City of Santa Fe
New Mexico

CITY CLERK'S OFFICE
DATE 12-29-09 TIME 12:45
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SANTA FE COUNTY

AMENDED AGENDA

THE CITY OF SANTA FE
And
SANTA FE COUNTY

BUCKMAN DIRECT DIVERSION BOARD MEETING

THURSDAY, JANUARY 7, 2010
4:00 PM

COUNTY COMMISSION CHAMBERS
102 Grant Avenue

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **APPROVAL OF AGENDA**
4. **APPROVAL OF MINUTES FOR THE DECEMBER 3, 2009 BUCKMAN DIRECT DIVERSION BOARD MEETING**
5. **APPROVAL OF CONSENT AGENDA**
6. **MATTERS FROM STAFF**

CONSENT AGENDA

7. Project Manager's Monthly Project Exception Report. (Rick Carpenter)
8. Update on Financial Status of Professional and Legal BDD Contracts. (Rick Carpenter)
9. Public Relations Report for December 2009. (Patti Watson and Lynn Pitcher)
10. Request for Approval of a Professional Services Agreement between the Buckman Direct Diversion Board and Norman Gaume, P.E. (Rick Carpenter)

DISCUSSION AND ACTION ITEMS

11. Discussion and Possible Action on MOA Between the Buckman Direct Diversion Board and Santa Fe County for Implementation and Cost Sharing of the LC LP BWSA Through a Future DB Contract Change Order. (Kyle Harwood) **HANDOUT AT MEETING**

12. Consideration and Action on Reappointing Consuelo Bokum as the Citizen Member of the Board. (BDDB Legal Counsel)

13. Election of Chair and Vice Chair for the Buckman Direct Diversion Board. (Legal Counsel)

14. Request for Approval of Resolution No. 2010-_____. A Resolution Determining Reasonable Notice for the Public Meetings of the Buckman Direct Diversion Board. (Legal Counsel)

INFORMATION ITEMS

15. Update on LANL and Board's Requested Response to 6 Action Items. (Rick Carpenter and LANL Representative) **VERBAL**

16. Presentation on BAR (based on the BDD Board's recommended operating budget) to Move Funds From the Water Division's 10 –Year Financial Plan to the BDD Project FY 09/10 Operations Budget, Approval of FY 10/11 BDD Operating Budget, BDD Training and Certification Program, and BDD Staffing Plan. (Rick Carpenter)

17. Update on the Triennial Review (Water Quality Standards) Hearing. (Kyle Harwood) **VERBAL**

EXECUTIVE SESSION:

1. *Discussion of PRC Case No. 09—00260-UT [PNM's 2010 Plan REPPP] Pursuant to §10-15-1(H)(7) NMSA 1978. (BDD Board Counsel)*
2. *Discussion of PRC Case No. 09-002170-UT [Legality of 3rd Party PPA's] Pursuant to §10-15-1(H)(7) NMSA 1978. (BDD Board Counsel)*

END OF EXECUTIVE SESSION

DISCUSSION ITEMS (CONTINUED)

18. Action on PRC Case No. 09-00260-UT [PNM's 2010 Plan REPPP]. (BDD Board Legal Counsel) **VERBAL**

19. Action on PRC Case No. 09-002170-UT [Legality of 3rd Party PPA's]. (BDD Legal Counsel) **VERBAL**

MATTERS FROM THE PUBLIC

MATTERS FROM THE BOARD

NEXT MEETING: THURSDAY, FEBRUARY 4, 2010 @ 4:00

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.

City of Santa Fe
New Mexico

CITY CLERK'S OFFICE
DATE 12-22-09 TIME 3:45
SERVED BY
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AGENDA

THE CITY OF SANTA FE
And
SANTA FE COUNTY

BUCKMAN DIRECT DIVERSION BOARD MEETING

THURSDAY, JANUARY 7, 2010
4:00 PM
CITY COUNCIL CHAMBERS
200 Lincoln Avenue

1. **CALL TO ORDER**
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END OF EXECUTIVE SESSION

DISCUSSION ITEMS (CONTINUED)

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MATTERS FROM THE BOARD

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COUNTY OF SANTA FE) BUCKMAN DIRECT DIV MIN
STATE OF NEW MEXICO) ss PAGES: 64
I Hereby Certify That This Instrument Was Filed for
Record On The 15TH Day Of February, 2010 at 10:39:38 AM
And Was Duly Recorded as Instrument # 1591014
Of The Records Of Santa Fe County
Witness My Hand And Seal Of Office
Valerie Espinoza
Deputy
County Clerk, Santa Fe, NM

MINUTES OF THE

CITY OF SANTA FE & SANTA FE COUNTY

BUCKMAN DIRECT DIVERSION BOARD MEETING

January 7, 2010

COUNTY CLERK
VALERIE ESPINOZA
SANTA FE COUNTY NEW MEXICO

This meeting of the Santa Fe County/City Buckman Direct Diversion Board was called to order by Chair Virginia Vigil at approximately 4:05 p.m. in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

Roll was called and the following members were present:

BDD Members Present:
Commissioner Virginia Vigil
Councilor Rebecca Wurzburger
Councilor Chris Calvert
Commissioner Montoya [late arrival]
Ms. Conci Bokum

Member(s) Excused:
None

Others Present:
Rick Carpenter, BDD Project Manager
Kyle Harwood, BDDB Contract Attorney
Steve Ross, County Attorney
Ted Apodaca, Assistant County Attorney
Marcos Martinez, Assistant City Attorney
Stephanie Lopez, City Public Utilities Division
Nancy Long BDDB Contract Attorney
Lynn Komer, PR Team
Mark Ryan, CDM
Mike Sanderson, Las Campanas
Neva Van Peski, League of Women Voters
Patti Watson, Cooney Watson
George Rael, LANL Representative
Joni Arends, CCNS
Kathy Holian, Santa Fe County Commissioner

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APPROVAL OF AGENDA

[Exhibit 1: Agenda]

Mr. Harwood said the second item under Executive Session, discussion of PRC Case No. 09-002170-UT, was not necessary, nor was the accompanying discussion item.

Upon motion by Councilor Wurzburger and second by Councilor Calvert the agenda was unanimously [4-0] approved as amended. [Commissioner Montoya was not present for this action.]

APPROVALOF MINUTES: December 3, 2009

Councilor Wurzburger moved for approval of the minutes as published and Councilor Calvert seconded. The motion carried unanimously [4-0]. [Commissioner Montoya was not present for this action.]

APPROVAL OF CONSENT CALENDAR

7. **Project Manager's Monthly Project Exception Report. (Rick Carpenter)**
8. **Update on Financial Status of Professional and Legal BDD Contracts. (Rick Carpenter)**
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10. **Request for Approval of a Professional Services Agreement between the Buckman Direct Diversion Board and Norman Gaume, P.E. (Rick Carpenter)**

CHAIR VIGIL: Is there an item you'd like to pull?
COUNCILOR CALVERT: Yes, 10.
CHAIR VIGIL: Okay. We will pull item 10 from the Consent Agenda and reserve it for discussion. What is the pleasure?
COUNCILOR CALVERT: Move for approval as amended.

The motion passed by unanimous [4-0] voice vote.
[Commissioner Montoya was not present for this action.]

MATTERS FROM STAFF

Nothing was presented.

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DISCUSSION AND ACTION ITEMS

10. Request for Approval of a Professional Services Agreement between the Buckman Direct Diversion Board and Norman Gaume, P.E. (Rick Carpenter) *[Exhibit 2: Amended Memorandum and Contract]*

MR. CARPENTER: Thank you, Madam Chair, members of the Board. Good afternoon. This is a professional services agreement. It's a new contract and there is a contract, special services agreement in your packet. There's been some changes made since the packet was printed and today I believe the new contract's been handed out and you should have it in front of you. Primarily what is changed is the insurance advisory and counsel have made some model contract changes to insurance coverage and things like that. These will be things that will go forward from now on as part of our standard contracts, something that's [inaudible]. But also with the increase of insurance for Mr. Gaume, as a result he had increased his billing from $125 to $150 an hour, and that should appear in the contract you have before you. I believe that's all the relevant changes.

MS. LONG: Yes, the insurance provisions and the records retention requirement, we have filled that out to reflect that there's a document control policy that all contractors will have to comply with. So that is a provision that will be in all the contracts going forward.

