

City of Santa Fe



New Mexico

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AGENDA

THE CITY OF SANTA FE

And

SANTA FE COUNTY

BUCKMAN DIRECT DIVERSION BOARD MEETING

THURSDAY, JANUARY 5, 2012

4:00 PM

CITY HALL

CITY COUNCIL CHAMBERS

200 Lincoln Avenue

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **APPROVAL OF AGENDA**
4. **APPROVAL OF MINUTES FOR THE DECEMBER 1, 2011
BUCKMAN DIRECT DIVERSION BOARD MEETING**
5. **APPROVAL OF CONSENT AGENDA**
6. **MATTERS FROM STAFF**
7. **FISCAL SERVICES AND AUDIT COMMITTEE REPORT**

CONSENT AGENDA

8. Request for Approval of 2012 FSAC Calendar. (Stephanie Lopez)

DISCUSSION AND ACTION ITEMS

9. Discussion and Possible Action on Close-Out of BDD Capital Budget.
(Shawn Stack) **ADDITIONAL UPDATED HANDOUT**

10. Consideration and Possible Action on Resolution No. 2012-1, Determining Reasonable Notice for Public Meetings of the Buckman Direct Diversion Board. (Nancy Long)
11. Election of Chair and Vice-Chair of the Buckman Direct Diversion Board. (Nancy Long)

INFORMATION ITEMS

None

MATTERS FROM THE PUBLIC

MATTERS FROM THE BOARD

NEXT MEETING: THURSDAY, FEBRUARY 2, 2012 @ 4:00 P.M.

ADJOURN

PERSONS WITH DISABILITIES IN NEED OF ACCOMODATIONS, CONTACT THE CITY CLERK'S OFFICE AT 505-955-6520, FIVE (5) WORKING DAYS PRIOR TO THE MEETING DATE.

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

January 5, 2012

This meeting of the Santa Fe County/City Buckman Direct Diversion Board meeting was called to order by Virginia Vigil, Chair, at 4:10 p.m. in the Santa Fe City Council Chambers, 200 Lincoln Avenue, Santa Fe, New Mexico.

Roll was called and the following members were present:

BDD Board Members Present:

Commissioner Virginia Vigil, Chair
Councilor Rebecca Wurzbarger, Vice Chair
Ms. Consuelo Bokum
Councilor Chris Calvert
Commissioner Liz Stefanics

Member(s) Excused:

None

BDD Board Alternates:

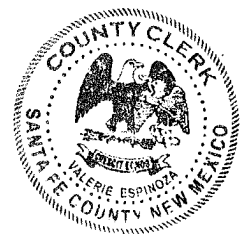
Commissioner Danny Mayfield
Councilor Carmichael Dominguez

BDD Support Staff Present:

Rick Carpenter, Water Resources & Water Conservation Manager
Nancy Long, BDD Board Consulting Attorney
Steve Ross, Santa Fe County Attorney
Marcos Martinez, Santa Fe City Attorney
Teresa Martinez, Santa Fe County Finance Director
Teresita Garcia, Santa Fe City Assistant Finance Director
Erika Schwender, BDD Compliance officer
Gary Durrant, BDD Chief Operator

Others Present:

Shawn Stack, Clifton-Gunderson, LLP
Mike Sanderson, Las Campanas
Michael Aune
David Bacon
Joni Arends
Wendell T. Egelhoff



COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BUCKMAN DIRECT DIV MIN
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I Hereby Certify That This Instrument Was Filed for
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Of The Records Of Santa Fe County

Deputy Marcella [Signature] Witness My Hand And Seal Of Office
Valerie Espinoza
County Clerk, Santa Fe, NM

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Nancy Seewald
Basia Miller
Cheryl Rodriguez
Michelle Victoria-Delon

[Exhibit 1: Sign-in Sheet]

3. **APPROVAL OF AGENDA**

[Exhibit 2: Agenda]

CHAIR VIGIL: Are there any changes, Mr. Carpenter?
RICK CARPENTER (Project Manager): Madam Chair, there are none.
CHAIR VIGIL: What's the pleasure?
COUNCILOR CALVERT: Move for approval.
COMMISSIONER STEFANICS: Second.

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

4. **APPROVAL OF MINUTES: December 1, 2011**

CHAIR VIGIL: Are there any changes, Mr. Carpenter or Council?
MR. CARPENTER: Madam Chair, there are none from staff.
COMMISSIONER STEFANICS: Madam Chair, I move approval of the
minutes for the December 1st meeting.
BOARD MEMBER BOKUM: Second.

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

5. **APPROVAL OF CONSENT AGENDA**

8. Request for Approval of the 2012 FSAC Calendar

CHAIR VIGIL: I assume we all had a chance to see that. With that I can
take a motion.

COUNCILOR CALVERT: I had a question.

CHAIR VIGIL: Okay. Then we won't approve the Consent Agenda.

6. **MATTERS FROM STAFF**

None were presented.

7. **FISCAL SERVICES AND AUDIT COMMITTEE REPORT**

MR. CARPENTER: Madam Chair, there was no meeting of the Fiscal
Services and Audit Committee.

2012 JAN 05 09:00 AM RECEIVED

8. Request for Approval of the 2012 FSAC Calendar

COUNCILOR CALVERT: Thank you, Madam Chair, there's just one – and it may not be necessary to have the Fiscal Services and Audit Committee because that's also being scheduled for an RPA meeting, a make-up RPA meeting, so I'm not sure that that date will work for that purpose.

COMMISSIONER STEFANICS: Madam Chair, on this point, I'm wondering, do we think that the Fiscal Services and Audit Committee needs a meeting every month, or maybe every other month?

COUNCILOR CALVERT: I quite honestly think as needed. Initially, because we were trying to settle things out and we are close to finishing the project but once we get into more of an operational mode I think that it is less likely that we'll have a need for some of those meetings and discussions.

COMMISSIONER STEFANICS: So is there any comment from staff, attorney, Shawn, about us meeting only as needed? For the Fiscal Services and Audit Committee?

MR. CARPENTER: Madam Chair, from staff's perspective I would agree with the comments of Councilor Calvert. Now that we're moving into the operational mode there will be fewer of that type of issue that will need to be discussed on a monthly basis I would think.

CHAIR VIGIL: Okay. Councilor Wurzbarger.

COUNCILOR WURZBURGER: I would just suggest, however, that until we get our final reconciliation done that we don't make a decision to make the committee ad hoc as this committee would be working to help us with that issue. So it might be approved, January 3rd, 24th, and then after that, as needed. Hopefully we'll be finished before February.

CHAIR VIGIL: Okay. Let me suggest this. It could be as needed but we should probably take action on what's being proposed. So that's what you're – okay.

COUNCILOR WURZBURGER: As needed after we take the action on the reconciliation and close out.

CHAIR VIGIL: Okay.

COUNCILOR CALVERT: So I would just like to amend that with excluding that February 21st date because I think that will not work.

CHAIR VIGIL: Okay. So it will be January 3rd, the January 24th and then April 3rd on down. Okay. So that's the motion. Is there a second?

COUNCILOR CALVERT: Who made the motion?

COUNCILOR WURZBURGER: I did.

COUNCILOR CALVERT: Okay. I'll second.

CHAIR VIGIL: I have a motion and second. Is there any discussion? So we can all calendar this.

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

DISCUSSION AND ACTION ITEMS

9. Discussion and Possible Action on Close-Out of BDD Capital Budget [Exhibit 3]

CHAIR VIGIL: Shawn has a report and update on that. It's all your show, Shawn. Do you have a question?

COUNCILOR WURZBURGER: I have a process question. I would like to ask to hear the entire report and take out questions and then come back to them. I'm so far from understanding what's going on here that I really feel like I want to have – I know I criticize people for reading to us but I really would like to go point by point and then come back [inaudible]

CHAIR VIGIL: Okay. What we'll do is we'll have him do the report and then if we could all reserve our questions on sight lines. And then we'll ask you specifically, so that we comprehensive appreciation of it. Okay?

SHAWN STACK: Good afternoon, Madam Chair, members of the Buckman Direct Diversion Board, members of staff and public. Thank you for this invitation to present to the close-out of the January 2008 capital budget. I'm going to present the carve-out budget for ongoing construction projects at the Buckman Direct Diversion project.

You received the packet this afternoon which contains several items related to this presentation. The first page is a memorandum for Rick Carpenter, the project manager in which he outlines the context of this presentation and some suggested action at some point by the Board. The next two pages are a memo from Clifton-Gunderson, my firm, in which we provide a high level of review of the documents presented in your packet and the details of the capital budget, and the carve-out amounts. The third page of the – the third section, rather, the fourth page, is a multi-colored worksheet which presents the project budget as it was passed in January of 2008 and it accounts for the \$216,344,000 capital budget and its expenditures. The next section of the report outlines something that should look fairly familiar to you. We've presented the capital budget and contingency updates in the past in this format. There is a summary sheet and then there are two detailed sheets which follow, and that is intended to communicate the status of our contingency fund and what remains unexpended. And finally there is the proposed carve-out capital budget which serves to budget for the ongoing expenditures related to the final construction phase at the Buckman Direct Diversion.

