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COUNTY OF SANTA FE )
STATE OF NEW MEXICO ) ss

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I Hereby Certify That This Instrument Was Filed for Record On The 28TH Day Of March, 2014 at 11:14:05 AM And Was Duly Recorded as Instrument # 1733168 Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office
Geraldine Salazar
County Clerk, Santa Fe, NM

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## MINUTES OF THE CITY OF SANTA FE BUCKMAN DIRECT DIVERSION BOARD December 12, 2013

## 1. CALL TO ORDER:

A regular meeting of the Buckman Direct Diversion Board, was called to order on Thursday, December 12, 2013, at approximately 4:30 p.m., by Commissioner Kathy Holian, Chair, in the City Council Chambers, City Hall, Santa Fe, New Mexico.

## 2. ROLL CALL

## **MEMBERS PRESENT:**

Commissioner Kathy Holian, Chair Ms. Consuelo Bokum Councilor Chris Calvert Commissioner Miguel Chavez Councilor Carmichael Dominguez

### STAFF PRESENT:

Nancy Long, BDD Board Consulting Attorney
Rick Carpenter, BDD Project Manager
Shannon Jones, BDD Interim Facility Manager and Maintenance Supervisor
Gary Durrant, BDD Chief Operator
Mackie Romero, BDD Financial Manager
Kyle Harwood, BDD Board Counsel
Melessia Helberg, Stenographer

There was a quorum of the membership in attendance.

## 3. APPROVAL OF SECOND AMENDED AGENDA

A copy of the Second Amended Agenda is incorporated herewith to these minutes as Exhibit "1."

Shannon Jones, Interim Facilities Director, asked that Item #7 be deferred and come under Item #11.

**MOTION:** Councilor Calvert moved, seconded by Councilor Chavez, to approve the Second Amended Agenda, as amended

**VOTE:** The motion was approved unanimously on a voice vote [5-0].

## 4. APPROVAL OF CONSENT AGENDA

**MOTION:** Commissioner Chavez moved, seconded by Councilor Calvert, to approve the Consent Agenda, as presented

VOTE: The motion was approved unanimously on a voice vote [5-0].

## **CONSENT AGENDA**

- 8. UPDATE AND DISCUSSION OF BDD OPERATIONS. (GARY DURRANT)
- 9. DROUGHT, MONSOON AND WATER RESOURCE MANAGEMENT UPDATE. (RICK CARPENTER)
- 5. APPROVAL OF MINUTES FROM THE NOVEMBER 7, 2013 BUCKMAN DIRECT DIVERSION BOARD MEETING.

**MOTION:** Councilor Calvert moved, seconded by Commissioner Chavez, to approve the minutes of the meeting of November 7, 2013, as presented.

**VOTE:** The motion was approved unanimously on a voice vote [5-0].

### 6. MATTERS FROM STAFF

Mr. Jones said he has updates, beginning with LANL, noting LANL staff has been working well and been very responsive to the BDD in regard to the Early Notification Systems. Cameras have been installed at a Station E-50 and E-60 and currently are in testing phase, and we look to have those on line by the end of this calendar year.

Mr. Jones said the Staff Advisory Group was scheduled to meet last week, but due to the weather that meeting didn't occur and the next scheduled meeting is January 23, 2015, and we do consider the packet to be at 90% completion, and on track to present to the Board in February 2015.

Mr. Jones gave a staffing update. He said, "As of today, the Facility Manager position, Regulatory Compliance and the safety Position currently are being screened. Those positions have closed and H.R. is processing the paperwork to develop a list of eligibles. The vacant Mechanic position closes on December 20, 2013. Additionally, the Public Relations Coordinator position is closed and H.R. also is screening that for qualified applicants. A Water Resource Coordinator Assistant position is scheduled to close on December 16, 2013, and I need to provide a list of interview questions to H.R., and that will move forward."

Mr. Jones noted for the Board that the next BDD Board meeting is scheduled for January 2, 2014. STEP Advisory on January 23, and ready for Board in February.

7. REPORT ON DECEMBER 3, 2013 FISCAL SERVICES AUDIT COMMITTEE.

This item was combined with and heard under Item 11.