CHAIR VIGIL: Any questions? Councilor Calvert.

COUNCILOR CALVERT: Yes, so is this for a certain period of time or effort? And how does it relate to #8 on the Consent Agenda, which states that there's $121,000 remaining on the contract?

MR. CARPENTER: Thank you, Councilor Calvert, members of the Board. The item that the Councilor is referring to is the status of the contracts. That is a [inaudible] and the invoices haven't been caught up and the memo should have been revised for the Board meeting. It's down to zero now so there's actually no money left on his contract.

COUNCILOR CALVERT: So this is going forward and it's for what period of time?

MS. LONG: The term is to March 21, 2012.

COUNCILOR CALVERT: Wait a minute. Let me think about this. We're going operational 2011
Spring? And this goes to 2012 spring? I'm just a little puzzled by that. I don't know why the extra year is there. We're supposed to go operational 2011 in the spring and this goes to March of 2012. So what's all that?

MR. CARPENTER: Let me just state that the services of Mr. Gaume are most important to staff and to the Board going back several years and obviously up through when the project becomes operational. We anticipate that there still could be tasks we want to assign to him during startup that first initial year when we're wringing out the project. Mr. Gaume does not do any task not assigned to him by the project

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manager so once the project is operational we'd like to still have him under contract if we need him.

COUNCILOR CALVERT: And is this basically a contingency contract? In other words, it's for $125,000, but that's the maximum we spend and we may not spend all of that? Is that correct?

MR. CARPENTER: That's right.

CHAIR VIGIL: Councilor Wurzburger

COUNCILOR WURZBURGER: Well, I'm just still reeling from the past seven months with the City and the finance process. And one of the things that you know that we've done in the City is try to renegotiate contracts. So in terms of both totals and hourly we try to save some money and I recognize the different EDD but given what we're doing in the City and the County's doing some of this, was their any effort – and this is no way an aspersion on the contribution. It's a reflection of the economic conditions in which we're working now, both the City and the County. Was there any effort to – obviously we're negotiating up in terms of the hourly rate and so I'd like a response to that and then I have a further question.

MR. CARPENTER: Thank you, Madam Chair and Councilor Wurzburger. That hourly rate is a negotiated fee. Mr. Gaume's rates for a few years now are well below market price and if there was to be an adjustment I could have expected it actually to be higher, so this is something we discussed with him and it was negotiated over the past few days and this is the amount that we arrived at.

COUNCILOR WURZBURGER: And what percentage of time is the correlation and looking at the things that we're doing, not knowing what we have paid him over time. This does this reflect – it's obviously half-time or – even though it's hourly.

MR. CARPENTER: Madam Chair, Councilor Wurzburger, I suppose as an average over the year it's probably half-time. It's tasks that are assigned and they're usually short-term tasks, so Mr. Gaume may work 40 or more hours in one week and only a few the next. But if it was an average [inaudible]

COUNCILOR CALVERT: In reference to Councilor Wurzburger's question and remark, in terms of what every payment so far, and I guess I'm asking does item 8 show that amount? Is that the total to date? Because this would be included – that $121,000 would be included in there, right?

MR. CARPENTER: That's correct. The figure is $207,604 and I believe that goes back over four years. That was the amount of his original contract plus amendments. So those would be on top of that.

CHAIR VIGIL: Any follow-up on that, Councilor Wurzburger? You still have the floor.

COUNCILOR WURZBURGER: That's all my questions.

CHAIR VIGIL: I have a question if nobody else does. It's more technical. As the requirement of keeper of records, is there a centralized place for that or does each subcontractor keep their records and make duplicates? Do we get the originals? How does that work out?

MR. CARPENTER: The City of Santa Fe is the project manager and the fiscal agent so we're the central repository of all relevant records especially billing and contracts.

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CHAIR VIGIL: Okay. So then all records that are kept by subcontractors are centralized.

MR. CARPENTER: If it's part of the billing that is sent to us by the prime, then we would have that. And we have all word product, any deliverables. We try to get deliverables in electronic form these days to cut down on the paperwork.

CHAIR VIGIL: So then, Nancy, I would just ask, explain to me the new condition of the record keeper requirements.

MS. LONG: Well, there is an ongoing process regarding document control and we've got at least so far certain requirements for labeling documents, for subject line, dates, as well as the project and subfiles, so we're requiring all the contractors to comply with that so that there can be sort of subfiles electronically that can be easily found, and then there's also a requirement to maintain the records even after contract termination if we need to go back and get any records. There's a requirement that contractors hang on to everything that they've produced for the project so that we can retrieve those if we need to.

CHAIR VIGIL: And is that requirement for a specific amount of time? Do we have a time on that?

MS. LONG: It's three years.

CHAIR VIGIL: Three years. Okay. Thank you. Councilor Calvert.

COUNCILOR CALVERT: Yes, just one other thing. So Rick, one of the things that I would assume, but you tell me if you're thinking Mr. Gaume will be used for will be the staffing plan and the issue and all that.

MR. CARPENTER: Madam Chair, Councilor Calvert, Mr. Gaume is integrally involved in all facets of the staffing plan. That's actually something I'm going to talk about a little later in the meeting. Mr. Gaume has been instrumental in helping us conceptualize and keep the momentum of deliverable products, negotiations, developing the training curricula thought to be coming up. I would say that Mr. Gaume and one other individual who works for CDM are the two primary heavy lifters in that regard.

CHAIR VIGIL: What's the pleasure of the Board?

COUNCILOR WURZBURGER: I'll move for approval.

COUNCILOR CALVERT: Second.

The motion passed by unanimous [4-0] voice vote.
[Commissioner Montoya was not present for this action.]

DISCUSSION AND ACTION ITEMS

11. **Discussion and Possible Action on MOA Between the Buckman Direct Diversion Board and Santa Fe County for Implementation and Cost Sharing of the LC LP BWSA Through a Future DB Contract Change Order (Kyle Harwood)** *[Exhibit 3: Memo and MOA]*

MR. HARWOOD: Thank you, Madam Chair. You'll see under my relatively short cover memo an item provided by Mr. Ross describing what he anticipates to be the development of an MOA over the next month or two. I believe it's scheduled for

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the March Board meeting. The contemplation here is that the change-order would go to the Board's contractor, the design-builder to design, procure, construct and do acceptance testing for the [inaudible] structure and following that the County will have some kind of cost share with the Board, but for that facility. This Board will convey that infrastructure to the County. So I suspect we'll be working on that over the coming weeks. Mr. Ross is here. If you have any questions about his memo which is really the primary exhibit to this item. You'll also see we've provided a fully executed copy of the bulk water service agreement. We've provided the same document; [inaudible] in the past. I'll stand for any questions.

[Commissioner Montoya joined the meeting.]

CHAIR VIGIL: Welcome, Commissioner Montoya. Thank you for joining us.

COMMISSIONER MONTOYA: Thank you.

CHAIR VIGIL: Councilor Wurzburger, question.

COUNCILOR WURZBURGER: So, Mr. Harwood, what would the timeline be for this coming back to this committee? I'm trying to ascertain whether I have time to take this to PUC, just as an information item.

MR. HARWOOD: I don't think there's anything that's changed about the March meeting for the MOA. So I suspect we would work through the balance of this month and February and have something for the packet mid-February.

COUNCILOR WURZBURGER: I'd just like to have this for an information item.

CHAIR VIGIL: Any other questions?

MEMBER BOKUM: I just want to make sure you guys are consulting with the City so we don't find out too late [inaudible]

MR. HARWOOD: I think it's fair to say there's a very high level of coordination going on at this point. I hope nobody disagrees with that.

COUNCILOR CALVERT: We're not taking any action today so –

MR. HARWOOD: No. I'm sorry this was listed under discussion and action items. We weren't exactly sure whether we would have a different update or a suggestion/recommendation to the Board, so this really probably fairly should have been an informational item.

CHAIR VIGIL: Let's move on unless there's any further questions.

12. Consideration and Action on Reappointing Consuelo Bokum as the Citizen Member of the Board. (BDDB Legal Counsel)

COUNCILOR WURZBURGER: Move for approval.
COMMISSIONER MONTOYA: Second.

