

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

December 2, 2021

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 4:04 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 JoAnne Vigil Coppler
J.C. Helms, Citizen Member
Tom Egelhoff, Las Campanas [non-voting]

Member(s) Excused:

None

BDD Board Alternates(s) Present:

Peter Ives

Others Present:

Rick Carpenter, BDD Facilities Manager
Nancy Long, BDD Legal Counsel
Kyle Harwood, BDD Legal Counsel
Bernardine Padilla, BDD Public Relations Coordinator
Randy Sugrue, BDD Operations Superintendent
Jamie-Rae Diaz, City Administrative Assistant
Antoinette Armijo-Rougemont, BDD Financial Manager
Jesse Roach, City Water Division Director
Michael Mikolanis, DOE-EM-LA, Manager
Jay Lazarus, Glorieta Geoscience
Joni Arends, CCNS

3. APPROVAL OF AGENDA

There were no changes to the published agenda.

Mr. Helms moved to approve the agenda and Commissioner Hamilton seconded. The motion passed by unanimous [5-0] roll call vote.

4. MATTERS FROM THE PUBLIC

CHAIR HANSEN: Jamie-Rae, do we have anybody from the public who wishes to speak?

JAMIE-RAE DIAZ (Administrative Assistant): Madam Chair, I did not receive any inquiries for Matters from the Public.

CHAIR HANSEN: Okay, so I will open Matters from the Public but I don't see anybody on and I will close Matters from the Public and we will move on.

MS. DIAZ: Madam Chair, before you close it, Joni Arends raised her hand.

CHAIR HANSEN: Okay. Thank you very much.

MS. DIAZ: Joni, go ahead and try unmuting yourself.

JONI ARENDS: Thank you very much. Joni Arends, Concerned Citizens for Nuclear Safety. First of all I wanted to thank Councilor Vigil Coppler for her leadership on the Buckman and specifically for her work with regard to the issues with the salaries – I'm not going to have the right words today, but the salary issues at the beginning of the pandemic for the employees. So thank you very much and I wish you the best.

COUNCILOR VIGIL COPPLER: Thank you very much.

MS. ARENDS: And second, I want to talk about the whole holistic process from the Buckman to the Paseo wastewater treatment facility on Airport Road and the issues with regard to the exceedences of the water leaving the plant as well as the safety issues are becoming – I know this is beyond the scope of what the Buckman Board can do, but because it is a holistic system of the water coming in from the river and going out to the river, if the Buckman Board can say anything about the safety issues there, and the exceedences of contamination down the river, CCNS would be grateful. So thank you very much.

CHAIR HANSEN: Thank you, Ms. Arends. I agree that it is a holistic system and I think that in the future when we look at water that we need to look at wastewater as an important part of this, and I won't say anything more now because it's not on the agenda but thank you for your comments. So with that I will close Matters from the Public.

5. APPROVAL OF CONSENT AGENDA

There were no items listed under the Consent Agenda.

6. APPROVAL OF MINUTES

a. November 3, 2021 Buckman Direct Diversion Board Meeting

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

7. PRESENTATION/INFORMATIONAL ITEMS

a. Monthly Update on BDD Operations

CHAIR HANSEN: Randy Sugrue, welcome, and we look forward to hearing your monthly update.

RANDY SUGRUE (Operations Superintendent): Thank you, Madam Chair, members of the Board. This is my report for BDD operations for the month of November 2021. Our raw water diversions averaged about 4.76 million gallons per day, drinking water deliveries through our Booster Stations 4A/5A, averaged about 4.69 million gallons per day. Raw water delivery to Las Campanas was limited to the first of November to the tune of about 180,000 gallons. Our onsite treated and non-treated water storage, about 70,000 gallons average per day. BDD is providing approximately 75 percent of the water supply. You can see our year to date diversions as compared to our average diversions for the last 11 years, it's a little bit more than average for the month of November.

On page 2 we have our regional water overview demand, about 6.3 million gallons per day, City and County. Rio Grande flows for the month of November averaged about 575 cubic feet per second. Just a side note there, for the last few days they are releasing water from El Vado, transferring water down the Rio Grande to Elephant Butte and so the flow has jumped up suddenly for a few day to about 1,500 cubic feet per second. We've experienced a slight turbidity issues for a couple of days but that's settling down now and I anticipate that additional flow to subside over the next week or less.

Canyon Road Reservoir as reported, about 70 percent in Nichols, 13.5 in McClure, combined storage of about 23 percent. This was a few days back. The in-flow flow above McClure was about 680,000 gallons per day. Our total San Juan-Chama storage for October was the most recent update, still around 13,000 acre-feet, and our El Niño summary for November was updated on the 22nd. We are definitely in La Niña conditions presently, and there's about a 50 percent chance of that being sustained through the winter and into spring of 2022.

That's my report and I stand for questions.

CHAIR HANSEN: I want to welcome Member Ives to the meeting also he joined us a moment ago. And I see he has some questions which didn't surprise me. So if there's anybody else that has any questions please raise your hand, but I will call on Mr. Ives first. Thank you.

MR. IVES: Thank you, Madam Chair. It's really a question about the El Vado and the anticipated repair work to be done there. I'm not sure if folks know the schedule for that and what impacts, or if there's been an evaluation of what impacts that might have on any of the diversion water coming to the Buckman. Somebody might have some information.