I'd like to start the presentation by looking at the project budget summary, this multi-colored worksheet. The layout of this report is there's blue columns, orange columns and a green column. The blue columns lay out for us the line items in the approved 2008 prospective capital budget, the original capital budget of \$216.34 million, the changes and adjustments to that budget, the final budget of \$216.34, which we can immediately take away all change orders, all adjustments were budgeted and managed within the original prospective capital budget of \$216 million.

Then the orange section highlights the expenditures. We have the column with total expenditures through June 30, 2011 of \$211,822,448. Since that time we also were able to gather some data through October 31st to give you a more timely reporting of this capital budget of an additional \$515,318, and then we sum both of those for the total

expenditures through October 31, 2011 of \$212,337,766, which has a remained of \$4,006,371, which represents the unexpended portion of our capital budget of \$216,344,137 as originally authorized.

Next, I would draw your attention to the capital budget and contingency update summary presentation. About a third of the way down the worksheet we have a line called total project budget as of June 30, 2011. And what this shows is the status of our capital budget as of this close-out time, the \$216,344,137 budget was allocated between contracts, contingencies and change orders. Contracts of \$203,619,693 were expended. We had change orders of \$8.7 million and change, leaving our contingency again of the \$4,006,371.

Next, we highlight the parallel pipeline project was an additional, supplemental project authorized by the Board, which brought the total expenditures of this project to \$221,515,077 – rather the total budget to \$221 million, not the total expenditures.

Then we look at the funding of the cost share by partner, and this is in accordance with the governing documents and what we end up with is a \$4,006,371 contingency fund. In other words the portion of the original \$216 million budget which was not expended. And all the costs included here in the budget are matched from the January 1, 2008 period through October 31, 2011.

I'd like to now take you through the carve-out budget, as we're calling it to identify these ongoing scopes of work, which in consultation with staff will take no more than three years to complete. And meanwhile, the majority of the capital budget is complete. So we want to make a close-out of those skilled support which have been completed and just be able to track a much smaller population of open skilled support.

So staff has identified \$2,941,466 of budgeted costs, which is identified on this worksheet towards the bottom on the total vendors expenditures line. This budget is being funded by that remainder of the original prospective capital budget, the \$216.3 million capital budget, of which the \$4,006,371 remained unexpended. We have a difference here of \$1,064,000 in which staff is recommending that the partners disencumber from their capital budgets.

With that I would be happy –

COMMISSIONER STEFANICS: I'm sorry. Could you go over this again? I'm not following the numbers.

MR. STACK: Sure.

COMMISSIONER STEFANICS: We are on capital budget and contingency update?

MR. STACK: No, we're on –

COUNCILOR CALVERT: That last page.

COMMISSIONER STEFANICS: Okay. Thanks.

MR. STACK: Would you like me to walk through one more time?

CHAIR VIGIL: Yes.

COMMISSIONER STEFANICS: Yes.

MR. STACK: Okay. I'm happy to. So the source of the carve-out budget is the unexpended portion of the \$216.3 million prospective capital budget. That amount is the \$4,006,371 that we referenced on the other reports. And then we've, in consultation with BDD staff identified \$2,941,466 in expenditures which cover board engineer, professional and legal services, rights-of-way and environmental monitoring, wildlife and

habitat mitigation, and miscellaneous costs. The majority of the miscellaneous costs you'll notice is a project contingency of \$383,550, which is approximately 15 percent of this scope of work's total amount. That is intended to fund any unanticipated costs that may arise.

Between the \$4,006,000 and the \$2,941,000 we have a difference of \$1.64 million which would show this carve-out budget as being over-funded. Because we're not anticipating or identifying any costs at this time above the \$2.9 million we're making the recommendation that that difference be disencumbered. May I take any questions?

CHAIR VIGIL: Okay. Councilor Calvert.

COUNCILOR CALVERT: So, yes. I guess the thing that jumped out at me at the top was the \$839,000 for Camp Dresser & McKee.

CHAIR VIGIL: What page are you on?

COUNCILOR CALVERT: I'm on the carve-out budget, the last page.

CHAIR VIGIL: Welcome, Councilor Dominguez.

[Alternate Councilor Dominguez joined the meeting.]

COUNCILOR CALVERT: I see all these other things that are definite sort of – well, not all of them. We've got the rights-of-ways, environmental monitoring, which is something we've known all along that we have to do, and the mitigation, which was the other big thing, the major thing that needed to be done. And so, each of those, or at least the wildlife which is the bigger one, has its own sort of consultants already. And so I'm wondering why do we need the involvement of Camp Dresser & McKee to that extent on any of these if at all when a lot of these professional legal services – we don't need them there, I don't think, rights-of-way, easements, monitoring – I don't know how much we need there. That isn't a very big project, and the wildlife habitat mitigation already has its own consultants involved and being paid for, and the rest is mainly contingencies. And that's a pretty sizable contingency anyway, so what is it that they are doing on all of this that requires a third to a quarter of this budget?

MR. CARPENTER: Councilor Calvert, Madam Chair, members of the Board, I'll try and answer that question. There are some tasks within Camp Dresser & McKee's almost \$10 million contract that linger past the close-out of actual construction. General engineering services, helping out with some of the metering and monitoring, reporting to the OSE, a lot of helping staff at the BDD through warranty items and start-up issues and processing engineering types of things that the Board engineer would tend to cover under their scope of work. It is possible, because these work areas were approved by the project manager that we'll get through all of these and then not spend all of this, but those are the line items, the total of the line items that are applicable to hold-over capital budget and start-up types of efforts.

COUNCILOR CALVERT: Okay. So these were things like the warranty stuff of equipment and replacement and getting that all squared away?

MR. CARPENTER: That, and working bugs out, working with the operations staff to work the smaller bugs out of the system and we're processing water. So they're doing a variety of engineering services.

COUNCILOR CALVERT: Okay. What I would hope, since we've been operational for a while that most of that has already happened, but I guess what I would like to see on all of these, pretty much is a drill-down to what details goes behind these. Because these are pretty general and non-descriptive chunks. And I'm sort of not sure

why we need all of these. It would be helpful to understand that. I understand the rights-of-way and easements are probably – I don't know if that's going to go to Purchasing. No, that's going to be the County. So I don't know what all – this is going to go for processing stuff with the federal agencies, I guess.

But it would be helpful to know what this is going for to get an idea of this, and I would hope that just because we have these amounts allocated it doesn't mean we have to spend them. So I guess it's just as to contingency on some of these things I would hope that even the contingency would not materialize because it would seem like most of these things could be, at this stage of the game could be fairly well defined and not have a need for those unforeseen things, but those are my comments. I'm just a little – I would like to see the detail that goes behind this in general so that I can understand what this is all being budgeted against.

CHAIR VIGIL: Questions? Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Madam Chair. In some respects my comments mirror Councilor Calvert's. The revenues and some of the loans I mentioned to you last month as not showing up as revenue, and that we really needed to see it spelled out. And I think going back to the Councilor's comments, having a very detailed spreadsheet would allow us to have either agreement or disagreement with what we're seeing. In some ways, holding back some contingency and in other ways giving it up, we're not sure where that money is coming from. We're also not sure what debt that would leave each entity from these spreadsheets.

So I think that there are some things that I asked for specifically last month to look at that isn't quite clear in some of the materials you sent us. And so I, in following up, I would really prefer to see all revenue sources and their accounting by shared City-County-Las Campanas, etc. shown before we get into approving the expenditures and then the bottom line.

CHAIR VIGIL: Councilor Wurzburger.

COUNCILOR WURZBURGER: On that point, my understanding is that the documents that our two Finance offices have been working upon – does everybody have that? Or we don't have that. Is that something we were going to discuss today, or maybe we want to have him respond is in direct response to the revenue question. Is that what I understood from our briefing today? And of course we just got this today at 3:40.

COUNCILOR CALVERT: You got it.

COUNCILOR WURZBURGER: I got it. We don't all even have this.

CHAIR VIGIL: Right.

COUNCILOR WURZBURGER: I guess what I'm saying [inaudible] a certain way. Am I responding correctly? That we think this is the answer to that question? Teresita and Teresa, can we have both of you respond to that?

CHAIR VIGIL: Yes, actually thank you, because we're wanting to hear from both of them. Do you know what document she's referencing and let me give it to you, Teresita and Teresa and you can look at it.

COMMISSIONER STEFANICS: I have two different sheets.

COUNCILOR WURZBURGER: Is that what you said, as I understood, 30 minutes ago? Okay. So this is something that –

COUNCILOR CALVERT: Do we really want to do this?

COUNCILOR WURZBURGER: No, we don't. I'm just saying that I think the work has been done but we don't really have a chance to discuss it –

CHAIR VIGIL: Until we have another chance to review it. Is that correct?

COMMISSIONER STEFANICS: Well, Madam Chair, that's not quite correct. Because there's two different spreadsheets and they're different. So the staff really needs to reconcile before they give it to us. And it's not reconciled between the City and the County yet.