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

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13. Election of Chair and Vice Chair for the Buckman Direct Diversion Board (Legal Counsel)

MS. LONG: Madam Chair, members of the Board. Your rules of order specify that a chair and vice chair will be elected the first month of each calendar year. Last year I think you took action on this item last February. We tabled it the January meeting. And as you all probably remember the chair and vice chair position rotate according to the rules of order each year so that the City and the County will rotate that position and then the vice chair will be from the other entity.

CHAIR VIGIL: Okay. Anyone interested in the positions?

COMMISSIONER MONTOYA: I'm not.

COUNCILOR CALVERT: I'm not either.

COMMISSIONER MONTOYA: So I would, Madam Chair, if it's okay, I would make a motion that we nominate and elect Councilor Wurzburger as the chair and Commissioner Vigil as the vice chair.

COUNCILOR CALVERT: Second.

MS. LONG: And you may just want to make that effective as of the next meeting so that you can continue with the current officers for this meeting. I believe that's what we did last year.

COMMISSIONER MONTOYA: Exactly what you just said.

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

14. Request for Approval of Resolution No. 2010-1. A Resolution Determining Reasonable Notice for the Public Meetings of the Buckman Direct Diversion Board. (Legal Counsel)

MS. LONG: Madam Chair, members of the Board, this is another annual event that the Board must you consider. Your resolution that considers the notice for your meetings in compliance with the Open Meetings Act. My memo laid out the changes that were made. There aren't many changes. There was just some cleanup and formatting that were non-substantive. We did add a provision that the Buckman website would be added as a location for posting of the agendas, which is being done, but now it will be in your resolution. The special meeting notice from three working days to three days to allow you more flexibility. We really don't have special meetings but in the event that you needed to, you can do that on three days notice and then there was in the prior resolution a requirement that agendas even for emergency meetings be posted 24 hours. In the event if it's a true emergency that may not be possible. So those were the three substantive changes that were made and the rest were just some cleanup.

CHAIR VIGIL: Any questions? Councilor Wurzburger.

COUNCILOR WURZBURGER: Move for approval.

COUNCILOR CALVERT: Second.

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

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INFORMATION ITEMS

15. Update on LANL and Board's Requested Response to Six Action Items (Rick Carpenter and George Rael) *[Exhibit 4: LANL Update]*

MR. CARPENTER: Thank you, Madam Chair. George Rael with LANL, who is the manager for environmental projects is in the audience. I think he would like to make some comments to the Board on the status of the six projects, and following Mr. Rael's presentation I have just a couple of updates of my own and then I would be happy to stand for questions.

CHAIR VIGIL: Okay. Thank you very much. Would you please come forward. Welcome, Mr. Rael. A pleasure to have you here.

GEORGE RAEL: Thank you, Madam Chair, members of the Board. I'm happy to be here. I think it's been a little while since I've come to see you, and maybe let me start off with on behalf of our site manager, Don Winchell, the Department of Energy is committed to partner with the Buckman Board project to ensure that we are communicating with you. What we're doing out there in cleanup and what we're doing to monitor and look at the things that are connecting us if you will on this important project.

There are six items you have highlighted to us in the past. I'd like to run though those at a high level and if you guys – if I'm doing it at too high a level you can bring me down in terms of questions, and then I'd like to finish with a couple of commitments that I'd like to make to you.

The six items are Stop Migration. That was item #1. What we've done, we've done a lot of work over the last eight months of so. We're about done with a lot of what we call the stabilization structures up and down the watershed, Los Alamos and Pueblo Canyons. We have worked to extend the wetlands. The wetlands are very helpful to control sediments. We're working on a number of stabilization structures, gavion baskets. We've put in some ditches, concrete-lined ditches. We have excavated some of the waste that has collected behind one of the weirs on Los Alamos Canyon. So we continue doing a lot of that and I have some pictures that I'll hand out to you so you can actually see that. So I think we're doing well there. We're on our way. We're getting close to finishing a lot of those activities in the next 30 days.

The other item was to monitor. We have put that in high gear. For the last year and a half we've increased the monitoring along that canyon. We are also taking some samples in the Rio Grande. We are as well working very closely with the project team in providing that information. I want to highlight that – oh, I can't remember when it was. Maybe Rick, you can recollect the time, but sometime in the late fall we jointly made a presentation to San Ildefonso, the Buckman project team and the DOE, our contractor LANS. It was well received by San Ildefonso and I think that has allowed us to move towards some of the gauging stations that we want to put on their land. So I think that was a very well partnered event for us.

In terms of early notification, these are the three gauging stations that we're working on to ensure that we are communicating with the project. Two of the gauging stations are well underway. Construction has pretty much moved out on those. And those are up in the canyons. The one where it all comes together that we call E110, that has

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given us some challenges. I provided a letter - I want to say mid-November to you that gave you a schedule of when we were going to get that one station completed, and if I recall there was some time at the end of this month, the month of January. We have run into some challenges, nothing that cannot be overcome. So as I committed to Rick and to Kyle here the other day, we will be revising that schedule and sending it to you. I realize when I sent you that schedule that we're putting ourselves out there and you're going to be viewing how we're doing the project as we are as well. And I want to be up front and open with you. Whenever we have a problem I'm going to tell you what it is and we're going to correct it and get it done. I believe the idea here with that gauging station, E110, is to ensure that we have it in play way before you go operational. And ideally have it in play so that we can collect some data a year before you go operational.

But I want to highlight to you that we've already collected a lot of data through that canyon over the course of time. So it's not like we don't have data, but we want to make sure that that gauging station is working and that you can see it real time before you do get hot, and we are committed to doing that. So we certainly have that before the monsoons this summer, but we have some challenges and again I will communicate a new schedule for year early next week.

Action #5 dealt with the contaminants in sands and in residues and in drinking water. As we work – again, we're a project team. That's an ongoing activity. It's something that I think as you move forward to your operations we will be hand-in-glove working and ensuring that we're communicating those kinds of monitoring. So I think that's still an ongoing activity.

In terms of providing funding for an independent peer review. We have completed that action and provided I believe $200k to the Board. In fact you've already selected a contractor and there's a public meeting next week. We did meet with a few folks of your team, Kyle and Rick, and Robert Gallegos yesterday. We introduced each other to the ChemRisk, the contract that's going to do the peer review. It was a forum to say hello. It was a forum to provide a protocol for communicating our documentation, which they will look at independently. We want to make sure that there is an independence to this review, so that meeting yesterday was to nothing more than provide the points of contact that will be providing the data to this team so that they can do their job. So good meeting, and we look forward to the results as they go through their progress.

I believe those are the six actions. I did do it high level. Was there only four?

COUNCILOR CALVERT: I heard one, two, five and something.

MR. RAEL: Oh, my bad. I didn't do three. Three was the slough, the characterization of the slough out there by Buckman. We have completed that activity. I believe the project team has completed theirs as well, and we're in agreement, as well as I believe the New Mexico Environment Department. So I believe that particular area has been dealt with. So hopefully that's five now.

Let me highlight a few other items. Working with your project team – actually, let me say it a little differently. When we negotiated the consent order with the New Mexico Environment Department, you may not know but I think – make sure you do know. The Atomic Energy Commission, the AEC, has authority for the radionuclide contamination at Los Alamos. What we did in negotiating the consent order with the Environment Department is we provided a letter of commitment that we would provide all the

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radionuclide data to NMED as we did our consent order work. And we have been doing that. We are working with your team and we have committed to doing that. In fact I was hoping to give it to you here today. The letter's complete. It was in our manager's box to sign. When I left he was in a meeting and I couldn't get him to sign it. That will probably come to you via .pdf tomorrow or at the latest Monday. So we are sending you a letter addressed to you, Madam Chair, that commits to us providing radionuclide data on a continuing basis to ensure that you know what we're reading and understanding in that regard.

The other item that I know is something that you had asked us to do a while back was to enter into a memorandum of understanding. I believe the last time I met with you we were trying to not do that. From our angle it's a little bureaucracy and it takes a while to get there as opposed to a letter that would allow us to work together. We are committed to doing an MOA. I believe that is where you guys would like for us to. One thing I guess I would like to do is at some point in time identify your team. We have a team that's ready to start the discussion, so we invite you to identify your team and we'll get after it. So we are willing and wanting to get into an MOA.

I think again the partnership that we form is very important. I want to commit to you that if you would like for me or members of my team to be here on your Board meetings I would commit to being here. I would commit for someone to be here if that would be the case. I think we need to partner; I would love to partner and I make that commitment to you that we would be here. I do believe that the technical team at the staff level needs to continue that discussion so I know on my end I will push that so that we're communicating as much as we need to.