RICK CARPENTER (BDD Facilities Manager): Madam Chair and Councilor Ives, I'll go ahead and take that one. Yes. That's a big project and there's a lot of coordination going on that addresses your very question. There will be some operational abnormalities, but as far as passing water, storing water and any impacts that would directly affect the BDD we do not anticipate that.

MR. IVES: Good. Glad to hear that. That was the only question I had at this point. Thank you, Madam Chair.

CHAIR HANSEN: Thank you very much. Are there any other questions? I did as Rick to possibly give us a report next month about the water mixing and where all the water gets distributed from, so many Rick will just give a little update about what he will present next month. I believe you're next on the agenda, so welcome, Mr. Carpenter.

7. b. Report from the Facilities Manager

MR. CARPENTER: Thank you, Madam Chair and good evening, Board. With that segue, yes. It turns out your question was a very good one and it's more complex than a lot of people may realize. It's taking a fair amount of analysis. We do have four sources of water within the City. The BDD is a primary source, and how those waters get comingled and what time of the year those percentages may change and why is something that we're evaluating. We do want to bring that back. We're modeling it right now. We are hoping that maybe we can do that in January and Board members, it may actually lapse into February. We're not quite sure but that may happen. Just so that we can give a full and accurate response. And I think it's a larger question, not just for the BDD but a lot of people around the city and the county really would like to know, where does my water come from? How much of it's well water? How much is BDD and so on?

So we will make a detailed presentation and that's probably going to be an ongoing conversation as we move through educating people on how our water is produced and introduced into the system, and so we look forward to making that presentation to the Board.

CHAIR HANSEN: Thank you. Is there anything else, Rick, you would like to bring forward?

MR. CARPENTER: Yes, Madam Chair. On the vacancy/Human Resources front, I think I may have mentioned to you, I do have a sort list – well, not a short list; a list of eligibles on the administrative assistant position. Just had a meeting this morning with some staff to go over those applications and hopefully develop a short list for interviews. We have a very aggressive schedule for that, hopefully, maybe next week, to get those interviews completed and we want to move forward with filling that position just as rapidly as we can with a qualified candidate. And with that, Madam Chair, those are my updates.

CHAIR HANSEN: Okay. And I just wanted to tack onto why I asked Rick for this question. I have constituents telling me that water on the north side of St. Francis was only coming from the reservoir and water on the south side was only coming from Buckman. And I explained to them that the water was mixed. And they said, well, where is it mixed and how is it mixed and where does this all come from and where are the wells? And I couldn't answer every single question that they were asking, so I went to Rick and asked him. And so I felt like this was an opportunity to not only educate the Board but also educate our constituents about their drinking water.

8. ACTION ITEMS: DISCUSSION AND ACTION

a. Citizen Member and Alternate Citizen Member Appointments

NANCY LONG (BDD Legal Counsel): Thank you, Madam Chair and members of the Board. Just wanted to bring this issue to the Board's attention as the current terms for your citizen member, Mr. J.C. Helms, and alternate citizen member, Peter Ives, expire next February. So it's already been two years since we last went through the process that consisted of this last time, advertising for interested parties, conducting interviews by a committee, and then recommending to the Board your current citizen member and alternate citizen member, which the Board approved. There is no required process under the JPA or in any other document for your appointment of these two members. The Board has done a number of things in the past, including reappointing certain members, and so I just wanted to bring this to the Board's attention since the time is drawing near, if we were going to go to a process of advertising. If you choose to reappoint them we can put that on the agenda for February of next year.

CHAIR HANSEN: Thank you. I think that our citizen member and alternate member – Mr. Ives, you still have your hand up. I don't know if you still need to talk. But they are doing a great job and that we could just go forward with them again and reappoint them since it is not a requirement that we need to advertise for additional members. Commissioner Hamilton.

COMMISSIONER HAMILTON: Just a small point. Should we take the opportunity to ask if they're willing to serve again, just to make sure that we're not making that assumption, because that would be great.

CHAIR HANSEN: So I believe that our attorney, Nancy Long, has asked them if they were willing to serve and they both are. But if they would like to say anything I'm happy to have them make comments. Mr. Ives.

MR. IVES: I'm happy to serve.

CHAIR HANSEN: Thank you. J. C.

MR. HELMS: I would love to serve. I enjoy this committee. I think it's one of the best I've ever been on. I love everybody on it and I love the work and do hope to continue. Thank you.

CHAIR HANSEN: Okay. Thank you very much. That sounds fantastic. So with that –

MS: LONG Yes, Madam Chair. I'm hearing that I should probably put this on for an agenda item to specifically appoint the two as an action item for January or February.

CHAIR HANSEN: So I think we could do this in January. That would be more than adequate. So thank you both for your service to the BDD Board.

b. Update on BDD Board LANL MOU

KYLE HARWOOD (BDD Legal Counsel): Good afternoon, everybody. I hope everyone's doing okay. I'm going to go ahead and share my screen, if that's okay, if everybody can see the existing MOU as it is in your packet. So the purpose of this presentation is to first remind you all that we did do a term extension of the existing

MOU from yesterday to the beginning of February, just after our February Board meeting. The hope is that we will be able to reach an amicable consensus agreement with LANL on the new replacement MOU between now and the February Board meeting.