COUNCILOR WURZBURGER: Okay. I understood that it was, that it had gone from –

COMMISSIONER STEFANICS: I have two sheets sitting in front of me that are quite different and so when I'm asking for something more complete I'm just asking also that there be a reconciliation between the staff so that when it comes to us it's agreed upon. I'm going to, Madam Chair, suggest that it's not the members sitting up here who know the details word by word, line by line of the contract and the loans, etc., that it's really the staff and Legal for each entity, City and County, that need to look at this to determine what goes in what column. And besides our two entities financially saying this is what we've reconciled, and then having the two Legals say, yes, we agree with that, then we have some faith in the product. But we don't have that yet.

CHAIR VIGIL: Councilor Wurzbarger.

COUNCILOR WURZBURGER: Yes, I just – I guess we should have done the three-part thing. I don't have the other piece of paper. My introduction to today would be that this is a truly informational item and that we are unable to make a decision today on moving forward. And the information that we need to move forward are three pieces. One is this report, the second is the reconciliation between our two financial people, and the third is the legal reconciliation with a recommendation for what we actually do. So I think we're moving along but we're not there yet. So we probably should just change the agenda so we wouldn't be nervous about making a decision we can't make.

CHAIR VIGIL: Councilor Calvert.

COUNCILOR CALVERT: Yes, and I guess in addition to both City and County staff I would hope that Mr. Gunderson is privy to the same information because he supposedly sort of being the person that's overseeing all this and auditing, so I would hope that he would have access to this if he doesn't already so that he can also pass judgment on it as well.

MR. STACK: I do need to clarify for the record, this is not an audit in any way.

COUNCILOR CALVERT: No, I'm sure of that but you've been involved in that capacity –

MR. STACK: Correct. Correct.

COUNCILOR CALVERT: I just think that it's something that you've been working on this and pulling together the pieces from both sides so I think it would be helpful and instructive and probably proper for you to see what that document is. I haven't seen it in myself. And make sure that it agrees with what your understanding of the situation is.

CHAIR VIGIL: Okay. And let me have Commissioner Mayfield.

COMMISSIONER MAYFIELD: Thank you, Madam Chair. First I'm totally on board with what Councilor Calvert said, that I would like a full accounting of what these services are being provided for in the future. When it comes to all the legal services that are being offered, if arguably there could be any duplication – I know I've consulted with our County Attorney. We're fully staffed. Granted, we have a lot of work. I assume the City of Santa Fe also does. But if there's any services that could be picked up in-house I would be a proponent of that than sending that out to contractual service work. So if I could have a full breakdown of what these services will be I'd appreciate that.

Second, the spreadsheets that we were recently just discussing were given to me by our County Manager. I had discussion with our County Manager. Also our County Manager has been in contact with the City Manager of Santa Fe. My understanding on these spreadsheets, and whoever can correct me, please, is this is the City's interpretation of how the draft funding works. This is the County's interpretation of how the grant funding should be applied. So Commissioners and Councilors, I think that we have two bodies here that are looking at how these funds should be applied or how they shouldn't be applied. I would like to see if we could get a cost allocation breakdown brought to this Board, hopefully by the next meeting, of saying, okay, this is how these grants need to be applied. If there's a JPA that we entered into and we're sharing a 50 percent agreement amongst each party or each entity then that should be credited appropriately.

And then I also would ask if – and I'm assuming that these are all the grants that we have that are listed out here – but if there could be some reconciliation or an audit done just to make sure that all of the grants since the inception of the BDD have been picked up and accounted for. And Teresa, I'm going to defer to our Finance Manager Teresa, am I wrong on my thoughts on these two spreadsheets?

TERESA MARTINEZ (County Finance Director): Madam Chair, members of the Board, no, you're not wrong at all. One is a City presentation; one is a County presentation, and we are working on them to get them reconciled. So you're correct.

COMMISSIONER MAYFIELD: If I may, Madam Chair, Ms. Martinez though, I see you guys are working on them to reconcile, but arguably I think Teresita has a different interpretation of how they should be debited and credited, and I don't know if that's a decision that needs to come from this Board, where this Board makes that decision, because respectfully, you two guys could be at a stalemate of how these credits and debits are working on these spreadsheets.

MS. MARTINEZ: I may defer to Legal to see if it's for the Board to decide or if it's an interpretation of the JPA.

CHAIR VIGIL: And I think, Commissioner Mayfield, if I could just sort of summarize what I'm hearing so far, the recommendation is going towards that reconciliation to be also reviewed by Legal, and that would mean a review of the JPA and all other agreements that are part of that. So I think it's a two-pronged review that we're asking. So I think if we move forward that way we'll have a lot more confidence on what we're taking action on.

COMMISSIONER MAYFIELD: And Madam Chair, will they bring this to the next meeting? Will that be enough time for you all?

CHAIR VIGIL: Yes, it's looking like it would. Ms. Bokum.

BOARD MEMBER BOKUM: Yes, I just have a quick question. Does Las Campanas continue to contribute to the carve-out?

CHAIR VIGIL: I don't know. Can somebody answer that?

MR. CARPENTER: Board member Bokum, members of the Board, the carve-out is an extension of the capital budget so Las Campanas would pay in accordance with the cost-sharing principles that were established already.

CHAIR VIGIL: Okay. Councilor Wurzburger.

COUNCILOR WURZBURGER: Thank you, Madam Chair. Back to Teresita and Teresa, I'm hoping – and I heard you both say that we, at the next meeting – because I personally would like to have a copy of the County; I only have the City. So if we could see both. And maybe I don't even want to see it again. I just want to see it when it's reconciled but at least for consistency with the County I'd like the same information for the City.

My concern is by the next meeting if we still have issues that haven't been worked out with Legal I would like this to come back to us as a policy board with respect to: here are the issues about which we have lack of agreement. That we could get the 99 percent, so that we don't just keep trying to go through staff to get this reconciled because it might be that it needs to be at our level once we have a clear understanding of what those areas of disagreement are, because I don't know at this point. If that's okay.

CHAIR VIGIL: I think that will be a part of the discussions that are had. So I think we're all on the same page.

COMMISSIONER STEFANICS: So, Madam Chair, could I clarify? Councilor Wurzburger, you're suggesting that – I heard first of all a three-pronged from you, so we really are looking at the staffs' meaning, City-County staffs' reconciliation together, then the City-County's legal reconciliation together, and then –

COUNCILOR WURZBURGER: If need be.

COMMISSIONER STEFANICS: If need be. And then our firm presenting the final figures. Is that what I heard you say? Or are you saying something different?

COUNCILOR WURZBURGER: No. That would be appropriate.

COMMISSIONER STEFANICS: Thank you.

COUNCILOR WURZBURGER: But my understanding further, if I may, is that at the end we have to actually have a legal agreement between us saying it's over. We did it. Hurray. So that in that process it's in review, it's not just that – we may have to have two [inaudible] of the legal interpretations of the legal foundations the fiscal staff is coming up with from a legal agreement. And then also in the very end, it would be something that we sign that we agree that this will be exactly what happened. Right? Counsel?

NANCY LONG (BDD Board Counsel): Madam Chair, Councilor, yes. Previously, the City and the County attorneys had been working toward a release, the kind of document that you're talking about. So that was explored if not fully resolved, but I assume that can be part of the City-County legal staff review that you have asked for.

COMMISSIONER STEFANICS: So, Madam Chair.

CHAIR VIGIL: Yes.

COMMISSIONER STEFANICS: I have a question. In one month, let's say there's no agreement. Do we still want to hear about this?

COUNCILOR WURZBURGER: Yes, I do, because I want to have a hearing. I want it to be done. That was my point, that if we don't have an agreement then I want to know what is it that we're not agreeing about? Maybe we could get some light shed on it. I don't know. Maybe we'll just make it worse. But I at least want to know, because we've been in this fit for a while. What is it that we're not agreeing about if we can't get there?

CHAIR VIGIL: Okay. Councilor Bokum.

BOARD MEMBER BOKUM: Thank you, Madam Chair. I was on this Board back when we had the City and the County's attorneys doing all of our work and we decided we needed a Board attorney.

COUNCILOR WURZBURGER: Right.

BOARD MEMBER BOKUM: So I think if there's a conflict at some point our counsel needs to play the role of helping us resolve what the differences are, because that was why we chose here is to represent the Board and sort of deal with problems when there's disagreement between the City and the County. So I just wanted to add that perception of the history of why we have our own Board attorney.

CHAIR VIGIL: Marching orders?

MS. LONG: Yes, and Chair and Member Bokum, because the interests were diverse, and I represent the Board, our law firm represents the Board, that's why we had each entity have their own representation, because there appeared to be a conflict on the issue and required resolution. But yes, to the extent that Board representation is required or desirable then we would be reviewing that resolution.

CHAIR VIGIL: Okay. Are you okay with that response? I need a clarification because I may have heard something different, Councilor Calvert. I thought I heard you, and I thought I heard Commissioner Mayfield say that the contingency budget that we have right here, which are prospective costs, that may or may not be there, Commissioner Mayfield is saying that maybe some of those can be done in-house and you're saying do we really have to stick with this.

COUNCILOR CALVERT: No. What I'm asking for, at least preliminarily, is a detail of what these things are about. I think then, once we know, have better information, then we can make those kinds of determinations.