## **DISCUSSION AND ACTION ITEMS**

10. REQUEST FOR APPROVAL OF RESOLUTION NO. 2013-3. A RESOLUTION REQUESTING THE AMENDMENT AND EXTENSION OF THE MAY 13, 2010 MEMORANDUM OF UNDERSTANDING BETWEEN THE U.S. DEPARTMENT OF ENERGY AND THE BUCKMAN DIRECT DIVERSION BOARD REGARDING WATER QUALITY MONITORING. (KYLE HARWOOD AND SHANNON JONES)

A copy of proposed Resolution No. 2013-3, is incorporated herewith to these minutes as Exhibit "2."

A copy of the proposed letter to Secretary-Designate Ryan Flynn, New Mexico Environment Department, regarding Draft Discharge Permit DP-1132, Los Alamos National Laboratory's Radioactive Liquid Waste Treatment Facility at Technical Area 50, is incorporated herewith to these minutes as Exhibit "3."

Mr. Jones said, pursuant to a directive given to staff at the last BDD Board meeting, staff has prepared a Resolution and a written request for this Extension. He noted there are representatives from Los Alamos National Laboratories in attendance today, and available for questions.

The Board commented and asked questions as follows:

 Commissioner Chavez asked staff to expand on both components this Resolution is requesting, the amendment and the extension. He said, "I would like staff to touch on the critical points of the amendment, and on the Extension on the timeframe and specifics behind that, for the record and the public in attendance." Kyle Harwood, BDD Board Counsel said, "What I understand, your question was to review the highlights of the basic MOU itself. Is that right."

Commissioner Chavez said, 'There seems to be two components that jump out at me, and I tried
to scratch the surface on both. One is the amendment and the specific details and critical points
behind that. And then the extension and timeframe and details behind that."

Mr. Harwood said, "The specific Resolution in the packet this evening is to meet the needs as expressed by Mr. Maggiore, DOE/NNSA, at the previous meeting, which is to have something in writing from the Board. The primary intent behind this particular Resolution is to document the Board's request that the agreement be extended. When we first negotiated this agreement in 2010, it was put together as a 5 year agreement. We're not on the cusp of that ending but we do know there is some work involved in getting an amendment process, particularly by the federal agencies."

Mr. Harwood continued, "The second area that needs to be addressed is that the Early Notification System itself has changed. Those of you remember the September floods taking out E-1099, which is the station we had used as the primary source of flow information. That is when we perceived flows at E-1099 in the L.A. Pueblo Canyon watershed, and the facility was turned off so as not to divert that slug of sediment coming down the L.A. Pueblo Canyon, reaching the Rio Grande and then running the 3 miles down the Rio Grande to the Buckman Direct Diversion site. So we know we have changes to make in order to accommodate the new formulation of the Early Notification System, and as Shannon said, we have been working regularly with the LANL staff, with the site office and other staff members up there at the Lab on that reformulation of the Early Notification System. So those are the two main elements of the existing MOU that this Resolution is asking for changes regarding those two issues."

Commissioner Chavez said, "Then the amendments would deal more with the administration, the
mechanics, the nuts and bolts and the monitoring of the facility and everything that's involved in
that."

Mr. Harwood said, "Yes, I think that's right Commissioner." He said, "Just to underscore, the main issue that I think staff, particularly the operations staff, is concerned about is an extension of time for the agreement. As a working group between the staffs of the two organizations, we know that changes need to be made to the technical nuts and bolts of what we anticipate using this coming diversion year."

Mr. Harwood continued, "The extension of time is a much more difficult issue, I think, for the National Nuclear Safety Administration, so that's the one that will take more work."

 Commissioner Chavez said, "So it's one Memorandum of Understand for everything, for the amendments and the extension, it's all captured in the one MOU."

Mr. Harwood said, "Yes. That's right."