My plan this afternoon is to walk you through the existing MOU and highlight for you several of the areas where we are still working so that you have an update in the open session and also to share with you that we are looking forward to a working meeting with San Ildefonso Pueblo about an important piece of the ENS system, which hasn't yet happened yet. So with your permission, Madam Chair and members of the Board, I'll go ahead and walk you through the MOU in your packet.

The first item I have up here is just noting what I started my comments with, which is we successfully extended the existing MOU. So we are in the fourth year of the third three-year MOU and we've just added an additional three months to that by this letter with the Chairperson's signature and the electronic signature of Mr. Mikolanis, the manager of environmental management at Los Alamos field office. I see Mr. Mikolanis is logged in as a panelist, so if you're there, thank you for joining us today.

We're not proposing to make any changes – obviously there's no changes to the parties, there's no changes to the background. We have – oh, there you are, Hello, Mr. Mikolanis. How are you today? Good. Nice to see you. Thank you for joining us. We – by we I mean myself and Rick Carpenter with our counterparts at LANL have made some changes to the objectives. We're not changing the spirit of the objectives. We are changing some of the wordsmithing of the objectives. These objectives were a little clunky, I think, in the past. Continue the relationship, and then of course the two main pillars of our relationship with LANL are to make sure that the early notification system is as robust as possible to give the BDD project operators notice of when there's stormwater flow in LA Pueblo Canyon, and then the second main pillar of this LANL-Board agreement is to have LANL support water quality sampling in general, which of course is the grant which we'll review here in a moment.

No real changes to the authorities or the main principles. The biggest change, which we have shared with the Board previous to this meeting is that we are hoping to negotiate a new flow gauging station much closer to the confluence of the LA Pueblo Canyon system that drains the lab, and the Rio Grande. And so we are discussing with the lab who will be responsible for the permitting and cost of this new station, as well as who'll be responsible for the long-term maintenance and operation of the system. So a couple of these highlights are just sort of parts in the existing MOU that we are proposing to change with some new language regarding the new station. And really related here to lines 93 and 94 which was contemplated in this latest MOU draft which was were going to see a more robust flow management measurement station lower down on the system to provide the operators with a clear signal of when there was flows of concern in the LA Pueblo Canyon system.

A key to this is a discussion with the Pueblo of San Ildefonso which I mentioned earlier. We are hoping to meet with them as soon as next week to continue to move this forward.

The second pillar of the MOU which is also being actively discussed by Rick and I and our counterparts at LANL is the grant funding that's provided to the Board for water quality sampling, and for those of you who remember the long arc of this relationship, in the first MOUs we had a detailed list of analytes that we wanted sampled,

and even down to the type of method that used to test for each analyte, and we asked LANL to do that testing and to supply the results to us. In the more recent iterations of the MOU this has become a federal government grant to the BDD Board where we draw upon a \$96,000 grant in order to run sampling that we see fit. And there has been some discussion about whether this number is too high. That is we haven't always gone up to \$96,000 each year. I have been advocating that a grant is good because it gives us plenty of headroom, and that any money not expended stays with the federal government. It's not like they're writing us a check; it's that we're submitting costs and getting reimbursed. So we are having a bit of a discussion about whether this number should be lower or whether it's a little simpler, I think, from our perspective to have this grant and access it up to this limit as needed. As many of you know, we're sampling only certain stormwater events, so certain years there'll be more stormwater events than others and so it's nice to have this flexibility based on a grant.

The other main topic of discussion is we thought we were fairly logically proposing that we move to a longer term for the MOU than just three years. Obviously in the last couple years are sort of an exception with COVID. These work efforts take a while. It takes a while to warm up and to have a negotiation and do the drafting and find the time to work through the relevant issues so we would suggest a five-year MOU for this next iteration and we may – that seems to have created some consternation for LANL so we may be sticking with the three-year MOU, but we'll be bringing you, I think, if I didn't say it earlier I will say it now. The plan is to bring you a fill redline of the MOU at the January meeting and hoping to get agreement with LANL in order to have the signing ceremony at the February meeting before this latest extension times out.

So let me keep going. We also have a new section in E. 5 that we're discussing which has to do with document sharing, so this isn't exactly what I've highlighting but this is were the document we're negotiating some new language around document sharing. This was identified by the Board's consultants as sort of a missing piece of the relationship. We've asked to get regular copies of materials that the lab prepares and sends to NMED. We've been asked to be included into that loop of outgoing documents from the lab as it relates to sediment management and LA Pueblo Canyon, and LANL has similarly asked to have a report prepared regarding when the BDD turns off as a result of the ENS system. So we are working through the actual language of that request. And then under data project sharing, I didn't really highlight anything because there's nothing particularly – this is going to be another new section under paragraph F. As I think you all know, NMED runs a sampling station. So again, it's important to remember there's a big difference between flow monitoring or just finding out if there's anything running in the arroyo, and then there is actual water quality sampling, where there are small amounts of water taken out of the stormwater flow that are saved and then sampled to be able to characterize what's in the stormwater. And we have long relied on NMED running a sampling station at E-110, which is just down from E-109.9, obviously from the numbering, and we have asked for LANL to commit to continuing to fund the state's sampling program there. If they stop for any reason that they will continue to do it for us, and this has become a very – fairly hot topic of discussion in our negotiating team, but we are sort of pointing out the importance of that sampling station and asking for some degree of commitment to maintaining it for us, even if they are relieved of that requirement by the Environment Department.