And finally I know some of you, I think maybe you three went on a tour to Los Alamos. I've told you we've done a lot of work in stabilizing the Los Alamos Pueblo Canyon. I would invite you again to go out to Los Alamos. I think there's a lot for you to see now, and again, I think it's one where I think we should be working close together.

That's my report. I do have a package that shows you pictures of what I communicated. I'm open to questions.

CHAIR VIGIL: Questions? Conci, and then I'll go with Commissioner Montoya.

MEMBER BOKUM: Madam Chair, I would just – you talk about what the challenges are in the delay of getting the gauging stations.

MR. RAEL: The E110 is the one that challenges up front, because we are on San Ildefonso land doing some of this work. There was initially ideas, thoughts, that maybe we didn't need some particular permits. It turns out that we do need some of those permits. For example, one of them is a 404 Permit that we've got to get with the Corps of Engineers. And so that's already been turned on and we're working with them to do that. And so that has delayed us just a little bit.

Initially we did – I will say this – we did have concerns on our end because we were on San Ildefonso land and because of what the Pueblos go through in the months of December and January that we would be held up in terms of getting onto that land. It turns out that really that isn't a problem. I have communicated with San Ildefonso Pueblo and even though they're still going through some of their activities to elect a new governor they have actually worked with us so that is not a problem. So I think it was more the permitting part of it.

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MEMBER BOKUM: I really appreciate that you were very helpful to us.

MR. RAEL: Very good. Thank you.

CHAIR VIGIL: Commissioner Montoya.

COMMISSIONER MONTOYA: Madam Chair, George, where is the E110? On which canyon ridge? Is it on the yellow section here?

MR. RAEL: Yes. If I can do it this way, Commissioner Montoya. When you go down to – coming down the road, on the road that turns up to go to Española.

COMMISSIONER MONTOYA: Yes.

MR. RAEL: It's right in that area.

COMMISSIONER MONTOYA: Oh, okay. Right there. Okay.

MR. RAEL: Yes, it's in that area. I think that's a better visual.

COMMISSIONER MONTOYA: Okay. That answers my questions. Thank you.

CHAIR VIGIL: Thank you. Mr. Carpenter.

MR. CARPENTER: Thank you, Madam Chair. Just a couple of comments. Mr. Rael covered some of the things I wanted to emphasize. We were very pleased when we met yesterday with members of Mr. Rael's team with regard to the MOA. Everybody's desiring to move forward on that finally, so that's very encouraging. I wanted to emphasize again that the independent peer reviewer is under contract and has kicked off and there is a public meeting as indicated on your flyer *[Exhibit 5]* on January 14th from 5:30 to 7:30 at Santa Fe Community College. That's in the Jemez Room, and we really encourage the public to attend that. We want the process to be as open as accessible and transparent as we can possibly make it.

I also want to emphasize that my team is not going to be running that meeting. It's the independent peer reviewer's meeting. It's the independent peer review so it's their meeting. We'll be there of course, but I want to make sure everybody knew about that.

With regard to E110 I just wanted to make some follow-up comments. Of course our desire was to have that gauge up and running long before this. Mr. Rael's team indicates that somewhere in February that gauge will be up and running. That's really important that we meet that deadline because what that means is if you have a rain or snow event in the spring we'll be able to capture that flood data and even more importantly we need to have that up and running and the bugs worked out, including the sedimentary system for this monsoon system and then establish a good baseline of data so that we can characterize the flow regime and the constituents that that will be [inaudible] in those flood flows. So I just want to emphasize those dates as important goals from our perspective.

CHAIR VIGIL: Councilor Calvert.

COUNCILOR CALVERT: Likewise on the item #4 action, the early notification system. Is that anticipated to be operational in sufficient time to do the kind of testing you want to do?

MR. CARPENTER: Madam Chair, Councilor Calvert, the early notification system is part of the entire package that we call monitoring gauge. So I was thinking of the sampling apparatus and what we analyzed and how we analyzed and the telemetry system that will notify our operators when there's a storm event and give them the opportunity, if warranted, to cease diversion. So we want all that up and running and

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then fully tested well in advance of operations so that we can begin to build a baseline of data. So that yes, the answer is yes.

COUNCILOR CALVERT: Okay.

MR. HARWOOD: I have just one other piece of information. That is other parts of the early notification system include to other gauges, one called E040 and E050, which are upstream of E110. So E110 is a critical part of the early notification system. The early notification system has gauges other than E110.

CHAIR VIGIL: Are you finished, Mr. Carpenter?

MR. CARPENTER: Yes, Madam Chair.

CHAIR VIGIL: I did hear Mr. Rael make the offer to be present at upcoming meetings. What's the pleasure of the committee of providing for extending [inaudible]

COUNCILOR CALVERT: I guess my thought would be he's certainly welcome to attend any one he wants, but I wouldn't necessarily ask him to make that trip unless we had some specific that we wanted to discuss with him. Or he with us.

COUNCILOR WURZBURGER: I would agree with one exception and that is given the criticality of these two items, I would think that I would, one, suggest that should one go off track you would be coming to the closest meeting to discuss that with us. Does that sound good?

CHAIR VIGIL: Very good. That's an updated item. So if there are no further comments on that I'll move to item 16.

16. Presentation on BAR (based on the BDD Board's recommended operating budget) to Move Funds from the Water Division's 10-Year Financial Plan to the BDD Project FY 09/10 Operations Budget, Approval of FY 10/11 BDD Operating Budget, BDD Training and Certification Program, and BDD Staffing Plan (Rick Carpenter)

MR. CARPENTER: Thank you, Madam Chair. As you can tell from the caption there's a lot to this and it's what I call the staffing plan. There are many primary components to the staffing plan and they're all interrelated. To the extent that I'm able to break them out into discrete pieces at the next Board meeting I will do that for the Board. But I wanted to just sort of walk through the components at this stage and let you know where we're at, which one of the steps and let you know that there's a tremendous amount of information associated with the staffing plan. It's very complex.

Between now and the next Board meeting I'll try to get you drafts of each and offer myself and other members of my team to be with you and go through that so that at the next Board meeting we will stay on schedule and request that the Board take action on the staffing plan and various pieces of it. So that's just a little bit of background. The Board will recall in the fall of 2009 the Board directed staff to [inaudible] the plans to hire an operations and maintenance contractor and to begin as rapidly as we could to put together a staffing plan using hired employees as much from the local labor pool as we could do.

So we have assembled a team on that and we're working harder on that. It's very complicated; it's very time-consuming. There are a great many pieces to it. What I hope

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to bring back to the Board in its final version for action and certainly in draft form between now and the next Board meeting will consist of the following: an outline of the various goals and responsibilities of the entities that will be involved in this and there are a number of entities. Of course the BDD Board and then the staff, but also we are endeavoring to utilize as best we can contractual relations that exist or additional contractual relations from CDM and also our design-builder. They were tasked in the original contract to provide some sort of [inaudible] potentially not all that we're going to need. But those two entities are very prominent players.

In addition to that, we intend, as the Board is aware, to hire a trainer as part of our staff. So that entity will be involved not only in the development of the [inaudible] and training certification programs but the ongoing training after the BDD becomes operational. We've also met several times and are developing ways in which we can partner with Santa Fe Community College and potentially even Doña Ana Branch Community College. They have different things to offer so we will seek to integrate them in different ways. So an outline, on org chart or something that explains to the Board who's doing what and why, and then the schedule will relate to that. Because we literally have no float in our schedule at this point. We've got to have all the pieces come together if we're to meet the deadlines for startup.

I will also bring to the Board a report of what we're calling the project acceptance testing warm-up. We call that PATWU and this is sort of the derivation of the acceptance, what was in the contract originally, the acceptance process for the project, which was pretty abrupt. The Board had the option to delay the acceptance period but the acceptance period was just a matter of weeks, which has always made me a little bit nervous. It should make the contractor a little bit nervous as well and it certainly does, to build a project this large and complex and then have a very short period of time to wring it out and hand it over to the operator who on the very next day has to operate the thing.