- Councilor Calvert noted that it doesn't have a specified extension timeframe mentioned. He said, "And I guess, if I were to make a suggestion, I would like to see it extended for at least 3 years beyond the expiration date, because basically, we're starting over with this set-up. And it took us this long to find out that the current setup really wasn't going to work. And that's because you don't know what weather conditions you're going to experience in any one year, so it took us 3 years to get to this point. So I would hope the extension would last, at least until the end of 2018, would be my suggestion at a minimum because we're starting over on this, and it was supposed to be a 5 year MOU, so just adding 5 years to today into 2018."
- Commissioner Chavez said, "Following on that thought, Councilor Calvert, in the Resolution, there's one Whereas that says the May 15, 2010 MOU between the parties will expire on May 13, 2015, so that's the only reference that you see in the Resolution, and so that's a point well taken. Now to follow through, I would want to ask Legal if this could be amended to be date specific, as Councilor Calvert is suggesting, to give us that window... I don't know if it would tie us down to that window, or give us that window of opportunity to look for, making sure that the work is done."
- Chair Holian said, "So, Nancy could we pass the Resolution tonight with an amendment to change the date where it expires."
- Councilor Calvert said, "On that point, this is simply a Resolution requesting the amendment to the MOU, so that amendment will still have to be negotiated, right. I am okay with the Resolution as it is, but would give direction to staff that that would be our intent, or request is that it gets extended at least as long as the original one was intended to be in place."
- Councilor Chavez suggested Councilor Calvert could make that as a part of his motion.
- Chair Holian asked if there was further discussion on this point, and there was none.

**MOTION:** Councilor Calvert moved, seconded by Commissioner Chavez, to Adopt Resolution No. 2013-3, with direction to staff "that when they are working on this amendment with LANL that it is our wish that we have an MOU that lasts for the same length, in essence, starting now, when the original one was intended, to the end of 2018, *mas o menos*."

**DISCUSSION:** Commissioner Chavez said, "I agree with the concept that we are trying to get ahead of the planning curve or the mother nature curve or whatever the curve is out there, and try to still be effective with the facility."

**VOTE**: The motion was approved unanimously on a voice vote [5-0].

11. REQUEST FOR APPROVAL AND BDDB RECOMMENDATION TO SANTA FE COUNTY BOARD OF COMMISSIONERS AND CITY OF SANTA FE'S CITY COUNCIL TO APPROVE FY 2014/2015 BUCKMAN DIRECT DIVERSION OPERATING BUDGET. (SHANNON JONES/MACKIE ROMERO)

A Memorandum dated December 5, 2013, to the Buckman Direct Diversion Chair and Board, with attached *Program Performance Measures, Proposed Annual Operating Budget FY 2014/15*, and *Five-Year Cost Projection*, regarding proposed FY 14/15 Operating Budget Request, is incorporated herewith to these minutes as Exhibit "4."

## A. PRESENTATION OF THE PROPOSED FY 2013/2014 BDD OPERATIONS AND MAINTENANCE BUDGET

Ms. Mackie Romero presented information via slide presentation, first presenting information on *Program Performance Measures Report*, and then summarizing the information in her Board Memorandum and Budget Packet. Please see Exhibit "4" for specifics of this presentation.

Ms. Romero noted that the *Program Performance Measures Report*, since they are in the middle of the current fiscal year, and could provide actuals for only FY 2012/2013 and targets for FY 2014/2015, and therefore they believe it is a work in progress. As we come closer to the end of the Fiscal Year, they can continue to track the measures and report final numbers to the Board at a later date, as this is just more of an informational report.

Councilor Calvert commented this is a good point, because we are comparing apples to oranges with actual budgets to projections and such, and believes it will be more useful if we have "apples to apples," in regard to this.

Ms. Mackie reviewed the proposed FY 2013/2014 BDD Operations and Maintenance Budget, by line item. Please see Exhibit "4" for specifics of this presentation.

Ms. Romero said the last line item is our Fiscal Agent Fee, and as stated in the FOPA it is 1% of our operating budget.

Ms. Romero said, "We are requesting our Operating Budget be funded by our partners for \$6,344,600, and for approval to budget \$180,000 of PNM Solar Rebates. Again, this request is due to the County treatment of the revenue received from PNM. This, in turn, has reduced the amount of requested funding from the City of Santa Fe and Santa Fe County. Las Campanas entities do not share in the benefit of this revenue, so that's where the offset is, since we would be budgeting that revenue as a source."