So obviously, a lot of the contacts will change since we've had turnover at both organizations through promotions or lateral promotions, whatever Rick's new role is. So we have a lot of contacts to update, and then as I hinted at earlier, we really need to come to some understanding about whether we're doing another three-year MOU or something longer, and that is really a summary of the negotiations we've had. We've had the best of times; we've had some challenging discussions as well. But we are hopeful that we are getting close and that we will be able to bring you a redline that fully explains exactly where the two parties are not in agreement at the January meeting, which is right after the new year, and with the hope of bringing the Board something that's at least executable on the Board's side at the February meeting and we hope LANL will join us in signing that document. As I hinted at earlier, the most important relationship that we need to build on is the San Ildefonso relationship because the new gauge is down in a part of the canyon where – it's within their pueblo boundary.

So with that, Madam Chair, I will stop my screen share and stand for questions.

CHAIR HANSEN: Thank you very much. Let's seem. Questions from the Board. Commissioner Hamilton.

COMMISSIONER HAMILTON: Just generally, the things you highlighted where there was still some separation on, do you have a prognosis for getting close?

MR. HARWOOD: Well, I won't put Mr. Mikolanis on the spot here. I know that he's still smiling on the video of his feed, but I can say that I've enjoyed getting to know John Evans who was my counterpart from Mr. Mikolanis and he's been a real professional through this process and I am hopeful he will convince his clients to meet our very reasonable requests.

COMMISSIONER HAMILTON: Okay. Thank you.

MICHAEL MIKOLANIS: Thank you, Kyle for that. John has told me that we're driving towards success so that's why I'm smiling on the video.

COMMISSIONER HAMILTON: Oh, excellent.

MR. MIKOLANIS: I won't comment on where we are on the deltas because I know that they're still being worked but I did want to give the Board some sense of I think we are – as Kyle said, we've been collaborating and we've been negotiating and working hard, diligently, and we are driving to the date that the Chair has asked us to try to drive toward.

CHAIR HANSEN: Thank you, Mr. Mikolanis, for joining our meeting and being available. I appreciate that very much. I'm going to go next to Councilor Romero-Wirth.

COUNCILOR ROMERO-WIRTH: Thank you, Madam Chair. Did Councilor Ives have his hand up?

CHAIR HANSEN: Yes, he does.

COUNCILOR ROMERO-WIRTH: Okay. I thought he was ahead of me.

CHAIR HANSEN: I'm sorry. I didn't see who raised their hand first.

COUNCILOR ROMERO-WIRTH: Okay. He's smiling so I guess he must be okay.

CHAIR HANSEN: He is.

COUNCILOR ROMERO-WIRTH: So can you tell us anything further about the nature of where you're still apart, or just that you're apart in these areas?

MR. HARWOOD: I can share with you, Madam Councilor that we're still working through the term, whether it's a three- or five-year agreement. I think that's got some implications for the MOU and how we handle grant funding.

COUNCILOR ROMERO-WIRTH: That is one of the areas I'm curious about and I don't know whether this question is appropriate by I am curious. We want a longer term; they want a shorter term, and what is sticking point? Or is that not something –

MR. HARWOOD: I think it's fair to say that we had hoped to reduce the frequency of this process and I think the fact that it's been a three-year MOU, there are sort of grooves in the table. And so I think we'll be bringing you a recommendation at the January meeting. I don't – I think the relationship and having an MOU is more important than the actual number of years and even we were talking about a much longer MOU, a ten-year or even longer MOU at one point in the discussion. But I think you can probably appreciate there's not a ton of difference between a three-year and a five-year MOU. So I hope we'll have a consensus recommendation for the Board at the January meeting. And of course that's just one of the several issues that I reviewed. I don't know if you'd like me to talk about the other ones.

COUNCILOR ROMERO-WIRTH: Well, I just – I'm not sure how much detail you can get in and whether it's even helpful. I'm just sort of curious. And maybe it's not even really relevant. So let me ask another question. On the water quality sampling, you said NMED might be relieved of having to do that, and so therefore you want LANL to continue it; is that what I heard?

MR. HARWOOD: Yes, ma'am.

COUNCILOR ROMERO-WIRTH: NMED might be relieved of doing that by whom?

MR. HARWOOD: Well, there are a lot of things afoot between the lab and NMED and we're not privy to all of those conversations but we have recognized how reliant we are on the E-110 sampling that NMED does, and so we're requesting essentially a backstop should that change and that is – I think it's fair to say that that is a hard topic for LANL. So we are still working through it.

COUNCILOR ROMERO-WIRTH: So just to make sure I understand, LANL may relieve NMED of its requirement to do the sampling? But who's going to relieve NMED of their sampling activity?

MR. HARWOOD: The way to think about it is a lot of the regulatory agency's obligations on LANL, a lot of LANL's activities are the result of negotiation. And so perhaps being relieved of was too cute by half. If the sampling were to go away for any reason, we the Board would still very much want water quality sampling happening at that location. So if that's clearer language for you I apologize for presenting it in a less clear way initially.

COUNCILOR ROMERO-WIRTH: Yes, I guess it just begs the question of what requires them to do that and why would they stop? Who are the decision makers who decided that that's no longer something they do? It just raises a lot of issues, a lot of questions.