So since we were given the direction to develop our own staff instead of a contractor we were thinking about ways to sort of smooth out that transition period, take advantage of the delays that the Board had at its option in the contract and to begin this project acceptance testing period around January and extend it for another three months and gradually ramp up production of the project. The contractor would be doing that. With regard to staff they'd still be on the hook to do it. But our staff, having been trained in the previous three or four months would shadow the contractor and watch them as the de-bug this project and gradually bring it on line. I think it's really advantageous, not only for the contractor, but especially for the Board and this new staff that we've just hired and trained. So we'll be explaining that to you.

The Board previously approved fiscal year 09/2010 operating budget and I think that was in November wherein the five most critical hires for this project were approved. We miscalculated the benefits, the salaries I think which projected benefits were not – we needed to do a BAR anyway, a budget adjustment request, to move those funds and fund those positions, but it's going to be slightly higher than what the Board had approved previously, so we'll have to ask for approval of that so we can hire again. I haven't completely figured it out yet but I think we're also probably going to bring the remaining 26 positions in for the following budget year. We have to have – I'm told by the HR Department – funding in place for all positions before they're advertised. So those budgets have to be approved. The overall budget needs to come to you anyway in

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February whether we're hiring or not, just the overall operating budget. So that's going to be a big task for the Board to tackle. We'll make that as simple for you as we possibly can.

In addition to that we have the training, testing and certification program. We're designing that in conjunction with NMED and with the community colleges and with our own trainers, development of curricula, development of the certification programs themselves. As far as that, I think Mr. Gaume mentioned a couple of meetings ago, in conjunction with the community colleges, as long as these employees are going through the certification program and getting their certs from the state [inaudible] process that they can also apply for a college degree in conjunction with our partnerships with the community colleges. So we think that's really good and we're striving for that as well.

We'll be bringing forward a professional services agreement for our association with Santa Fe College and potentially Doña Ana Branch. So that will be part of the package as well. So we have a great many – oh, and we'll be working with the labor unions of course through all of this and we'll bring that forward to the Board as well. There's a lot to understand and we'll make ourselves as available as we can and return in February with a large packet of information with what needs to be approved out of this list is available to have actually taken on at the February Board meeting.

CHAIR VIGIL: Councilor Wurzburger.

COUNCILOR WURZBURGER: Thank you. Well, this is an exciting time. I know we made this request almost at every meeting but I really feel strongly that you can even give us pieces of the package, then we could go ahead and get that tomorrow. Don't try to get the whole package together and then expect us to review this. So if you can do your best to do that I think we'd be very grateful.

MR. CARPENTER: Madam Chair, Councilor Wurzburger, I can completely understand that and we'll do our very, very best. As I said I will make myself available after we complete pieces of the draft to walk you through them and get a high level of understanding before the February report.

COUNCILOR WURZBURGER: My other question is based on the meeting that we had the other day in Finance. The issue of job-sharing and cross-training. I didn't want to say anything at that meeting until I'd had a chance to talk to you and I haven't had a chance to talk to you so I'll just say it at this meeting. Is that a conflict? I have sort of thought of this that we're moving towards getting this staffed, but do you see synchronicity in that concept?

MR. CARPENTER: Madam Chair, Councilor Wurzburger, that too is very complex and would require the work chart in front of us to enter into the discussion. Just briefly, yes, there is some opportunity for cross-training and movement between. Because the Buckman Direct Diversion project is a state of the art water treatment plant and some of the processes and equipment don't exist at the other water treatment plant not everything is interchangeable but we've identified to the extent I think we're able those parts that are interchangeable and a lot of maintenance functions – I won't say operations – but a lot of the maintenance functions are interchangeable. So we are going to give this a high priority. We knew that was an option to be efficient and save money. Now there's a new emphasis on that, especially with regard to the discussion that took place at the Finance Committee. We're going to look at that again on Monday morning and make sure we've identified every opportunity that there is for that.

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COUNCILOR WURZBURGER: Thank you.

CHAIR VIGIL: Any other questions? Thank you very much for that update.

17. Update on the Triennial Review (Water Quality Standards) Hearing. (Kyle Harwood)

MR. HARWOOD: Thank you, Madam Chair. Just reminding you and myself of our pre-holiday schedule. It's a little vague for me. But as you know we had a Board meeting on December 3rd and we reported at that time that the Triennial Review would begin the following week. The report out at that time to strike the proposed criteria and the hearing examiner had denied that motion to strike. We did go into the Triennial Review the following week and as I think you all know we did some email communication that I did to the Board during the review that when it came time for DOE to put on their witnesses and testimony regarding their concerns with the radionuclide criteria they withdrew that opposition and withdrew their testimony related to that opposition. So that was obviously a very encouraging development.

We worked with the Environment Department as well as Amigos Bravos on that position, particularly on the issue that the criteria that had been put forward by the Department was appropriate. There are some differences. Amigos Bravos was asking for a more stringent standard, but we were standing together on the fact that the criteria themselves were appropriate and permitted.

So at this point in the process we have post-hearing briefs due at a deed that follows with the transcript. The transcripts will be prepared by the end of this month, so there will be a couple other tasks related to answering questions that the Water Quality Control Commissioners asked us. They asked us to address [inaudible] briefs but we feel very encouraged by what happened at the hearing and we expect – we hope – that the Commission will – we hope first that the hearing examiner will view those criteria favorably and recommend the Commission [inaudible] which is where we stand today.

CHAIR VIGIL: Any questions? Go ahead.

COUNCILOR WURZBURGER: And once adopted they will then just come back to us for information and we'll know whether they were adopted. Is that correct?

MR. HARWOOD: Absolutely. I look forward to making that report.

EXECUTIVE SESSION:

1. *Discussion of PRC Case No. 09—00260-UT [PNM's 2010 Plan REPPP] Pursuant to §10-15-1(H)(7) NMSA 197 (BDD Board Counsel)*

CHAIR VIGIL: I'll need a motion to go into executive session for the purposes of [inaudible]

MS. LONG: Yes, Madam Chair.

CHAIR VIGIL: Okay, we'll need a roll call on that. Do I have a motion?

COUNCILOR WURZBURGER: So moved.

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COUNCILOR CALVERT: Second.

The motion passed by unanimous [5-0] roll call vote with Councilors Wurzburger and Calvert, and Commissioners Vigil and Montoya, and Ms. Bokum all voting in the affirmative.

CHAIR VIGIL: Tell us, staff, how long it will be so we can let the public know when we're expected to come back.

MR. HARWOOD: I believe we have a five to ten minute review of where we stand on the PRC 260 Case and on the rest we'll give to your questions.

CHAIR VIGIL: Okay. So 25 minutes at the most. So we should be back here by 5:25 or 5:30 approximately.

[The Board met in closed session from 4:58 to 5:35.]

CHAIR VIGIL: We're going to need a motion to come out of executive session.

COUNCILOR CALVERT: So moved.

MEMBER BOKUM: Second.

CHAIR VIGIL: Moved and seconded.

The motion passed by unanimous [4-0] voice vote.
[Commissioner Montoya was not present for this action.]

DISCUSSION ITEMS (Continued)

18. Action on PRC Case No. 09-00260-UT [PNM's 2010 Plan REPPP]. (BDD Board Legal Counsel)

CHAIR VIGIL: I don't even know if you need to summarize anything. No action is going to be taken on this or are we going to consider that the governing bodies –

COUNCILOR CALVERT: We're on 18 thought. 19 we're not talking about that one.

COUNCILOR WURZBURGER: So we do have a motion.

CHAIR VIGIL: We have a motion on item 18, do we? Councilor Calvert.

COUNCILOR CALVERT: I move that the BDD Board approve the stipulation – is it approve the stipulation? Is that the correct wording? Contingent upon the separate governing bodies' approval.

COUNCILOR WURZBURGER: Second.

CHAIR VIGIL: All right. Is there any further discussion on this?

COMMISSIONER MONTOYA: Madam Chair, so essentially, if one of the bodies does not approve it then it's dead.

COUNCILOR CALVERT: Right. We will be back to discussing it again I guess or something.

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COUNCILOR WURZBURGER: Or we could do it then as the City, correct? The City could take an action, the County could take an action. It's just the BDD Board wouldn't take an action unless we [inaudible] Right?

MS. LONG: That's how I'm understanding the motion is that both bodies would have to approve before your Board would approve it. That would not prevent item 1 of the two entities from approving or not.

CHAIR VIGIL: Conci.