Ms. Romero said, "There is a change in how the fixed costs are allocated, which was requested by Santa Fe County and Las Campanas. Las Campanas requested that we amend the FOPA to separate the two Las Campanas entities into Las Campanas Water & Sewer Cooperative and The Club at Las Campanas, Inc., which is the reason you see 4 partners instead of 3. The second change would be a change to the capacity allocation as stated in Section 7, requested by the County and Las Campanas, as Las Campanas has purchased 541 afy from Arizona Rights, LLC, which was a party to the FOPA through Las Campanas, LP. The County also entered into a bulk water service agreement, into which the Las

Campanas Water & Sewer Cooperative transferred 332 afy of the permitted capacity. Again, there is no change to the City of Santa Fe's allocation or the total capacity allocation. It only changes the percentage of fixed costs which are allocated between Santa Fe County and Las Campanas, and they are both in agreement with this percentage change."

Ms. Romero asked the Board to go to page 15, Table L. She said, "BDD has also established an Emergency Reserve Fund, which provides immediate reserves for unforeseen events. This fund will be built to a target of \$2 million by the end of FY 13/14, therefore, we will not be requesting any additional contributions from our partners in FY 14/15."

Ms. Romero asked the Board to go to page 14. She said, "This is BDD's other fund which is the Major Repair and Replacement Fund which will give BDD the ability to cover major repair and replacement costs of existing capital access. BDD is requesting that the partners fund \$411,804 in contributions to the Major Repair and Replacement Fund. The Fund will be funded at \$823,624 by the end of FY 13/14. This additional contribution will secure a balance of \$1,235,000 by the end of FY 2015."

Ms. Romero said, "With the budget, we also included a *Five Year Cost Projection Report*, which is the last Report. Chart B, page 2 of the Report, shows the annual budget, we are assuming to be held relatively flat for the foreseeable future at approximately \$6.5 to \$6.6 million. Expenditures were estimated on a monthly average of approximately \$500,000 to \$600,000, based on 24 months of operating history, with an inflation factor of 3.4 to 3.6 percent annually. As each year passes, staff will have more historical data upon which to base its budget request and projection. Again, this is more of an informational item."

Ms. Romero said, "In summary, we request that the Buckman Direct Diversion Board approve and recommend the fund for FY 14/15 Operating Budget of \$6,344,600, plus the annual contribution of \$411,804 for the Major Repair and Replacement Fund, for a total request of \$6,756,404. With your approval, BDD would also budget PNM's solar revenue at \$180,000, which would be used to support our operating budget for a full expenditure budget of \$6,524,600."

The Board commented and asked questions as follows:

Chair Holian asked the reason(s) for the reduction in the budget.

Ms. Romero said it is a combination of increases and decreases by major categories, and reviewed those increases/decreases by line item as follows:

Salaries and Wages – reduction of \$65,000 mainly due to budgeting some of the vacant positions below mid-range.

Overtime - reduction was due to staffing arrangements.

Benefits – increase due to insufficient budget from prior years. Staff intends to fully request its 35 positions, therefore the request is for 100% of the funding for these positions.

Electricity – increase due mainly to the actuals, as well as a change in the accounting treatment of solar rebates, which in prior years was presented as a reduction to expenses which didn't account for the revenue, therefore they are requesting 100% of the funding for electricity.

Chemicals – reduced by \$109,000, based on actual.

Materials & Supplies – reduced based on actual.

Other Operating Costs – the majority of the reduction occurred in professional service agreements, some of which they will no longer be entering into in 2014/2015. Some of the cost has shifted to maintenance agreements which will be budgeted under Materials & Supplies.