MR. HARWOOD: The way it works now is that DOE provides funding to NMED for this station, and so if that were to be handled in some other way in their relationship, we're just saying it's important to the Board for the water quality sampling

continue at this location. So as I said, they have an incredibly diverse and complex relationship with us. The whole LANL campus. So I don't know exactly what conditions would lead to either the lab not funding NMED to do that sampling or for them to decide they're going to slice the apple in a different way, but we feel like for the Board's interests, that sampling station is very important to our understanding of characterizing stormwater in LA Pueblo Canyon. So we're looking for a way of backstopping, that that thing that happens now will continue and we're still working on that principle with them. Is that –

COUNCILOR ROMERO-WIRTH: Yes. All right. So I would just emphasize that water sampling is very important and if that goes away I would like to know – who to hold responsible and how you address that.

MR. HARWOOD: And one half is working with our partner and neighbor LANL on that water quality station. The other is to be very, very clear with Secretary Kenney and the Environment Department about the importance of that station. And I think we need to do both. And so that everyone knows how important it is to us to have that water quality station. So we're in this discussion with LANL. We obviously need to emphasize that to NMED so it says on the top of their radar and they know how important it is to us. So that's the other half of the communication. I think that's what we need to do.

MR. MIKOLANIS: If I can add to help clarify the response to the question it's my understanding that NMED --

CHAIR HANSEN: Mr. Mikolanis, because this meeting is being recorded, I just want to make sure you are introduced so that the minutes reflect that you are speaking.

MR. MIKOLANIS: Thank you. I'm sorry. This is Michael Mikolanis EM-LA. Just to help clarify the response to the question and I will refer this off line and get back to you Chair, if it's different. But NMED itself determines what sampling is needed or not. We have a grant with them that forms the work that they need to do on behalf of Los Alamos-EM. It would be NMED's choice to either continue the sampling or elect or propose not to do the sampling anymore. Commissioner, if that information helps.

COUNCILOR ROMERO-WIRTH: Yes. I guess the follow-up would be – who at NMED? Is it the cabinet secretary? Is it the Water Quality Board? Is it – who, where does this decision-

MR. HARWOOD: It's the Oversight Bureau.

COUNCILOR ROMERO-WIRTH: Okay.

MR. MIKOLANIS: And obviously we participate and it involves discussions with the laboratory as well, so I'm not trying to put NMED out saying they're your target if you're unhappy with the final result. Obviously, Los Alamos will be working with NMED if they propose any changes. So I'm sure that if there are changes there would be conversations directed, as Kyle said, at both Los Alamos and with Los Alamos and NMED regarding the change, etc. So I think that it would be probably be both of us that would be -- to speak, but the decision and the proposal is with NMED, their Oversight Bureau. I hope that helps a little bit.

CHAIR HANSEN: Thank you, Mr. Mikolanis. And also Councilor Romero-Wirth, originally, this MOU was directed by the legislature for us to have this

MOU and so I would think that the Radioactive and Hazardous Waste Committee would be making sure also, that they would be making sure that we have this sampling being done if for any reason something happened. But Secretary Kenney is a supporter of sampling and believes in everybody being responsible. So I think that we are safe at the moment that we're not going to see anything like this go away. I mean, I can't speak for him, of course, but they are very concerned. In the Oversight Bureau they're very concerned about that also. And I know that Commissioner Hamilton wants to say something.

COMMISSIONER HAMILTON: I think the issue is not just who's concerned about sampling. It's the source of funding for it and how that gets shifted around, and that's part of what will drive a decision. And so it makes a difference if DOE stops paying for it directly to NMED and transfers it to the Buckman MOU burden. I think that's at least a piece of the optimization equation.

COUNCILOR ROMERO-WIRTH: Yes, and I guess – and I appreciate that. What I'm trying to understand is why do they do sampling right there, who requires it? Because you wouldn't do this because of the cost unless some regulator somewhere was saying this is where you need to do this. So all I'm trying to figure out is what's the chain of command, right? Who – and Kyle said somebody may relieve them of their duty to do this. And so I want to know who to hold responsible for that decision to relieve them. Do they decide themselves? Does the federal government decide? Does LANL decide? We clearly don't decide because we want that sampling. And so I'm just – again, I'm fairly new here and I'm just trying to understand how all these complexities work.

MR. HARWOOD: I noticed Mr. Mikolanis raised his hand, but I think he described it pretty well before. The Oversight Bureau identifies the data that they want to make sure is collected and then I believe the second step is the lab agrees to fund them to do that. And so what we've suggested in our MOU is that we want a backstop. If that were to change for any reason by anyone we want to have some kind of a backstop where it continues. And we're proposing to have LANL commit to us that even if they don't fund it or NMED doesn't require it, it will continue. And this is something new. It's not something in the current MOU, just to be perfectly transparent about it, and they've said that's something new and we don't really like it. And so that's what we're discussing.

Hopefully that gives enough color about where it came from and then a sense, Councilor Romero-Wirth, we're not going to get into the details of how, when and where this has happened or might continue to happen. We just know that if it stops, we want to commitment that it will continue. If it stops as part of the program it's part of now, it will continue as part of a program for us, I guess is a better way to say it.

COUNCILOR ROMERO-WIRTH: Yes, and I appreciate that. I guess I just – it's interesting to me that you have a sense it might stop. And so I'm curious where that sense comes from, and it must come from some regulator somewhere. It's not saying it's no longer required or we don't need it or it's unnecessary. And yet it's very critical to our operations, knowing what kind of water we're dealing with.