MEMBER BOKUM: I gather there's three options: approve, oppose and just not sign it.

CHAIR VIGIL: I think that the motion intends for us to go to our separate governing bodies to make those options.

MEMBER BOKUM: No, but for the Board. If one approves and the other doesn't, does that mean that we'd be opposed or that we –

CHAIR VIGIL: I think we'd have to come back for that.

COUNCILOR CALVERT: I think maybe if you want to add to the motion that in the case that both do not approve it it comes back as an agenda item at the next BDD meeting.

CHAIR VIGIL: That makes sense.

MR. HARWOOD: Can I just clarify it? If both City and County approve then we will reflect the Board's approval of the stipulation. If anything else happens we'll be back at the February meeting. Is that right?

CHAIR VIGIL: There is a motion and there is a second on that. Any further discussion?

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

CHAIR VIGIL: We will be not taking action on 19, correct?

MS. LONG: That is correct, Madam Chair. It will be an informational item.

CHAIR VIGIL: At our next meeting?

MATTERS FROM THE PUBLIC

None were presented.

MATTERS FROM THE BOARD

MEMBER BOKUM: Madam Chair, I just wanted to acknowledge that in the report the DB contractor work is on schedule and the pipeline installation work is ahead of schedule, and that the Board engineer's work is on schedule [inaudible]

CHAIR VIGIL: Very good. Thank you. Any other items? I have a real quick question. I was not available for a bulk of time for the previous meeting. Did you go before the interim committee at the legislature and if you did, how did that turn out?

MR. CARPENTER: Madam Chair, yes. We made a presentation for the interim committee. I thought it went very well. It seemed to be very well received.

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COUNCILOR WURZBURGER: Someone did comment and compliment you as I recall.

MEMBER BOKUM: That was me. I just wanted to say I thought your presentation was very confidence inspiring.

CHAIR VIGIL: So you don't have to give yourself kudos. Was there any follow-up request from the legislature? Will we be actually asserting our ability to report to them based on the resolution?

MR. CARPENTER: I think that the action going forward is that it will likely be a fairly aggressive memorial, like was done last year. We'll see. I think that's it.

CHAIR VIGIL: Thank you very much. Any other matters? Commissioner Montoya.

COMMISSIONER MONTOYA: Thank you, Madam Chair. I just wanted to recognize and thank the workforce connection, Department of Workforce Solutions. I know we've had probably over 1500 referrals coming from them to this particular project and it's putting a lot of people to work in terms of what they've done, been able to place carpenters, welders – across the board from what I understand, so I just wanted to thank them for what they're doing in helping us move this project forward.

CHAIR VIGIL: Actually, we're keeping data on that, aren't we?

MR. CARPENTER: Madam Chair, yes, yes we are. In addition to the economic report that was done just prior to the [inaudible] It is fairly successful.

COUNCILOR CALVERT: If they had any Level 2, 3, or 4 specialists that are hanging around that would be nice too.

COUNCILOR WURZBURGER: You know, actually, Commissioner, thank you for reminding us and I think it would be helpful, Rick, if you could even get a small press release on that, because we don't have anything but bad news right now with respect to what is not happening in employment and I would like to suggest that we as a Board put that out right away, to remind people. They probably don't realize that.

MR. CARPENTER: Madam Chair, I'd be happy to do that. I'll work with the Public Relations folks.

COUNCILOR WURZBURGER: Thank you. Thank you, Madam Chair.

NEXT MEETING: Thursday, February 4, 2010 @ 4:00

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ADJOURNMENT

Having completed the agenda, this meeting was declared adjourned at approximately 5:45 p.m.

Approved by:

Virginia Vigil, Chair

Respectfully submitted:

Karen Farrell, Wordswork

ATTEST TO:

VALERIE ESPINOZA
SANTA FE COUNTY CLERK

ATTEST TO:

YOLANDA VIGIL
SANTA FE CITY CLERK

SFC CLERK RECORDED02/15/2010

EXHIBIT 1

City of Santa Fe
New Mexico

AMENDED AGENDA

THE CITY OF SANTA FE
And
SANTA FE COUNTY

BUCKMAN DIRECT DIVERSION BOARD MEETING

THURSDAY, JANUARY 7, 2010
4:00 PM

COUNTY COMMISSION CHAMBERS
102 Grant Avenue

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **APPROVAL OF AGENDA**
4. **APPROVAL OF MINUTES FOR THE DECEMBER 3, 2009 BUCKMAN DIRECT DIVERSION BOARD MEETING**
5. **APPROVAL OF CONSENT AGENDA**
6. **MATTERS FROM STAFF**

CONSENT AGENDA

7. Project Manager's Monthly Project Exception Report. (Rick Carpenter)
8. Update on Financial Status of Professional and Legal BDD Contracts. (Rick Carpenter)
9. Public Relations Report for December 2009. (Patti Watson and Lynn Pitcher)
10. Request for Approval of a Professional Services Agreement between the Buckman Direct Diversion Board and Norman Gaume, P.E. (Rick Carpenter)

SFC CLERK RECORDED 02/15/2010

DISCUSSION AND ACTION ITEMS

11. Discussion and Possible Action on MOA Between the Buckman Direct Diversion Board and Santa Fe County for Implementation and Cost Sharing of the LC LP BWSA Through a Future DB Contract Change Order. (Kyle Harwood) **HANDOUT AT MEETING**

12. Consideration and Action on Reappointing Consuelo Bokum as the Citizen Member of the Board. (BDDB Legal Counsel)

13. Election of Chair and Vice Chair for the Buckman Direct Diversion Board. (Legal Counsel)

14. Request for Approval of Resolution No. 2010-_____. A Resolution Determining Reasonable Notice for the Public Meetings of the Buckman Direct Diversion Board. (Legal Counsel)

INFORMATION ITEMS

15. Update on LANL and Board's Requested Response to 6 Action Items. (Rick Carpenter and LANL Representative) **VERBAL**

16. Presentation on BAR (based on the BDD Board's recommended operating budget) to Move Funds From the Water Division's 10 –Year Financial Plan to the BDD Project FY 09/10 Operations Budget, Approval of FY 10/11 BDD Operating Budget, BDD Training and Certification Program, and BDD Staffing Plan. (Rick Carpenter)

17. Update on the Triennial Review (Water Quality Standards) Hearing. (Kyle Harwood) **VERBAL**

EXECUTIVE SESSION:

1. *Discussion of PRC Case No. 09—00260-UT [PNM's 2010 Plan REPPP] Pursuant to §10-15-1(H)(7) NMSA 1978. (BDD Board Counsel)*
2. *Discussion of PRC Case No. 09-002170-UT [Legality of 3rd Party PPA's] Pursuant to §10-15-1(H)(7) NMSA 1978. (BDD Board Counsel)*

END OF EXECUTIVE SESSION

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DISCUSSION ITEMS (CONTINUED)

18. Action on PRC Case No. 09-00260-UT [PNM's 2010 Plan REPPP]. (BDD Board Legal Counsel) **VERBAL**

19. Action on PRC Case No. 09-002170-UT [Legality of 3rd Party PPA's]. (BDD Legal Counsel) **VERBAL**

MATTERS FROM THE PUBLIC

MATTERS FROM THE BOARD

NEXT MEETING: THURSDAY, FEBRUARY 4, 2010 @ 4:00

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.

SFC CLERK RECORDED 02/15/2010

EXHIBIT 2

MEMORANDUM

Date: January 7, 2010

To: Buckman Direct Diversion Board

From: Rick Carpenter, BDD Project Manager RC

Subject: Professional Services Agreement in the Amount of $125,000 (Exclusive of NMGRT) Between Norman Gaume, P.E., and the BDD Board

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Norm Gaume, P.E., has worked on the BDD Project in various capacities and on numerous issues over the past 6 years. His knowledge, skills, and work experience relating directly to the BDD Project are unique. Mr. Gaume has extensive experience with national, state, regional, and local water and public infrastructure issues, and is an expert in the areas of water rights, permitting, water resources engineering, and related topics. Mr. Gaume has worked on numerous assigned BDD responsibilities including: staffing and recruitment issues, electric power and solar facility permitting and procurement, state and federal permitting compliance, LANL water quality issues, budgeting and cost accounting, design and construction issues, and occasionally serves as temporary project manager. A summary of the recommended scope of work for the attached PSA follows:

SFC CLERK RECORDED 02/15/2010

The Contractor shall provide the following professional services to support the Board's implementation of the Buckman Direct Diversion Project (BDD Project), as agreed with the BDD Project Manager:

A. Analysis and development of solutions involving BDD Project water rights, water quality, electric power, and environmental permitting and compliance;

B. Analysis and development of solutions for BDD Project staffing, training, budgeting, cost accounting, and initial operations;

C. Review of the Board Engineer's and other BDD contractors' work products and prepare comments and recommendations;

D. Plan and assist with implementation of BDD procurement and project delivery efforts;

E. Provide analysis and investigations of issues associated with BDD implementation;

F. Assist the BDD Project Manager with project implementation; and

G. Perform tasks as assigned by the Project Manager.

RECOMMENDATION

Review and if considered acceptable, approve the PSA with Norman Gaume, P.E.