- Responding to Councilor Calvert, Ms. Romero said the credit will be in the revenue portion of the budget. She noted they were able to reduce Other Operating Costs due to allocating expenses by department, such as office supplies, advertising, communications, travel & training, rather than every department budgeted those line items which allowed the reductions.
- Councilor Calvert asked when does the amendment on the change regarding Las Campanas have to come before Board.
  - Ms. Long said, "The amendment would be reported to the Board, but the Board is not a party to that agreement. The agreement is among the City, the County and Las Campanas, Limited Partnership. So, Las Campanas Limited Partnership assigned its rights under the agreement to those entities."
- Councilor Calvert said, "To the extent that you have to amend the FOPA, is what I'm talking about."
  - Ms. Long said, "Yes. That is what I'm speaking to."
- Councilor Calvert asked if an amendment to the FOPA has not come before this Board.
  - Ms. Long said, "It has not come before this Board, and I am not aware that one has been prepared. We have discussed that with the City and the County and indicated that we think it would be wise to amend the FOPA to reflect the current parties to it, and we would, of course, be informing the Board, and presenting the Board with that amendment, but there is not one that I know of that has been approved by either body, or circulated."
- Councilor Calvert said, "I thought the FOPA had to be approved by this Board in the first place, and then by each separate jurisdiction."

Ms. Long said, "I do not believe it is approved by the Board. The Board is not a party to the FOPA, but it certainly would have had some input I believe."

Councilor Calvert said, "I would think that was something that.... it may be pro forma, but I think it probably would be a good idea that we do that and have such amendment come forward, even if it is only for the information of this Board, whoever has to approve it, I guess, what two jurisdictions, because I think we want to keep the documentation current and updated. And so I think it would be a good idea to have that."

Ms. Long said, "I think that's a very good idea and we continue to encourage that, so thank you."

- Ms. Bokum said, "I thought I remembered that we negotiated the FOPA, and the Board was a
  party to the negotiations."
- Councilor Calvert said, "I thought so too. I don't know if we had to approve it, or we just had to approve recommendation to the Governing Bodies. I don't know how it went, that's like, how many years ago."
- Ms. Bokum said that was before her time.

Ms. Long said, "In 2006, there is a recitation in the FOPA that that the Board voted to recommend the principles of Agreement of the FOPA, and directing their staffs to prepare it."

- Councilor Chavez said, "I think in fairness to the other Board members and to staff, and to the other parties, because we do have to recognize Las Campanas as the third party, even though they aren't a local government. And I think this is the informational piece. The FOPA was the next step to revamp that, and it's more in keeping with how the facility is working at this point. And so I guess I would just add that to the minutes, for what it's worth, and to the discussion. But also, Madam Chair, there are members from Las Campanas community here, and if you would allow them an opportunity at some point to speak to, or answer, or ask any questions that they may have, I would appreciate that."
- Chair Holian said, "Yes. I will allow them that opportunity, but perhaps we should go through the presentations first."

## B. REPORT FROM FSAC MEETING OF DECEMBER 3, 2013.

Chair Holian asked for the Report.

Councilor Calvert said, "It's sort of redundant. All we discussed basically was the budget."

Chair Holian said, "Then I can check that off my list."

Councilor Calvert said, "Yes."

## C. PUBLIC COMMENT

Chair Holian asked if the representative from Las Campanas would like to comment at this time.

Charlie Nylander, representing The Club at Las Campanas, said, "I would just note, for the record, that Las Campanas has been very much in favor of amending the FOPA and straightening it out, with reference to the cost sharing and so forth. And at such time when you do, we would hope that the language would be artfully crafted so that, in the future, if there are further assignments or changes, that it could be updated without having it go back to the two body politics. I think it would just make it more convenient for everybody, especially contemplating in December 2015, if there were any partnership changes or any assignments to be made at that time. With that, I just think The Club, and I can say for the Coop as well, that we would endorse and support such an amendment. Thank you."

Ms. Long said, "When you requested it not to come back for approval, I assume that you are talking about adjustments within the Las Campanas piece as a shorthand way of expressing what I'm asking."

Mr. Nylander said, "I think the idea was, if you do go to the trouble to open it up to modify it and reflect the current distribution amongst 4 entities, instead of 3, that you should look at the language carefully to make it possible that if memberships change in the future and there are other assignments, that could be done automatically without having to take it back to the local governments."

Ms. Long said, "Right, I guess my question is, if what we've gone from is one Las Campanas to two. If we go to three, or four or five, and it's all about Las Campanas, then I think it makes sense maybe that we could come up with some language. But I think if it started affecting the other percentages, I'm not so clear that I would want it not to come back to the Board."

Mr. Nylander said, "I'm not saying it wouldn't come back to the Board.."