MR. HARWOOD: I think that's a great question, Councilor Romero-Wirth, and I think what I'll point to, which we've mentioned in earlier briefings is that the new consent order was really rough on our set of assumptions, and that our MOU is sort of built around the larger consent order relationship between NMED and the lab. And so we are trying to make sure we have lessons learned from that fairly rough

experience and being really clear about the things that we assume will continue and sort of articulating that we really desire to continue. So that's a learning curve, so to speak. I don't expect Secretary Kenney, knowing him as I do, that he would – this is not the kind of thing he would stop doing, but we are trying to build a relationship and have principles for future renewals of this relationship based on experiences that we've acquired. So hopefully that gives you some background on why we're not necessarily concerned about Mr. Mikolanis or Mr. Kenney but there is turnover in these roles.

COUNCILOR ROMERO-WIRTH: Thank you, Madam Chair.

CHAIR HANSEN: Thank you, Councilor Romero-Wirth. Those were very good questions. I appreciate that very much. Mr. Ives.

MR. IVES: Thank you, Madam Chair. Yes, a couple of questions, in part following from those that Councilor Romero-Wirth has put forward. How much money are we talking about annually?

MR. HARWOOD: Mr. Mikolanis, do you have the amount for the grant on that station?

MR. MIKOLANIS: This is Michael Mikolanis from the Department of Energy. No, I don't. I know the size of the grant but that grant funds many things. I don't know what the cost of that sampling is on an annual basis is though off the top of my head.

MR. HARWOOD: We can get you that number. I keep wanting to call you Councilor. As Lawyer Ives, Mr. Ives, we'll try to suss that out so you have a better sense of the order of magnitude we're talking about.

MR. IVES: Gottcha. And as far as what I'm called, as mom said call me anything but late for dinner. So my next question is, you stated that sampling – that the BDD is very reliant upon the E-110 sampling. So what does the sampling show and what's the protocol for taking the samples in the first instance?

MR. HARWOOD: That's a great question, Mr. Ives. It is a protocol that's developed by NMED, the outcome of which is the most important for us. So without getting into the details of how the sampler is programmed and what analytes it samples for, the output of this E-110 sampling program run by New Mexico Environment Department Oversight Bureau is giving us characterization of the legacy contaminants coming down LA Pueblo Canyon. So we have a baseline understanding of what the contaminants of concern are and then sort of what concentrations, and so this sampling location lets us monitor for any real change from that baseline. Obviously, we would prefer the stuff coming out of LA Pueblo Canyon was clean, and I know the lab is committed to cleaning it up, but where we stand now there's stuff in the sediment train that gets mobilized with each storm and there is still stuff coming down. And until it is totally clean we feel it's appropriate that it be characterized and that we have the ENS, which of course as you know is our first line defense where we stop diversions and allow that slug of stormwater to pass by our intake. So hopefully that's a solution.

MR. IVES: When are those samples taken?

MR. HARWOOD: Well, they're triggered by stormwater, so those samplers are set up, generally, to take samples every – I think it's every 15 minutes. What they've done is they've done enough studies of how these forms behave, that they sort of know that it's a two or three hour stormwater flow duration. They know how many vials they have in these Terracells and so they are taking timed samples out of the stormwater

so they get a characterization of water quality through a hydrograph. And so without getting into any more detail, it is a sampling program that is tied to our understanding of how this particular watershed behaves during stormwater events.

MR. IVES: I appreciate that and understanding that I might have some more questions offline on some of these points. How quickly are results available from that sampling?

MR. HARWOOD: I think it's something like 120 days.

MR. IVES: So in other words there's no real-time monitoring or sampling of storm events. In terms of producing results you're talking four months later.

MR. HARWOOD: Some of these analytes are very difficult to sample for, and so there's no real-time technology that I'm aware of for some of these analytes. They are tricky little contaminants that need to be done in a very high-tech lab with very specific protocols including what are called blanks. So they'll have a companion sample of the stormwater that goes through the whole process. So you subtract out all the radiation that the blank has collected, just going through its process. So this is some very high tech stuff. It's not something that is done in real time.

MR. IVES: So when you say that we're very reliant upon the E-110 sampling, if the sampling is not delivered until four months after a storm event, talk to me about the nature of the reliance. I could see it, if you will, a post facto justification or truing up or verification of the monitoring system, just looking at flow, but I'm not necessarily understanding that fully.

MR. HARWOOD: It's very, very important so that we know whether our assumptions about characterization of the stormwater are still valid sort of over the seasons and the year. If we saw a big spike of something nasty, that would alert us to something that was changing in the system or in our assumptions. And of course we can't – if we don't have this data we can't tell if there's a big spike of something new or something current that's getting worse. So it's not a real-time response. It's more of a longitudinal monitor. So it's not as fast as our – hopefully – is that sufficient? Is that responsive?

MR. IVES: Certainly responsive to that question. The next is who does this comparison and how often? Does it get written up and is that report available? And if so for what period of time?

MR. HARWOOD: All that data is reported out on the Intellus system and it's something that Rick's group of consultants monitors for us. So we have a very active team that's keeping an eye on all of these assumptions and flagging for when they might be changing and requiring additional scrutiny or a different approach.

MR. IVES: And how long have we been doing that, roughly?

MR. HARWOOD: We have been engaged in this particular process since 2008, with one degree or another of different levels of involvement by different people, but I'm going to date Rick and I, we're getting to be old guys now, but we're the only two I think, that have been around since the initial permitting of the project and this has been a consistent concern, and one that we've addressed with our partner, Los Alamos National Labs, to be able to answer this question that the public asks during our scoping for the main project many years ago.