CHAIR VIGIL: So my question, legally, would be if we do go to a close-out and these contingency items have been identified as part of that close-out, and we do come across a point in time where the habitat line item isn't necessary; we've been able to get a donor or something for that, how tied into what we've taken action on are we? Are you following me? Would this be part of the close-out action we take approving this?

MS. LONG: Approving the carve-out budget would be part of that but it is a best estimate of what we'll be faced with going forward. So that could change.

COUNCILOR CALVERT: My understanding is this is looking at it in the future, so at some point there would be even a reconciliation of this particular budget and if it was not expended it would revert to the disencumbered portion that has already been identified.

CHAIR VIGIL: So we'll go through a different process for that contingency then. Okay? That makes sense. I just needed that clarified.

COMMISSIONER STEFANICS: So, Madam Chair.

CHAIR VIGIL: Commissioner.

COMMISSIONER STEFANICS: Madam Chair, perhaps Legal, our legal counsel for the Board could identify the separate motions and approvals that are necessary for this action when it comes back to us. So it's broken out. Thank you very much.

CHAIR VIGIL: Okay. Any other questions on this? We'll move on to the next item. Look forward to this reconciliation at the next meeting.

10. Consideration and Possible Action on Resolution No. 2012-1 Determining Reasonable Notice for Public Meetings of the Buckman Direct Diversion Board

MS. LONG: Madam Chair, as you know, every year we present to you a resolution as requirement in the State Open Meetings Act. We do that in January every year. It's required by law that you consider what notice constitutes public notice for your meetings at least once a year. The resolution this year is identical to the resolution that you passed last year. Last year we did make a few changes including that your regular monthly meeting is on the first Thursday of the month and we clarified where meetings were noticed on the website. So there were no changes recommended to me by any staff and it looked appropriate for passage for you at this meeting.

CHAIR VIGIL: Are there any questions? Seeing none, Councilor Wurzburger.

COUNCILOR WURZBURGER: I'd like to make a motion.

COUNCILOR CALVERT: Well, I had a question.

CHAIR VIGIL: Go ahead.

COUNCILOR CALVERT: Is there any – since there are no changes since the last, I know that members of the public have asked for perhaps more advanced notice or providing for agendas and that sort of thing. Is there a way to build that in? I mean it's one thing to provide an agenda here when you walk in and have it on the website three days in advance, but that doesn't always give you a whole lot of time to follow up on things or to check or get more information if you want to prepare yourself for the meeting.

So is there any way that we can improve upon that? I don't know if we need to build that into this, but I just thought I'd bring that up since it's a concern that's been mentioned to us on our agendas and the information that's available in advance.

MS. LONG: Madam Chair and Councilor Calvert, you are correct that the agendas are required to be posted and published three days in advance and a final agenda 24 hours in advance. Are you concerned about the packet materials or the agenda itself being available?

COUNCILOR CALVERT: I think it's more the packet materials because an agenda by itself doesn't really tell you a whole lot. You don't know what's going to be discussed until you actually get some of the packet materials. So the sooner they can be available to the public the better. I don't know if that's defined in here specifically or if we're just going on – this is sort of a boilerplate that we've used in the past and it's maybe what is allowed by State statute. It doesn't necessarily mean we can't improve upon it.

MS. LONG: The resolution does provide more than is required by State statute in terms of availability. I certainly could explore that option with our public relations consultant as well as with staff to see if there is some more time leeway to allow for that. And I could bring it back to you.

COUNCILOR CALVERT: And I think what it basically is asking, a lot of times, a lot of times it's asking staff, who is working on the agendas to get things finalized as soon as possible. Now, I understand sometimes things go down to the wire and that's unavoidable and that's just the way that happens, but the stuff that you are – as you know, there are probably things we know right now are going to be on the next agenda. We may not have all the detail but I think we can probably improve. Now, maybe we don't want to tie ourselves down in this resolution but I think – I guess I bring it up as just discussion before the Board as working to improve and get that information out to the public as quick as possible and not necessarily wait to the deadlines we've defined in the resolution.

MS. LONG: Yes, and Councilor I think that is a good point, that you probably do not want to create requirements that we're not going to be able to meet in our Open Meetings Act resolution, but maybe explore having availability when we can further in advance. I know our staff works pretty hard and don't to the wire to get these done but it's certainly something we can discuss as an information item.

COUNCILOR CALVERT: Yes, I think it's one of those things where some of the items might go down to the wire but not all of them so there's no need to have to wait until you get every one of them formalized before you provide any information on any of them. So, anyway.

CHAIR VIGIL: Any others? Councilor Bokum.

BOARD MEMBER BOKUM: Madam Chair, if I could ask a question on that point. In actual practice, when does the agenda tend to get on the website and be available for people? Is it more than three days?

MS. LONG: The preliminary agenda –

COUNCILOR WURZBURGER: People are having problems –

MS. LONG: Probably yes, three days.

BOARD MEMBER BOKUM: Okay. The answer is we tend to get it on more than three days ahead of time. So I think we probably need more information. This resolution mentions nothing about the back up materials. That's just a point.

COUNCILOR CALVERT: Well, might I suggest then that at our next meeting – we could go ahead and pass this resolution.

COUNCILOR WURZBURGER: We could have a different resolution on materials.

COUNCILOR CALVERT: We could have some discussion on it with staff who has some advance notice now about us wanting a discussion on how soon they can have the materials prepared in advance of the meeting.

COUNCILOR WURZBURGER: Yes.

CHAIR VIGIL: So that would be a separate item of discussion. Today we'll look at taking action on the notice for meetings.

COUNCILOR WURZBURGER: I'd like to move for approval.

CHAIR VIGIL: Is there a second?

BOARD MEMBER BOKUM: Second.

COMMISSIONER STEFANICS: I have a question. Thank you, Madam Chair. Nancy, is the membership defined in the JPA?

MS. LONG: Membership is defined in the JPA.

COMMISSIONER STEFANICS: So, we had a discussion last month about possibly having an alternate, a consumer alternate. Would that mean that the JPA would need to be amended and taken back to each governing body?

MS. LONG: Commissioner, I believe that the JPA discusses the composition of the Board and alternates are addressed in your rules of procedure. So we may not need to amend the JPA, but I will look at that.

COMMISSIONER STEFANICS: Would you? I recognize that a JPA amendment would be more complicated than the just amending the rules.

MS. LONG: Yes. It would be.

COMMISSIONER STEFANICS: That was my only question. Thank you, Madam Chair.

CHAIR VIGIL: Okay. Any other questions? There's a motion and a second.

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

COMMISSIONER STEFANICS: Madam Chair, may I make one more comment?

CHAIR VIGIL: Yes.

COMMISSIONER STEFANICS: I do understand that the legislature has some impetus to do some changes to the Open Meetings Act, and if that would go through we would need to consider that, once that went into effect. And they are in fact looking at a longer period of time and all amended agendas being in three days and things like that. So we'll have to follow that legislative activity to see if in fact it passes. Thank you.

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

CHAIR VIGIL: Are there any motions for this?

COUNCILOR CALVERT: Yes, I would nominate Councilor Wurzbarger as chair.

CHAIR VIGIL: And I will nominate Liz Stefanics as the vice chair.

COMMISSIONER STEFANICS: Well, could we separate the motions and I'll second the first one?

CHAIR VIGIL: It wouldn't matter. We'll get the same results. Is there anyone else that would like to – Let's just do it in one sweep, Rebecca Wurzbarger as chair and Liz Stefanics. Do you want to protest or what?

COMMISSIONER STEFANICS: Madam Chair, I just wanted to offer the opportunity to Commissioner Mayfield if he has any interest.

COUNCILOR CALVERT: I think we've already gotten a take on that.

COMMISSIONER MAYFIELD: Madam Chair, I appreciate that because I serve as an alternate right now and I don't know what our BCC meeting will do on the 10th, where we change positions.

CHAIR VIGIL: Exactly.

COMMISSIONER MAYFIELD: So that's my – it could be reconsidered after our 10th meeting, but that's [inaudible]

CHAIR VIGIL: Okay.

COMMISSIONER STEFANICS: That is correct, and the BCC doesn't do their committee assignments until next week.

COUNCILOR CALVERT: Madam Chair, if I may.

CHAIR VIGIL: Yes.

COUNCILOR CALVERT: I think these are subject to both governing bodies' approval of these members continuing. No judgment is involved there; that will be up to each governing body to assign people to this body. So I think our motion is subject to the discretion or whatever you want to say, of the governing bodies.

CHAIR VIGIL: Okay. So that motion has been further clarified. I do have a motion to elect Rebecca Wurzburger Chair and Liz Stefanics as vice chair and a second.

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

CHAIR VIGIL: I'm going to turn this over to you.

COUNCILOR WURZBURGER: I want to be sure that you're at the next meeting, because you [inaudible] and you wouldn't be on this anymore after ten years. I'm sure there's some way we should do something special. And we also need your brain forever, so you will be at the next meeting in some form, right?

CHAIR VIGIL: Yes. I'll bring my clone.

COUNCILOR CALVERT: She can be the public alternate.

CHAIR VIGIL: That sounds good.

[Commissioner Vigil left the meeting.]