BUCKMAN DIRECT DIVERSION BOARD

PROFESSIONAL SERVICES AGREEMENT
WITH
NORMAN GAUME, P.E.

THIS AGREEMENT is made and entered into by and between the Buckman Direct Diversion Board ("Board") and Norman Gaume, P.E., (the "Contractor"). The date of this Agreement shall be the date when it is executed by the Chair of the Board.

1. SCOPE OF SERVICES

The Contractor shall provide the following professional services to support the Board's implementation of the Buckman Direct Diversion Project (BDD Project), as agreed with the BDD Project Manager:

A. Analysis and development of solutions involving BDD Project water rights, water quality, electric power, and environmental permitting and compliance;

B. Analysis and development of solutions for BDD Project staffing, training, budgeting, cost accounting, and initial operations;

C. Review of the Board Engineer's and other BDD contractors' work products and prepare comments and recommendations;

D. Plan and assist with implementation of BDD procurement and project delivery efforts;

E. Provide analysis and investigations of issues associated with BDD implementation;

F. Assist the BDD Project Manager with project implementation; and

G. Perform tasks as assigned by the Project Manager.

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2. STANDARD OF PERFORMANCE; LICENSES

A. The Contractor represents that Contractor possesses the personnel, experience and knowledge necessary to perform the Scope of Services described in this Agreement.

B. The Contractor agrees to obtain and maintain throughout the term of this Agreement, all applicable professional and business licenses required by law, for itself, its employees, agents, representatives and subcontractors.

3. COMPENSATION

A. Compensation under this Agreement shall be a sum not to exceed one hundred twenty-five thousand dollars ($125,000), exclusive of gross receipt taxes. Payment shall be made for services actually rendered a rate of $150.00 per hour plus applicable gross receipts taxes. Contractor will provide services pursuant to the Scope of Services under Paragraph 1 herein.

B. The Contractor shall be responsible for payment of gross receipts taxes levied by the State of New Mexico on the sums paid under this Agreement.

C. Invoices for services will be made on a monthly basis. Payment to the Contractor will be made within thirty (30) days after the date of billing. Billing will be made in accordance with the tasks described in the attached Scope of Services as agreed with the BDD Project Manager and shall be paid only for services actually performed.

4. TERM AND EFFECTIVE DATE

This Agreement shall be effective when signed by the Board's Chair and terminate when the Scope of Services has been completed, but no later than March 31, 2012.

5. TERMINATION

A. This Agreement may be terminated by the Board upon 30 days written notice to the Contractor. In the event of such termination:

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(1) The Contractor shall render a final report of the services performed up to the date of termination and shall turn over to the Board original copies of all work product, research or papers prepared under this Agreement.

(2) If payment has not already been made, Contractor shall be paid for services rendered and expenses incurred through the date Contractor receives notice of such termination. If full payment has been made, Contractor agrees to prorate for work accomplished and refund all amounts earned.

6. STATUS OF CONTRACTOR; RESPONSIBILITY FOR PAYMENT OF EMPLOYEES AND SUBCONTRACTORS

A. The Contractor and its agents and employees are independent contractors performing professional services for the Board and are not employees of the Board. The Contractor, and its agents and employees, shall not accrue leave, retirement, insurance, bonding, use of Board vehicles, or any other benefits afforded to employees of the Board as a result of this Agreement.

B. Contractor shall be solely responsible for payment of wages, salaries and benefits to any and all employees or contractors retained by Contractor in the performance of the services under this Agreement.

7. CONFIDENTIALITY

Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the Board.

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8. CONFLICT OF INTEREST

The Contractor warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. Contractor further agrees that in the performance of this Agreement no persons having any such interests shall be employed.

9. ASSIGNMENT; SUBCONTRACTING

The Contractor shall not assign or transfer any rights, privileges, obligations or other interest under this Agreement, including any claims for money due, without the prior written consent of the Board. The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the Board.

10. RELEASE

The Contractor, upon acceptance of final payment of the amount due under this Agreement, releases the Board, the City of Santa Fe, The County of Santa Fe and Las Campanas, L.P., their officers, officials and employees, from all liabilities, claims and obligations whatsoever arising from or under this Agreement. If not completed at the time of final payment, the Contractor shall remain obligated to complete the Scope of Services and other obligations of this Agreement. The Contractor agrees not to purport to bind the Board to any obligation not assumed herein by the Board unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

11. INSURANCE

A. The Contractor shall: (i) obtain, and upon the Board's request provide to the Board, insurance certificates reflecting evidence of all insurance required herein; however, the Board reserves the right to request, and the Contractor shall submit, copies of any policy upon

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reasonable request by the Board; (ii) obtain Board approval of each company or companies as required below; and (iii) confirm that all policies contain the specific provisions required. Contractor's liabilities, including but not limited to Contractor's indemnity obligations, under this Agreement, shall not be deemed limited in any way to the insurance coverage required herein. Maintenance of specified insurance coverage is a material element of this Agreement and Contractor's failure to maintain or renew coverage or to provide evidence of renewal during the term of this Agreement may be treated as a material breach of Agreement by the Board.

B. Further, the Contractor shall not modify any policy or endorsement thereto which increases the Board's exposure to loss for the duration of this Agreement.

C. **Types of Insurance.** At all times during the term of this Agreement, the Contractor shall maintain insurance coverage as follows:

(1) **Commercial General Liability.** Commercial General Liability (CGL) Insurance must be written on an ISO Occurrence form or an equivalent form providing coverage at least as broad which shall cover liability arising from any and all bodily injury, personal injury or property damage providing the following minimum limits of liability.

General Annual Aggregate(other than Products/Completed Operation)	$1,000,000
Products/Completed Operations Aggregate Limit	$1,000,000
Personal Injury Limit	$1,000,000
Each Occurrence	$1,000.000

(2) **Automobile Liability.** For all of the Contractor's automobiles including owned, hired and non-owned automobiles, the Contractor shall keep in full force and

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effect, automobile liability insurance providing coverage at least as broad for bodily injury and property damage with a combined single limit of not less than $1 million per accident. An insurance certificate shall be submitted to the Board that reflects coverage for any automobile.

(3) **Professional Liability.** For the Contractor and all of the Contractor's employees who are to perform professional services under this Agreement, the Contractor shall keep in full force and effect, Professional Liability insurance for any professional acts, errors or omissions. The Contractor shall endeavor to obtain a policy that also provides coverage for prior acts of the Contractor. Such policy shall provide a limit of not less than $1,000,000 per claim and $1,000,000 annual aggregate. The Contractor shall maintain the policy in force for a period of one year after substantial completion of the project or termination of this Agreement, whichever occurs last and shall endeavor to maintain the policy for an additional two years, for a total of three years coverage after substantial completion of the project or termination of this Agreement, whichever occurs last. Contractor shall endeavor to obtain coverage that does not contain exclusions for work relating to environmental or pollution hazards.

(4) **Workers' Compensation.** For all of the Contractor's employees who are subject to this Agreement and to the extent required by any applicable state or federal law, the Contractor shall keep in full force and effect, a Workers' Compensation policy & Employers Liability policy. That policy shall provide Employers Liability Limits as follows:

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Bodily Injury by Accident	$500,000	Each Accident
Bodily Injury by Disease	$500,000	Each Employee
Bodily Injury by Disease	$500,000	Policy Limit

The Contractor shall provide an endorsement that the insurer waives the right of subrogation against the Board, City of Santa Fe, County of Santa Fe, Las Campanas LLC and their respective elected officials, officers, employees, agents, volunteers and representatives.

