Diversion Board

CHAIR HAMILTON: Nancy, I'll let you start us off.

MS. LONG: Madam Chair and members of the Board, at your February meeting you elect a chair and vice chair for the Board. The Joint Powers Agreement that governs the Buckman Direct Diversion Board provides that the election shall be done annually. And the chair and the vice chair will rotate each year so that the County representative will be the chair one year and the vice chair shall be from the City which is what we had this last year. So this year, we will have elections to elect a chair from the City representatives and the vice chair will be from the County.

COUNCILOR CASSUTT: I nominate Councilor Romero-Wirth to be chair for this year.

CHAIR HAMILTON: Thank you.

COMMISSIONER HANSEN: Second.

CHAIR HAMILTON: Any discussion. I have a motion and a second.

The motion to elect Councilor Romero-Wirth as BDD Board chair passed by unanimous voice vote.

CHAIR HAMILTON: Congratulations and my condolences and chocolate is always advised. Those are my words of wisdom.

COMMISSIONER HANSEN: Madam Chair, normally Commissioner Hamilton and I have switched off being vice chair but I do feel because of Commissioner Hamilton's work on the technical working group that it would be advantageous for her to stay as the person working on the technical working group plus she doesn't serve on hardly any other committees at the County so therefore she can give her full attention and dedication to this Board along with the rest of us.

So I nominate Commissioner Hamilton and I want to say for history since I have such a long history with the BDD but I do remember when Rebecca Wurzbarger and Virginia Vigil were chair and it went back and forth between the two of them numerous times so this is not an unusual situation to have happen with the BDD. And I also have to admit that my plate is really quite full and so I think this is a really good solution.

COUNCILOR ROMERO-WIRTH: Second.

The motion to elect Commissioner Hamilton as BDD Board vice chair passed by unanimous voice vote.

7. MATTERS FROM THE PUBLIC

CHAIR HAMILTON: Is there anyone from the public wishing to speak? I don't see anybody in the chambers and no one on line.

8. MATTERS FROM THE BOARD

CHAIR HAMILTON: Matters from the Board, yes, Commissioner Hansen.

COMMISSIONER HANSEN: On that topic, speaking of a digital connection and having that available, I would like to suggest because it is also incredibly difficult at the convention center and here for the City to be able to somehow do digital meetings, that there's some investment by the City in the ability to do digital and video meetings in the future. If we could have that option so that the public has that ability to participate when they cannot come down here. I think it is important for transparency.

CHAIR HAMILTON: Thank you. Other Board members? Well, I just wanted to mention aside from another happy birthday to Kyle Harwood and thank you for spending your time with us, I was hoping to have a report, and we had spoken at the last few meetings but we missed a couple because of snow and insufficient business, from the City Finance on progress on splitting out the BDD account. So I think – I just wanted to say that. And we had committed of course to make regular report outs on the progress on the RFQs as well. Thank you.

9. NEXT MEETING: Thursday, March 7, 2024 at 4:00 p.m.

10. ADJOURN

Having completed the agenda and with no further business to come before the Board, Chair Hamilton declared this meeting adjourned at approximately 5:15 p.m.

Approved by:

Carol Romero Wirth, Board Chair

Respectfully submitted:

Karen Farrell, Wordswork

ATTEST TO

GERALYN F. CARDENAS
INTERIM CITY CLERK