MR. IVES: And so I assume these comparative analyses are available. Let me just hold that assumption unless I'm wrong in that assumption.

MR. HARWOOD: They're available. They're not for the faint of heart. You'd be better off asking us the question you want answered and letting us get you the answer. Because they are no fun to read.

MR. IVES: Well, part of my problem is I'm not quite sure what question do I need to ask the next question, which is have there been any negative results – results that showed fundamental changes over the course of time from 2008 to the present? And what's your trigger for saying something is happening? Or something bad is happening?

MR. HARWOOD: I would love, Councilor Ives, to bring back one of our technical advisors who's not really logged in or prepared to answer that question. I'd love to bring one of Rick's capable consultants back to help answer that question at a later meeting, with your permission.

MR. IVES: Certainly. Perfectly fine by me. I wouldn't mind seeing some of those reports in the interim, especially any that purportedly show some level of change. I'm never afraid of gnarly information.

MR. CARPENTER: Madam Chair, Councilor Ives, a lot of this, I think could be done offline and maybe through email.

MR. IVES: Great.

MR. CARPENTER: I'm trying to keep my team as tight as I can.

MR. HARWOOD: And we do have Jay Lazarus who's listening in the conversation. I'm sure we'll be talking to him about what he can provide in terms of ready answers.

COUNCILOR ROMERO-WIRTH: I would be interested in the answers to these questions as well. I think these are very good questions. Thank you.

MR. HARWOOD: Thank you, Madam Councilor. And did you promise you're going to call me, earlier, Peter?

MR. IVES: I am happy to do that.

CHAIR HANSEN: Okay. I know that Commissioner Hamilton had her hand raised, but now she's taken it down so I'm not sure –

COMMISSIONER HAMILTON: Thank you, Madam Chair. I'm interested in the answers also, and actually, the discussion about the results for the time series testing that justifies how long and when we shut off because of our knowledge of when contaminants start flowing and when they peak and when they trail off, in association with flows and then the long-term time question. Both of them were great questions. Mr. Ives, Councilor/Lawyer/Mr.

MR. HARWOOD: Esquire. Esquire Ives.

COMMISSIONER HAMILTON: We've had that discussion before and I've been told the data are available, but I've never been provided with the data. It's one thing to get a – just say, oh, there's nothing to worry about; the data are available. It's another thing to actually show it. I've never seen that. I consider myself capable and interested in looking at that sort of thing as I think everybody on the Board is, frankly. So I'd really like to see that stuff also.

CHAIR HANSEN: And I think, if I may, maybe we need a study group. It might be a good idea. I'm just throwing that out as an idea. But I think that we all are very concerned about the runoff. That is why the new station that we are proposing in this MOU is so important, so that we can make sure that we are not consuming water that

might have radionuclides in it or other contaminants that make the water much harder to clean. I think this is a very good discussion. Are there any more questions on this topic?

MR. HARWOOD: We can certainly bring back some answers to these questions. I'd like to suggest maybe after we get through the MOU, it might be an appropriate time to take up some of these more general questions in that course. There's really no substitute for doing a site visit and actually seeing the LA Pueblo Canyon system for yourself. It makes a huge difference rather than just trying to describe it, waving my hands around. So we'll put it on the list, if it's okay, after we get through the MOU process to make sure we're clear about exactly what your questions are and how much detail you want in the answers, and hopefully those answers today are responsive, at least for today.

COUNCILOR ROMERO-WIRTH: Madam Chair, I certainly would be interested in a site visit. Just want to –

CHAIR HANSEN: A site visit is always good.

MR. HARWOOD: Very good, Madam Chair. If there aren't any other questions, I will plan on putting a redline in the Board packet for the January meeting and briefing you all on where things stand with the lab at that time, looking forward to a signing ceremony of some nature at the February meeting. That's what we're shooting for and hoping for and of course if any of you have any questions for me or Rick, we're only a phone call away and we would love to hear from you.

CHAIR HANSEN: Okay. Thank you very much, Kyle. I really appreciate that. I appreciate everybody's questions. It was a really good discussion.

9. MATTERS FROM THE BOARD

CHAIR HANSEN: Are there any Matters from the Board? I have one Matter from the Board. It came to our attention at our BCC meeting on Tuesday that we do not have a person from the Buckman Direct Diversion Board on the Water Policy Advisory Board for the County. I reached out to Mr. Egelhoff and asked if he was interested in serving. He is very interested in serving. It should be a public member, not an elected official to serve on that County board so I am hoping that we can bring back an appointment at the January meeting to appoint Tom Egelhoff to the County Water Policy Advisory Board. Commissioner Hamilton.

COMMISSIONER HAMILTON: I know JoAnne had her hand up. I have no idea what she was going to say but I know this is her last meeting and, yes. I hate these good-byes. I hate losing her off the Board. Very grateful to have had the opportunity to work with you, Councilor Vigil Coppler, and for all you contributed and am sincerely sorry to lose your inputs in this, our ongoing issue and the collegial way we've all been able to work together. It's a very satisfying thing as well and you contribute substantially to that. I just wanted to take that opportunity to wish you the best.

COUNCILOR VIGIL COPPLER: Thank you. Appreciate it.