Ms. Long said, "Or the FOPA. If we're going to do a structural change that goes beyond the Las Campanas piece then I think we're going to be more concerned about it, than if it's what's happening at Las Campanas if things change."

Mr. Nylander said, "That's fine. I understand. Thank you."

Chair Holian thanked Mr. Nylander.

## D. REQUEST FOR REVIEW AND APPROVAL OF THE PROPOSED FY 2013/2014 BDD OPERATIONS AND MAINTENANCE BUDGET.

Chair Holian said the presentation of the budget is a public hearing, and asked if there is anyone here from the public who would like to comment on the budget to the Board.

## **Public Hearing**

There was no one speaking for or against this request

## The Public Hearing was closed.

**MOTION:** Commissioner Chavez moved, seconded by Councilor Calvert, that the Board recommend to the Governing Body of the City of Santa Fe, and the Board of Commissioners of the County of Santa Fe, to approve the proposed FY 2013/2014 Buckman Direct Diversion Operations and Maintenance Budget.

**VOTE:** The motion was approved unanimously on a voice vote [5-0].

Ms. Long said, "Of course, after approval by the County Commission and the City Council, hoping that there is approval from both bodies, it will come back to you for final adoption."

Ms. Bokum said, "I would like to thank the staff. It seems to have gone so well this year, so thank you for all the hard work."

Chair Holian said, "I would like to thank staff for all working together. It was really the BDD, the City, the County and Las Campanas. Thank you Mackie."

## MATTERS FROM THE PUBLIC

There were no Matters from the Public.

## MATTERS FROM THE BOARD

Commissioner Holian said, "This will be my the meeting on the Buckman Direct Diversion Board. The County Commission makes the decision at the beginning of the year, as to which Boards and commissions the Commissioners will serve on, and the Buckman Direct Diversion Board was the most popular choice. There were four Commissioners who wanted to serve on it, and yet there were only two spots for Commissioners, plus one alternate. I'm afraid I drew the short straw, so I will be leaving. I will, however, next year try again. And I want to thank everybody. This has actually been a lot more fun than I ever thought it was be. I was a little worried about it, but I've learned a lot and I really enjoy the technical aspects of it, and I've enjoyed working with all of you. Commissioner Chavez."

Commissioner Chavez said, "Actually this committee assignment really wasn't the shorter straw, it was really the toss of the dice in a sense, because there were cards in a hat that were either blank or said member, and if you picked member you were on the BDD. There was member and alternate and blank."

Commissioner Holian said, "I got blank."

Commissioner Chavez said, "So you drew blank and I drew member which kept me where I am [inaudible]. It was an interesting process. I just thought I would elaborate on that a bit."

Commissioner Holian said, "And Commissioner Stefanics will be the new member. Councilor Calvert."

Councilor Calvert said, "On that point, my term on this body is not much longer either. So I'm only going to be here for two more meetings, I think. And so, I'm going to suggest, like we've sort of done in the past that we probably wait until after the City election to designate the Chair and Vice-Chair."

Commissioner Chavez said, "And other members as well. Do you think the memberships would change."

Councilor Calvert said, "Absolutely it will change. Well, I know one position will change, at least. So I think it would be a good idea to wait until after the March election and have that designated. I guess you could have it in the March meeting. Who's going to be on it by then. That's only two days after the election."

Chair Holian asked, "When does your term officially end, then."

Councilor Calvert said, "On election day."

Commissioner Chavez said, "You sink or swim the whole way through."

Chair Holian said the Board definitely will be different next year.

## **NEXT MEETING JANUARY 2, 2014.**

## **ADJOURN**

There was no further business to come before the Board.

MOTION: Commissioner Chavez moved, seconded by Councilor Calvert to adjourn the meeting.

**VOTE:** The motion was approved unanimously on a voice vote, and the meeting was adjourned at approximately 5:15 p.m. [5-0].

**ATTESTED TO:** 

Yolanda Y. Vigil, City Clerk

City of Santa Fe

**ATTESTED TO:** 

Geraldine Salazar, County Clerk

Santa Fe County

eldine Jalazar
County Clerk 3-28-2014



SUBMITTED BY:

Melessia Helberg, Board Stenographer