MATTERS FROM THE PUBLIC

COUNCILOR WURZBURGER: If there's anyone who'd like to speak, please come forward and give your name. Are you now public, Steve Ross? Are you telling us something we don't know? Is the County going to make an announcement? Welcome, sir.

MICHAEL AUNE: My name is Michael Aune, and every day I look at the water tank in the area where the Buckman Direct Diversion comes to, and I live about 100 yards from where the main water lines go. I just have some questions for clarification is all I'm asking, so I'm not sure if it's you or someone on the staff.

COUNCILOR WURZBURGER: You may want to meet with staff but do you want to just mention the questions for the record and then we can follow up with you.

MR. AUNE: Is that actually the treatment plant, where the new water facility is located? Where the new big tank is up there by Camino La Tierra, across from Salvatierra? That's not the treatment plant? Then where is the water actually treated that comes up from the Buckman Diversion?

COUNCILOR WURZBURGER: They can –

COUNCILOR CALVERT: Is there another question?

MR. AUNE: There are several questions related to that, and it has to do with the turbidity of the water, and that's kind of my concern, is where is the turbidity addressed? Is that at the actual intake by the river? Or at the treatment plant? Is there anybody here? I know there's people that are involved with the construction that could answer that.

COUNCILOR CALVERT: The answer would be both, I think.

COUNCILOR WURZBURGER: Would you mind if we asked staff to work with you directly on the answer to those questions today after the meeting?

MR. AUNE: That would be fine.

COUNCILOR WURZBURGER: Okay.

MR. AUNE: Another question that I would like to ask technically, that I would like to ask staff to look into. I guess this is the staff.

COUNCILOR WURZBURGER: Yes, sir. We'll start there, and then if we need more help to answer them we'll get someone else.

MR. AUNE: As I understand, the way the turbidity is removed is there's kind of a flocc'ing process that captures the suspended particles in the water and somehow through that flocc'ing process that's where the turbidity is removed from the water – so I guess that's something that can't be answered right now. Perhaps you could answer at a later time. But those are the kinds of things that my neighbors and I have questions and concerns about, and we've not been able to really know any specific answers as to how that's being handled.

COUNCILOR WURZBURGER: Okay. If you're not satisfied after having this meeting with our staff after the meeting then we would want to see you again.

MR. AUNE: And we would want to see you anyway again. Yes.

BOARD MEMBER BOKUM: We've all worked – some of us have worked very hard to make sure that the website answers those questions and if it's not, we need to know that and it would help if you could go look at the website, maybe before or after you talk to Rick and then let us know where it really failed. But those questions should be answered on the website. And if we're failing to get that information across we need to know that.

COUNCILOR WURZBURGER: Thank you, Conci.

COMMISSIONER STEFANICS: Madam Chair, I also would suggest that if there's a group of neighbors who live close that they would warrant a special meeting there and tour of the facility. I think anybody who goes to meet with the staff and get the information and see what's actually being done will have a much clearer picture.

COUNCILOR WURZBURGER: I think that's a great idea.

COMMISSIONER STEFANICS: So I don't know if your neighborhood association or neighborhood would like to do that but that's an idea you might take back to them. Thank you.

COUNCILOR WURZBURGER: Thank you. Who else? Hi, Joni. Happy New Year.

JONI ARENDS: Good afternoon, members of the Board. I wanted to say thank you for the sign-up sheet and we filled it out, but it would be great if it was attached to the minutes that are sent out in the packet. That's number one. Number two, Councilor Calvert, we appreciate your effort to improve the public access of the agenda and the packet materials. You have to know that the agenda was not available on the

BDD's website. It was available on the City's website, on the calendar on the right side for this meeting. I don't know if Lynn's not here or she's out of town.

So with respect to the agenda, it would be great if the packets were also – the packet materials were available as well on the BDD website and the City and the County's websites when you consider that next month. It would be really helpful to review it. It was very helpful to review Mr. Stack's presentation before hand to have an idea about what you were going to talk about today.

The second thing that I would like to talk about is through the Los Alamos National Laboratory electronic public room there was a notice in early December that there were findings of tritium in the Buckman wells 1, 5 and 8 that raised some concerns between City staff and the laboratory. So I have a couple of questions. I know that the Buckman Board doesn't deal with the wells, but I want to raise these issues because you have an agreement with LANL to do sampling. There's one place in the country specifically that looks at tritium and that's the University of Miami, and it's important that your agreement says the University of Miami for sampling of tritium, because this goes back to the whole finding of plutonium in 2006, because the laboratory came back and they said that plutonium is not really there because there's no tritium present.

So we're going to get into this very technical argument about tritium, plutonium, the wells closest to the river, and I think that you need to be demanding that the University of Miami sample the tritium. And for the City folks, the agreement needs to be changed so that the wells are sampling using the University of Miami. So in the correspondence between Mr. Snyder and the laboratory – and I have a couple of extra copies [*Exhibit 4*] the laboratory says that they're raising concerns and this is what they always do when there's ever a finding. Ninety-five percent of the time they always blame it on the analytical laboratory, that there's some kind of problem. And in this letter of December 7, 2011 it's referred to as LANL EP 2011-0402, it says that the laboratory is working with American Radiation Services Laboratory to re-evaluate these calculation errors of the March 14, 2011 results.

So that the concern is that these samples were taken in March. The public only learned about this through the electronic public reading room in December, and I'm bringing this to your attention here today. And with a request that you ask them to run the tritium through the University of Miami. And they say here in the letter that two times a year – they do quarterly sampling. Twice a year they do sampling for tritium and twice a year they do all the organics and the radionuclides. So it's important, given these findings, it's important that they do full sweeps, full analytical sweeps all four times of the year. I think it's time. It's time. So I'll share this with –

COUNCILOR WURZBURGER: Thank you very much. If I may, I'll take the prerogative of the chair, Rick, I'd like to have a response to us on this of how we might respond to Joni's suggestion with respect to both the contract and the – you had two points. The first point, Miami, and then the second – more than two points, but the two direct points of –

MS. ARENDS: Full sweeps.

COUNCILOR WURZBURGER: Full sweeps. Thank you. We appreciate it.

MS. ARENDS: And then I sent you all an email yesterday about going on the toxic tour.

COUNCILOR WURZBURGER: Spring.

MS. ARENDS: Commissioner Vigil suggested after the legislative session, so I hope we can set that up, and I'm taking members of the public. CCNS is taking members of the public on the toxic tour on Saturday, and we also have one scheduled for February 11th. So if you'd like to go on those with the public and possibly the press please let me know. Thank you.

COUNCILOR WURZBURGER: Thank you. Anyone else? I'd like to get a sense of who else, because some of us have other things. Is there anyone else who is going to be wanting to speak? Go ahead.

MICHELLE VICTORIA: Hi. My name's Michelle Victoria. Thank you for having this public forum for us to be able to come and voice our concerns. I've been here at the last couple of meetings and I think it was the last meeting I had requested if there would be some way to organize a public open meeting where questions could be answered, so that more of us could hear the answers rather than just one or two people that have a contact. I know that there's a lot of people in the community that would love to be able to come, ask questions, and have them answered, rather than being referred to websites or other people. And I think that we're dealing with some really critical issues.

When I hear that plutonium or tritium have been found in our water supply and there's these long delays in our even finding out about it it really has me greatly concerned, because these are not substances that you need a major amount to have them affect the public. The littlest amount can make us all really, really sick. And we're dealing with a really potentially dangerous and I would say delicate situation, having our water come from nearby to a nuclear facility. And when I hear that this water is only tested two times a year for particular elements, we're drinking this water every day, and we're bathing in it, and we're watering our vegetables with it, and when it's tested so infrequently and then the test results are not even shared and then the lab wants to dispute them, it really gives me the feeling that we're living as guinea pigs here at the mercy of Los Alamos Nuclear Laboratory. And I think that as citizens of the United States and New Mexico and Santa Fe that we have a right to clean water that is not going to harm us and the community and the younger people and the elderly.

And I just – I just find it shocking that a substance like tritium was found in March. No one knew about it in the public until December, and still we don't have decisive action, because this is really, really dangerous. So I kind of plea, plea to the Board to find out more about this and let Los Alamos Laboratory know that there are citizens here in Santa Fe who are deeply concerned about this and feel that our right to clean water and clean air is not really being considered, and that if there would be any way to convene a townhall meeting where the public can come and ask questions and ask questions I think it would be greatly appreciated by many members of the community besides myself. Thank you very much.

COUNCILOR WURZBURGER: Thank you. Any further comments?

MATTERS FROM THE BOARD

None were presented

NEXT MEETING: February 2, 2012 @4:00 P.M.

ADJOURNMENT

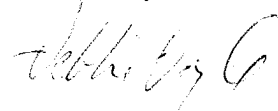
Having completed the agenda, Councilor Wurzbarger, this meeting was declared adjourned at approximately 5:10 p.m.