CHAIR HANSEN: Thank you, Commissioner Hamilton. I was also – my next note was to thank you, extraordinarily, Councilor Vigil Coppler for your great leadership as the Chair of this Board. I really, really appreciate how you went to bat for the Buckman Direct Diversion Board at the City to help them understand that this is a separate, independent Board and making the City aware of our unique position in the

scheme of things at the City, and I really appreciate it, that hard work and your willingness to learn and be committed to the Buckman. It was heartwarming and impressive and I am very sad to lose you as a member of this Board.

COUNCILOR VIGIL COPPLER: Thank you, Commissioner. I appreciate it. So I'll take my turn, Matters from the Board, and just say I want to thank all of you. I've been on this Board since I became a City Councilor, so almost four years. It has been – I knew nothing about what you all do. I had never visited the treatment plant, and so all of that was really eye-opening and I will say that the staff has been absolutely wonderful. Rick, your leadership. Bernardine, Antoinette, I know is always – is going to be a great asset, welcoming her of course because she's fairly new to the Board, and of course Jamie-Rae, helping out just tremendously. And everybody else that was on here and I don't think they're on here anymore. But I've learned a great deal. I'd like to thank Attorney Long because she has been very helpful, not only to the Board, but when I was Chair, just providing the guidance that was really important. And all of you all – and Kyle Harwood. I still will see you around because you're still involved in teaching water classes for the Real Estate Association. So that's pretty good.

Anyway, I've just enjoyed working with all of you and it's been a real pleasure. I'll miss a lot of what goes on here and I'll also miss the executive session after this because even if I learn anything there I can't talk to anybody about it, so what's the point? And also I get to go on my merry way. But I think it's really important. I thank you, Commissioner Hansen, for touching on it, but I think one of the successes of this Board and I know you continually have to work on it, and that is to maintain your independence, and the way you do that is to continue to educate people that work in both organizations, the County and the City, that this Board has autonomy. And I think where it gets a little fuzzy is when you get to the staff level on the City side because the City handles the financial processes. And so sometimes you continually have to educate that the Board really has the decision-making authority over what we do. So when that gets muddied up it gets very complicated as you know and gets hard for staff members to follow what they know to be true and do their responsibility to the Board and not to the City staff where they happen to have some of their desks or likewise just work with. So I would say it's important to the success of the Board to keep those lines of differentiation, work together but keep the lines straight.

But again, thank you very much. I've appreciated all of you. I can say that I'm very happy in my life, but I know I'll see you all everywhere because you guys are everywhere. And so it'll be a pleasure seeing you outside the organization as well. So thanks again for your kind comments.

CHAIR HANSEN: We'll definitely miss you, JoAnne, and I'll go to Mr. Ives next.

MR. IVES: Thank you, Madam Chair. I'll be brief. I just wanted to echo the thanks to Councilor Vigil Coppler. It has been a pleasure serving with you on this Board and in other capacities over the course of the past four years and I only note as to the future I will miss your voice.

COUNCILOR VIGIL COPPLER: Thank you.

MR. HELMS: Madam Chair.

CHAIR HANSEN: Yes, J.C.

MR. HELMS: I'll just be brief. I thought it was a wonderful experience to be on the Board with JoAnne and I'm very sorry to see her go. Obviously, we'll see each other in the community but her presence on the Board was very wonderful and I think her heart and her head were always on the important places. She brought serious attention to serious topics in a very good way and I appreciated it. And thank you for being on the Board.

COUNCILOR VIGIL COPPLER: Thank you very much.

CHAIR HANSEN: Okay, any other comments? Any other Matters from the Board? Councilor Romero-Wirth.

COUNCILOR ROMERO-WIRTH: Thank you, Madam Chair. I just want to echo the compliments that have been directed as Councilor Vigil Coppler. Just thank you for the four years you've served and for the one year that you served as Chair, and I certainly wish you well and will see you out and about as we in this small community often run into each other. I ran into Commissioner Hamilton at the grocery store right before Thanksgiving. So I know we will see each other as we move around town. So thank you for your service.

COUNCILOR VIGIL COPPLER: Thank you, Councilor.

CHAIR HANSEN: Okay. Any other items?

11. **NEXT MEETING: Thursday, January 6, 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, including, without limitation: *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 over to Ms. Long and see if there is anything that we need to notice from our previous meeting?

MS: LONG Madam Chair, no, there is not, because you did not have an executive session last month I believe. So thank you for asking about that though. So at this point you can ask for a motion to adjourn and go into executive session in accordance with the New Mexico Open Meetings Act, NMSA 1978, 10-15-1H(7), for a discussion regarding pending litigation in which the BDD is a participant, including *Buckman Direct Diversion Board v. CDM Smith*, as described in the caption on your agenda.

CHAIR HANSEN: Okay, do I have a motion to go into executive session?

MR. HELMS: So moved.

COMMISSIONER HAMILTON: Second.

CHAIR ROYBAL: We have a motion by J. C. Helms to go into executive session, second by Commissioner Hamilton. Can I have a roll call vote, please?

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

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

[The Board adjourned and met in executive session at 5:16 pm.]

ADJOURNMENT

Chair Hansen declared this meeting adjourned at approximately 5:16 p.m.

Approved by:

Anna Hansen, Board Chair

Respectfully submitted:

Karen Farrell, Wordswork

ATTEST TO

KATHARINE E. CLARK
SANTA FE COUNTY CLERK