Approved by:



Virginia Vigil, Chair

Respectfully submitted:

Debbie Doyle, Wordswork

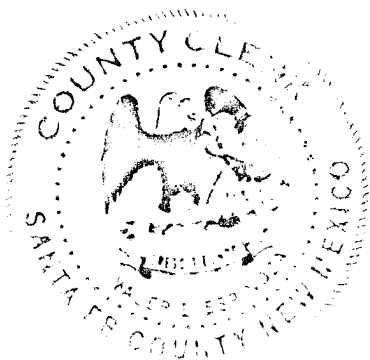


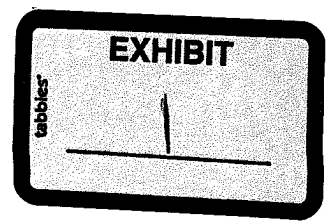
ATTEST TO:


VALERIE ESPINOZA
SANTA FE COUNTY CLERK

ATTEST TO:

YOLANDA VIGIL
SANTA FE CITY CLERK





BUCKMAN DIRECT DIVERSION BOARD MEETING

SIGN IN SHEET

January 5, 2012

NAME (Please print)

MICHAEL AUNE

David Bacon

JONI AKENDS

Wendell T. Egelhoff

Mike Sandoz

Gary Durvant

Teresa Martinez

Erika Schwender

Shawn Stack

Nancy Seewald

Frasia Miller

CHARLYE RODRIGUEZ

MARCOS D. MARTINEZ

Michelle Delon

STC CLERK RECORDED 03/01/2012

City of Santa Fe



New Mexico

CITY CLERK'S OFFICE

DATE 12/28/11 TIME 2:35

SERVED BY Stephanie Lopez

RECEIVED BY Don Lopez

EXHIBIT

2

AGENDA

THE CITY OF SANTA FE

And

SANTA FE COUNTY

BUCKMAN DIRECT DIVERSION BOARD MEETING

THURSDAY, JANUARY 5, 2012

4:00 PM

CITY HALL

CITY COUNCIL CHAMBERS

200 Lincoln Avenue

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF AGENDA
4. APPROVAL OF MINUTES FOR THE DECEMBER 1, 2011
BUCKMAN DIRECT DIVERSION BOARD MEETING
5. APPROVAL OF CONSENT AGENDA
6. MATTERS FROM STAFF
7. FISCAL SERVICES AND AUDIT COMMITTEE REPORT

CONSENT AGENDA

8. Request for Approval of 2012 FSAC Calendar. (Stephanie Lopez)

DISCUSSION AND ACTION ITEMS

9. Discussion and Possible Action on Close-Out of BDD Capital Budget.
(Shawn Stack) **ADDITIONAL UPDATED HANDOUT**

REC'D CLERK RECORDED 03/01/2012

10. Consideration and Possible Action on Resolution No. 2012-1, Determining Reasonable Notice for Public Meetings of the Buckman Direct Diversion Board. (Nancy Long)
11. Election of Chair and Vice-Chair of the Buckman Direct Diversion Board. (Nancy Long)

INFORMATION ITEMS

None

MATTERS FROM THE PUBLIC

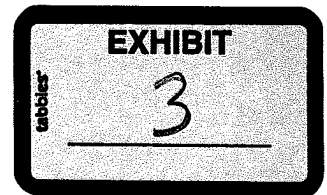
MATTERS FROM THE BOARD

NEXT MEETING: THURSDAY, FEBRUARY 2, 2012 @ 4:00 P.M.

ADJOURN

PERSONS WITH DISABILITIES IN NEED OF ACCOMODATIONS, CONTACT THE CITY CLERK'S OFFICE AT 505-955-6520, FIVE (5) WORKING DAYS PRIOR TO THE MEETING DATE.

REC'D CLERK RECORDED 02/01/2012



Buckman Direct Diversion Project

A joint regional project of the City of Santa Fe and Santa Fe County to build a reliable and sustainable water supply.

MEMORANDUM

Date: November 28, 2011

To: Buckman Direct Diversion Board

From: Rick Carpenter, BDD Project Manager

Subject: BDD Project Capital Budget Close-out and Approval of Supplemental ("Carve-out") Budget

BACKGROUND

The meeting agenda packet includes a cover memo from Clifton-Gunderson LLP, the BDD Board's consulting CPA firm, capital budget summary spreadsheets and supplemental "carve-out" budget spreadsheets. The Project has been completed within the approved BDD Project capital budget of \$216,344,137, with a remaining unexpended balance within the contingency line item of \$4,006,371. This budget should be closed out. However, as discussed previously with the BDD Board, there are certain work efforts that will extend into the future, such as certain professional services agreements and also future contracts that will be required to implement environmental mitigation efforts. Therefore, a supplemental budget for these specific future items has been "carved out" of the overall capital budget and will need BDD Board approval. The supplemental "carve-out" budget totals \$2,941,466.

The difference between the remaining unexpended balance of \$4,006,371 and the prospective "carve-out" budget of \$2,941,466 leaves a remainder of left over unexpended but budgeted funds of \$1,064,905. Clifton-Gunderson LLP recommends that the unexpended amount of \$1,064,905 be "disencumbered" from the BDD Project owners' respective capital budgets since there will be no expenses billed against this amount.

RECOMMENDATION

Staff requests that the BDD Board: 1) take action to close out the approved BDD Project capital budget of \$216,344,137, and 2) approve the prospective "carve-out" budget of \$2,941,466 in order to fund certain required future expenses of the Project.

REC'D CLERK RECORDED 03/01/2012





DATE November 22, 2011

TO: Buckman Direct Diversion Board

FROM: Clifton Gunderson, LLP

RE: Capital Budget Closeout As Of June 30, 2011 And Carveout Budget

Overview

Attached you will find a Project Budget Summary for the Buckman Direct Diversion Construction Project which summarizes the original project budget, budget adjustments, total project budget, expenditures and budget variances for the capital budget established as of January 1, 2008. We have presented actual expenditures as of June 30, 2011 and updated the presentation for additional funds expended through October 31, 2011. The Project Budget Summary is supported by summary and detail presentations of the Capital Budget Contingency through June 30, 2011 and including additional expenditures through October 31, 2011. The unexpended contingency balance of \$4,006,371 is being transferred to fund the prospective Capital Budget Carveout which will procure the additional materials and services required to fulfill a limited scope of remaining items.

A prospective Capital Budget Carveout Schedule is also included in this packet. The projected expenditures required to complete the limited scopes of work are estimated to be \$2,941,466. The Capital Budget Carveout is to be funded with unexpended budgeted funds of \$4,006,371. Therefore, it is our recommendation that the difference of \$1,064,905 be disencumbered from the owners' capital budgets.

January 1, 2008 Capital Budget Closeout As of June 30, 2011

The prospective capital budget established as of January 1, 2008 was initially budgeted at \$216,344,137. This budget was allocated to fund the Design Build Contract, Procurement Stipend, Board Engineer, Legal and Professional Services, Other Contracts, Rights of Way and Easements, Utility Installations, Vehicles and Insurance, Other Costs and Project Contingency.

The \$216,344,137 project budget was allocated between contracts and contingency in the amounts of \$208,497,187 and \$7,846,950 respectively. The contract funds were expended on specific contracts known as of January 1, 2008 when this budget was established. The contingency funds were applied to fund subsequent change orders and new vendors that were required to support the construction of the facilities. The Board also authorized a separately funded project for construction of the Parallel Pipeline at a cost of \$5,170,940 which was constructed by the Design Build Contractor and came in on budget as contracted.

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CLERK

The project expended \$211,822,448 through June 30, 2011 and an additional \$515,318 between July and October of 2011. As of October 31, 2011 the BDD Capital Budget established as of January 1, 2008 had expended \$212,337,766 of its initially authorized \$216,344,137 in funds resulting in a positive project budget variance of \$4,006,371 at closeout. This positive project variance represents both unexpended balances on continuing contracts and realized positive variances on closed out contracts. This remaining budget balance will be transferred to the Capital Budget Carveout in order to fund the limited and open scopes of work on the project.

Capital Budget Carveout

The proposed Capital Budget Carveout is being funded with the positive project budget variance of \$4,006,371 discussed in the preceding caption. Staff has identified expenditures of \$2,941,466 which will be required to complete the limited open scopes of work. The difference of \$1,064,905 is being recommended as an amount for the project owners to disencumber from their capital budgets.

The expenditures under the Capital Budget Carveout fall into several categories including the Board Engineer, Professional and Legal Services, Rights of Way and Environmental Monitoring, Wildlife and Habitat Mitigation and Miscellaneous Costs. The vast majority of these efforts are designed to support the completion of the Wildlife and Habitat Mitigation work near the river. These costs also include a \$383,550 contingency amount designed to absorb additional costs necessary and required in order to complete the BDD's obligations related to this construction.

2011-11-22 14:44:44

SPC CLERK RECORDED 6/3/2012

Budget Category	Cost Sharing Category	Line Item Description	Original Project Budget January 2008	Additional Approved Costs	Cost Adjustment	Reprogramming of Realized Budget Variance to Fund Contingencies	Total Project Budget	Expenditures through June 30, 2011	Expenditures July 1, 2011 through October 31, 2011	Total Expenditures through October 31, 2011	Budget Variance (Positive is Line Item Reserve, Negative is Line Item Overrun)
Design-Build Contract Budget, Change Orders, and Contingencies											
Total DB Contract Initial Amount with Estimated NMGR			\$ 195,677,567	\$ 3,608,988	\$ (73,962)		\$ 199,212,593	\$ 199,028,018	\$ 0	\$ 199,028,018	\$ 184,575
DB Contract Change Orders with NMGR											
	DB Contract Change Order and Contingency Budget		3,591,617	(3,608,988)	73,962		56,591	-	-	-	56,591
Total DB Contract Budget			\$ 199,269,184	\$ -			\$ 199,269,184	\$ 199,028,018	\$ 0	\$ 199,028,018	\$ 241,166
Other DB Procurement Costs											
	53 Stipend		\$ 250,000	\$ -			\$ 250,000	\$ 250,000	\$ -	\$ 250,000	\$ -
Total Other DB Procurement Costs			\$ 250,000	\$ -			\$ 250,000	\$ 250,000	\$ -	\$ 250,000	\$ -
Total DB Contract budget available (line items above including total of existing and anticipated change orders)											
All BDD Project Capital Costs Except for DB Contract Costs											
Board Engineer Professional Services Agreement and Amendments											
Total Legal, Professional Services and Other Contracts (not including Board Engineer) authorized prior to July 2009			\$ 4,209,680	\$ 1,466,856	\$ 448,520	\$ -	\$ 6,125,056	\$ 4,908,685	\$ 377,255	\$ 5,285,940	\$ 839,117
Total Project Rights of Way, Easements, and FEIS/ROD Mitigation			980,675	3,146,081	(87,004)	-	4,039,752	3,513,729	60,101	3,573,831	465,931
Utility line extension capital costs and DB Contract not power costs prior to acceptance			2,457,265	26,550	-	-	2,483,815	431,643	31,750	463,393	2,020,422
Other BDD Costs, Staff Vehicles, and Necessary Additional Costs and Insurance			4,376,000	45,350	-	(853,752)	3,567,598	3,257,972	10,343	3,268,315	299,283
Contingency budget line item from \$216,344 budget that applies to non-DB contract expenses, inclusive of GRT			546,000	49,086	13,636	-	608,722	432,401	35,869	468,269	140,452
Total of all BDD Project Expected Costs Not Including DB Contract Subsequent to January 2008			4,255,333	(4,733,933)	(375,152)	853,752	0	-	-	-	-
Total of all BDD Project Expected Costs Subsequent to January 2008			\$ 16,824,953	\$ -	\$ 0	\$ -	\$ 16,824,953	\$ 12,544,430	\$ 515,318	\$ 13,059,748	\$ 3,765,205
Total of all BDD Project Expected Costs Subsequent to January 2008			\$ 216,344,137	\$ -			\$ 216,344,137	\$ 211,822,448	\$ 515,318	\$ 212,337,766	\$ 4,006,371

Notes:

- Does not include EIS Costs previously paid by project partners
- Does not include budget for Board's operations and maintenance of facilities
- Does not include labor and benefits for staffing of BDD Project operations and maintenance prior to Board operations of facilities
- Does not include additional sampling equipment, laboratory contract services, material and supplier, and other items that may be needed during Board operation of facilities.
- Encumbrance amounts are based on an analysis of purchase order log, which may or may not be complete and BDD Management representations.
- Actual expenditures are based upon amounts provided by City of Santa Fe Staff and recorded in the accounting records which have not been closed, reconciled or audited for all periods.
- Board Engineer project variance is based upon amounts obtained from City of Santa Fe Records. It should be noted that CDM has confirmed that they have \$404,358 remaining on their contract. This difference is being addressed by staff.
- Includes only those costs under the January 2008 Prospective Capital Budget Approved By The Board. For a complete accounting and reporting of all project costs please refer to the BDD's Annual Audited Financial Statements.

**Buckman Direct Diversion
Capital Budget & Contingency Update
Summary Presentation
As of June 30, 2011**

	TOTAL	Contracts	Contingency	Change Orders
Total Project Budget 1/1/2008	\$ 216,344,137	\$ 208,497,187	\$ 7,846,950	\$ -
Board Approved Change Order Affect	-	(73,962)	(8,644,111)	8,718,073
Anticipated Costs Not Materialized	-	(4,803,532)	4,803,532	-
Total Project Budget 6/30/2011	\$ 216,344,137	\$ 203,619,693	\$ 4,006,371	\$ 8,718,073
Board Approved Parallel Pipeline BS 3/4 Construction	\$ 5,170,940	\$ 5,170,940	-	\$ -
Total Capital Budget Including Separately Funded Projects	\$ 221,515,077	\$ 208,790,633	\$ 4,006,371	\$ 8,718,073
Breakdown of Project Cost Share by Partner:				
City of Santa Fe Cost Share	\$ 102,216,003	\$ 98,119,033	\$ -	\$ 4,096,970
Santa Fe County Cost Share	102,216,003	98,119,033	-	4,096,970
Las Campanas Cost Share	13,076,700	12,552,567	-	524,133
Total Partner Cost Shares	\$ 217,508,706	\$ 208,790,633	\$ -	\$ 8,718,073
Total Capital Budget Without Separately Funded Projects	\$ 4,006,371	\$ -	\$ 4,006,371	\$ -

NOTE: Does not include project costs outside of the prospective capital budget authorized effective January 1, 2008.

**Capital Budget & Contingency Update
Detail Presentation
As of June 30, 2011**

	TOTAL	Contracts	Allowances and Contingencies	Change Orders
DB Contractor	\$ 195,677,567	\$ 195,677,567		
Procurement Stipend	250,000	250,000		
Board Engineer	4,209,680	4,209,680		
Professional & Legal Services	980,675	980,675		
Project Rights of Way, Easements, Etc.	2,457,265	2,457,265		
Project Utilities	4,376,000	4,376,000		
BDD Insurance, Transportation And Additional Costs	546,000	546,000		
Capital Budget Contingency	7,846,950		7,846,950	
Total Project Budget 1/1/2008	\$ 216,344,137	\$ 208,497,187	\$ 7,846,950	\$ -

Design Builder Contract Change Orders				
Change Order 1 - Equipment Changes	\$ -		\$ 101,228	\$ (101,228)
Change Order 2 - Pipeline Adjustments	-		(465,513)	465,513
Change Order 3 - County Complex Utility / Driveway Crossing	-		(28,395)	28,395
Change Order 4 - Solar Power Supply Interconnection Addition	-		(199,354)	199,354
Change Order 5 - Relocation of Las Campanas Effluent Pipe	-		(32,706)	32,706
Change Order 6 - NM599 Pipeline at I-25	-		(4,997)	4,997
Change Order 7 - Changes to CO4 from PNM Review	-		(4,475)	4,475
Change Order 8 - Materials Cost Fluctuation	-		(1,028,595)	1,028,595
Change Order 9 - Sediment Return Line Allowance Credit	-		139,661	(139,661)
Change Order 10 - Partial Credit for Unused NMCID Allowance	-		28,434	(28,434)
Change Order 11 - Interior Liner Panels on Metal Buildings	-		(142,161)	142,161
Change Order 12 - Additional Interior Liner Panels on Metal Buildings	-		(70,300)	70,300
Change Order 13 - Licensed Microwave Path Upgrade	-		(139,143)	139,143
Change Order 14 - Paralell Pipeline Preliminary Design	-		(561,853)	561,853
Change Order 17 - Design, Procurement, and Installation of LANL MOU Mandated Samples	-		(136,309)	136,309
Change Order 18 - Miscellaneous Technical Change Orders	-		65,577	(65,577)
Change Order 19 - Miscellaneous Technical Change Orders	-		127,622	(127,622)
Amendment #1 - PATWU DB Contractor Services	-		(1,257,709)	1,257,709

Minor Future Lumped Change Orders and Miscellaneous Credits*
Cost Adjustment

-
-
(73,962)
73,962

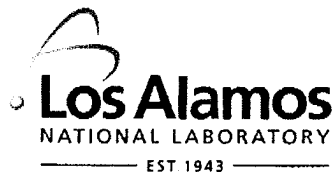
	TOTAL	Contracts	Allowances and Contingencies	Change Orders
Board Engineer (Owner's Consultant)	-		(1,915,376)	1,915,376
Approved Professional & Legal Services	-		(3,059,087)	3,059,087
Utility Line Extension and Net Power Costs Prior to Acceptance			(45,350)	45,350
Other BDD Costs			(62,722)	62,722
Project Rights of Way, Easements, Etc.	-		(26,550)	26,550
Total Project Budget 6/30/2011	\$ 216,344,137	\$ 208,423,225	\$ (797,161)	\$ 8,718,073
Budget Variances and Unexpended Contract Balances As of 6/30/2011				
DB Contract	\$ -	-	-	\$ -
Board Engineer	-	(184,575)	184,575	-
Legal & Professional Services	-	(839,117)	839,117	-
Rights of Way and Easements	-	(465,931)	465,931	-
Utility Line Extension & Related Costs	-	(2,020,422)	2,020,422	-
Other BDD Costs	-	(1,153,035)	1,153,035	-
		(140,452)	140,452	
Updated Budget & Contingency 6/30/2011	\$ 216,344,137	\$ 203,619,693	\$ 4,006,371	\$ 8,718,073
Total Unallocated Remaining Contingency	\$ 216,344,137	\$ 203,619,693	\$ 4,006,371	\$ 8,718,073
Board Approved Parallel Pipeline BS 3/4 Construction				
Parallel Pipeline BS 3/4 Construction	\$ 5,170,940.00	\$ 5,170,940	\$ -	\$ -
Total Capital Budget Including Separately Funded Projects	\$ 221,515,077	\$ 208,790,633	\$ 4,006,371	\$ 8,718,073
Breakdown of Project Cost Share by Partner:				
City of Santa Fe Cost Share	\$ 102,216,003	\$ 98,119,033	\$ -	\$ 4,096,970
Santa Fe County Cost Share	102,216,003	98,119,033	-	4,096,970
Las Campanas Cost Share	13,076,700	12,552,567	-	524,133
Total Partner Cost Shares	\$ 217,508,706	\$ 208,790,633	\$ -	\$ 8,718,073
Total Capital Budget Without Separately Funded Projects	\$ 4,006,371	\$ -	\$ 4,006,371	\$ -

NOTE: Does not include project costs outside of the prospective capital budget authorized effective January 1, 2008.

RESEARCH

	INITIAL PROJECT BUDGET	BUDGET ADJUSTMENTS	TOTAL BUDGET
SOURCES OF CAPITAL BUDGET FUNDING			
CONTINGENCY BALANCE	\$ 4,006,371		\$ 4,006,371
TOTAL SOURCES OF CAPITAL BUDGET FUNDING	\$ 4,006,371		\$ 4,006,371
VENDOR EXPENDITURES			
Board Engineer			
Camp Dresser & Mckee	\$ 839,116		\$ 839,116
TOTAL BOARD ENGINEER	\$ 839,116		\$ 839,116
Professional & Legal Services			
Hawkins & Delafield	\$ 94,571		\$ 94,571
Kyle Harwood Consulting	35,000		35,000
Long, Pound & Komer	40,969		40,969
Lynn Pichner Komer	60,000		60,000
Atkinson	25,000		25,000
WRISC	25,000		25,000
TOTAL PROFESSIONAL & LEGAL SERVICES	\$ 280,540		\$ 280,540
Rights of Way, Easements and Environmental Monitoring			
BLM Processing & Construction Monitoring	\$ 31,500		\$ 31,500
USFS Processing & Construction Monitoring	72,013		72,013
TOTAL RIGHTS OF WAY, EASEMENTS, ETC.	\$ 103,513		\$ 103,513
Wildlife and Habitat Mitigation			
PNM Substation	\$ 205,166		\$ 205,166
Unidentified Contractors	975,000		975,000
Parametrix	60,000		60,000
SWCA Environmental Consultants	10,000		10,000
TOTAL WILDLIFE AND HABITAT MITIGATION	\$ 1,250,166		\$ 1,250,166
Miscellaneous & Carryover Vendors			
Project Contingency	\$ 383,550		\$ 383,550
Clifton Gunderson LLP	\$ 17,352		\$ 17,352
Santa Fe Community College	67,229		67,229
TOTAL MISCELLANEOUS & CARRYOVER VENDORS	\$ 468,131		\$ 468,131
TOTAL VENDOR EXPENDITURES	\$ 2,941,466	\$ -	\$ 2,941,466
BUDGETED COSTS NOT EXPENDED	\$ 1,064,905	\$ -	\$ 1,064,905
RECOMMENDED FUNDS TO DISENCUMBER FROM CAPITAL PROJECT	\$ (1,064,905)		
BUDGET SURPLUS (DEFICIT)	\$ 0		

NOTE: Camp Dresser & McKee budgeted amount is based upon the amount confirmed in City of Santa Fe records as remaining on their contract. The Vendor has confirmed that they only have \$404,358 remaining. City of Santa Fe Staff are addressing this issue on a prospective basis.

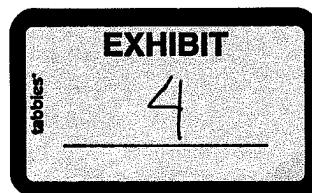


Environmental Programs

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(505) 606-2337/FAX (505) 665-1812



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National Nuclear Security Administration

Los Alamos Site Office, MS A316

Environmental Restoration Program

Los Alamos, New Mexico 87544

(505) 667-4255/FAX (505) 606-2132

Date: DEC 07 2011

Refer To: EP2011-0402

Mr. Brian Snyder, Water Division Director
Acting Public Utilities Division Director
Sangre de Cristo Water Division
City of Santa Fe
801 West San Mateo
P.O. Box 909
Santa Fe, New Mexico 87504

Subject: Responses to Sangre de Cristo Water Division Questions Regarding Low-Level Tritium Results Reported by the Los Alamos National Laboratory Sitewide Monitoring Program for the City of Santa Fe Buckman Water Supply Wells

Dear Mr. Snyder:

This letter provides responses to Mr. Alex Puglisi questions (in bold), received by email on November 7, 2011, regarding the low-level tritium results discussed by the Los Alamos National Laboratory (the Laboratory) in its October 25, 2011, letter report. In this report, the Laboratory states that tritium results from the May 17, 2011, sampling event for City of Santa Fe Buckman Water Supply Wells Nos 1, 6, and 8 were all nondetects. However, two of the three water samples collected on March 14, 2011, from wells 1 and 6 resulted in tritium detects. The letter report further states that the Laboratory is working with American Radiation Services laboratory to reevaluate its calculation errors of the March 14, 2011, results.

What were these calculation errors?

The analytical laboratory found that rounding functions programmed into its controlled spreadsheet were incorrect. The laboratory also found input errors that were a direct result of manual data entry.

How were they determined to have occurred at this late point in time and why were they not discovered when the March 14th results were first reported?

The Laboratory identified the two tritium detects from the March 14, 2011, sampling event as elevated compared with previous results immediately after pulling the data from The Laboratory's database. The Laboratory requested that the analytical laboratory review the data packages to ensure the accuracy of the results; however, the review was not completed before the 120-day deadline for releasing the data to the public or posting it to the RACER database. The August 16, 2011, letter reporting the March 16, 2011, sampling event results did identify a

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discrepancy between the March 14, 2011, sample results analyzed by ARS and previous results analyzed by the University of Miami Tritium Laboratory. The discrepancy was attributed to differences in each laboratory's minimum detectable activity and counting uncertainty. It has recently been determined that rounding functions and input errors are factors that resulted in the tritium detections in the March 14, 2011, samples.

Over the last 2 yr, the Laboratory has transitioned from using the University of Miami to ARS for low-level tritium analysis and has been working with ARS to match our data-quality requirements with capabilities and limitations inherent to the analytical method. This past summer, the Laboratory conducted an assessment of all tritium data received from ARS and identified a body of tritium results that appeared erroneous when assessed as part of a larger body of data. The Laboratory requested that ARS review its protocol, and it has just completed its assessment of potential issues associated with low-level tritium analysis.

For these Buckman well samples, revised calculation activities were significantly different from initially reported. When recalculated using the correct spreadsheet, the results previously reported as detections are now considered nondetects.

Were the March 14th results entered into the RACER database, and will the Laboratory make changes in that database?

Yes, the results were uploaded to RACER following the City of Santa Fe's review period. Once the results are reviewed and corrected by the analytical laboratory and the Laboratory's review of the changes is concluded, the updated results will be added to RACER. The superseded results will be retained in RACER but with new qualifiers that indicate the results are rejected.

If you have any further questions, please contact Steve Paris at (505) 606-0915 (smparis@lanl.gov) or Woody Woodworth at (505) 665-5820 (lance.woodworth@nnsa.doe.gov).

Sincerely,



Michael J. Graham, Associate Director
Environmental Programs
Los Alamos National Laboratory

Sincerely,



George J. Rael, Assistant Manager
Environmental Projects Office
Los Alamos Site Office

CONFIDENTIAL

MG/GR/CD/SP:sm

Cy: (w/enc.)

Laurie King, EPA Region 6, Dallas, TX

Alex Puglisi, City of Santa Fe, 801 West San Mateo, Santa Fe, NM 87505

Claudia Borchert, City of Santa Fe, 801 West San Mateo, Santa Fe, NM 87505

Michael Gonzales, City of Santa Fe, 801 West San Mateo, Santa Fe, NM 87505

John Kieling, NMED-HWB, 2905 Rodeo Park Drive East, Building 1, Santa Fe, NM 87505

Margaret Ryan, NMED-DWB, P.O. Box 5469, Santa Fe, NM 87502

Steve Yanicak, NMED-DOE-OB, MS M894

Hai Shen, DOE-LASO, MS A316 (date-stamped letter emailed)

Woody Woodworth, DOE-LASO, MS A316 (date-stamped letter emailed)

Gene Turner, DOE-LASO, MS A316 (date-stamped letter emailed)

Neil Weber, San Ildefonso Pueblo (date-stamped letter emailed)

Steve Paris, EP-CAP, MS M992 (date-stamped letter emailed)

Craig Douglass EP-CAP MS M996 (date-stamped letter emailed)

Suzanne Coyne, IRM-DCS, MS M992 (date-stamped letter emailed)

William Alexander, EP-BPS, MS M992 (date-stamped letter emailed)

RPF, MS M707 (electronic copy)

Public Reading Room, MS M992 (hard copy)

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