D. **Cancellation**. Except as provided for under New Mexico law, all policies of insurance required hereunder must provide that the Board is entitled to thirty (30) days prior written notice (10 days for cancellation due to non-payment of premium) of cancellation or non-renewal of the policy or policies. Cancellation provisions in insurance certificates shall not contain the qualifying words "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives".

E. **Insurer Requirements.** All insurance required by express provision of this Agreement shall be carried only by responsible insurance companies that have rated "A-" and "V" or better by the A.M. Best Key Rating Guide, that are authorized to do business in the State of New Mexico, and that have been approved by the Board. The Board will accept insurance provided by non-admitted, "surplus lines" carriers only if the carrier is authorized to do business in the State of New Mexico.

F. **Deductibles.** All deductibles or co-payments on any policy shall be the responsibility of the Contractor.

G. **Specific Provisions Required.**

(1) Each policy shall expressly provide, and an endorsement shall be submitted to the Board, that the policy or policies providing coverage for Commercial

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General Liability must be endorsed to include as an Additional Insured, the Board, City of Santa Fe, County of Santa Fe, Las Campanas LLC and their respective elected officials, officers, employees, agents, volunteers and representatives.

(2) All policies required herein are primary and non-contributory to any insurance that may be carried by the Board, City of Santa Fe, County of Santa Fe, Las Campanas LLC and their respective elected officials, officers, employees, agents, volunteers and representatives, as reflected in an endorsement which shall be submitted to the Board.

(a) The Contractor agrees that for the time period defined above, there will be no changes or endorsements to the policy that increase the Board's exposure to loss.

(b) The Board reserves the right, from time to time, to review the Contractor's insurance coverage, limits, and deductible and self-insured retentions to determine if they are acceptable to the Board. The Board will reimburse the Contractor for the cost of the additional premium for any coverage requested by the Board in excess of that required by this Agreement without overhead, profit, or any other markup.

(c) The Contractor may obtain additional insurance not required by this Agreement.

12. INDEMNIFICATION

To the greatest extent permitted by law, the Contractor shall indemnify, hold harmless and defend the Board, City of Santa Fe, County of Santa Fe, Las Campanas, LLC and their respective elected officials, officers, employees, agents, volunteers and representatives from all

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losses, damages, claims or judgments, including payments of all attorneys' fees and costs on account of any suit, judgment, execution, claim, action or demand whatsoever arising from the Contractors performance or non-performance under this Agreement as well as the performance or non-performance of the Contractor's employees, agents, representatives and subcontractors or any tier.

13. THIRD PARTY BENEFICIARIES

By entering into this Agreement, the parties do not intend to create any right, title or interest in or for the benefit of any person other than the Board and the Contractor. No person shall claim any right, title or interest under this Agreement or seek to enforce this Agreement as a third party beneficiary of this Agreement.

14. RECORDS, DOCUMENT CONTROL AND AUDIT

A. The Contractor shall conform with and participate in the Document Control policies of the Board or the City of Santa Fe. The Contractor shall maintain, throughout the term of this Agreement and for a period of three years thereafter, all records that relate to the scope of services provided under this Agreement.

B. Detailed records that indicate the date, time and nature of services rendered shall also be retained for a period of three years after the term of this agreement expires. These records shall be subject to inspection by the City of Santa Fe, the Department of Finance and Administration, the State Auditor. The Board and the City of Santa Fe shall have the right to audit the billing both before and after payment to the Contractor. Payment under this Agreement shall not foreclose the right of the Board or the City of Santa Fe to recover excessive or illegal payments.

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15. APPLICABLE LAW; CHOICE OF LAW; VENUE

Contractor shall abide by all applicable federal and state laws and regulations, and all ordinances, rules and regulations of the Board. In any action, suit or legal dispute arising from this Agreement, the Contractor agrees that the laws of the State of New Mexico shall govern. Any action or suit commenced in the courts of the State of New Mexico shall be brought in the First Judicial District Court.

16. AMENDMENT

This Agreement shall not be altered, changed or modified except by an amendment in writing executed by the parties hereto.

17. SCOPE OF AGREEMENT

This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the services to be performed hereunder, and all such agreements, covenants and understandings have been merged into this Agreement. This Agreement expresses the entire Agreement and understanding between the parties with respect to said services. No prior agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

18. NON-DISCRIMINATION

During the term of this Agreement, Contractor shall not discriminate against any employee or applicant for an employment position to be used in the performance of services by Contractor hereunder, on the basis of ethnicity, race, age, religion, creed, color, national origin, ancestry, sex, gender, sexual orientation, physical or mental disability, medical condition, or citizenship status.

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19. SEVERABILITY

In case any one or more of the provisions contained in this Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby.

20. NOTICES

A. Any notices requests, demands, waivers and other communications given as provided in this Agreement will be in writing and will be deemed to have been given if delivered in person (including by Federal Express or other personal delivery service), or mailed by certified or registered mail, postage prepaid, and addressed to Seller or Buyer at the following addresses:

BOARD: Rick Carpenter
BDD Project Manager
Sangre de Cristo Water Division
801 San Mateo
Santa Fe, NM 87504

With a copy to: Nancy R. Long, Esq.
BDDB Independent Counsel
Long, Pound & Komer, P.A.
2200 Brothers Road
P. O. Box 5098
Santa Fe, NM 87502-5098

CONTRACTOR: Norman Gaume, P.E.
PO Box 3007
Albuquerque, NM 87190-3007

And via email to: gaume@newmexico.com

B. Any such notice sent by registered or certified mail, return receipt, shall be deemed to have been duly given and received seventy-two (72) hours after the same is so addressed and mailed with postage prepaid. Notice sent by recognized overnight delivery service shall be

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effective only upon actual receipt thereof at the office of the addressee set forth above, and any such notice delivered at a time outside of normal business hours shall be deemed effective at the opening of business on the next business day. Notice sent by facsimile shall be effective only upon actual receipt of the original unless written confirmation is sent by the recipient of the facsimile stating that the notice has been received, in which case the notice shall be deemed effective as o the date specified in the confirmation. Any party may change its address for purposes of this paragraph by giving notice to the other party as herein provided. Delivery of any copies as provided herein shall not constitute delivery of notice hereunder.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth below.

[BALANCE OF PAGE INTENTIONALLY LEFT BLANK; SIGNATURE PAGE FOLLOWS]

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BUCKMAN DIRECT DIVERSION BOARD

By: _____
Commissioner Virginia Vigil
Chairperson

Date: _____

ATTEST:

_____ VT
Valerie Espinoza, County Clerk

APPROVED AS TO FORM:

_____
Nancy R. Long, BDDB Counsel

APPROVED:

_____
David Millican, City Finance Director

ATTEST:

_____
Yolanda Y. Vigil, City Clerk
File Date: _____

CONTRACTOR:
NORMAN GAUME, P.E.

By: _____
Name: Norman Gaume
Title: _____
Date: _____

NM Taxation & Revenue
CRS #_____

City of Santa Fe Business
Registration #_____

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EXHIBIT 3

Buckman Direct Diversion Board Memorandum

To: BDD Board

From: Rick Carpenter, BDD Project Manager
Kyle Harwood, BDDB counsel

Re: Update on Bulk Water Service Agreement (BWSA) between Santa Fe County and Las Campanas LP

Date: January 6, 2010

Background
Santa Fe County approved the attached agreement at the BCC meeting held on Friday October 16, 2009, a final executed copy of the document was received recently.

The Santa Fe County Attorneys office has provided the attached memo describing the expected workplan over the coming months regarding implementation of the BWSA. Santa Fe County has requested that the BDD Board procure, design and construct the additional infrastructure under a 100% Santa Fe County cost share and convey the facilities upon completion and acceptance testing to the County. An MOA will be developed and presented to the BDD Board at a future meeting.

The BDD Board Engineer (CDM) and Board counsel continue to work with Santa Fe County and LC LP on the implementation of the BWSA. It is anticipated that these costs will also be part of the future MOA for BDD Board consideration.

Recommendation
No recommendations identified at the time of preparation of this memo.

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SANTA FE COUNTY
LEGAL DEPARTMENT
MEMORANDUM

To: Kyle Harwood, Esq., Nancy Long Esq., BDDB Special Counsel

From: Stephen C. Ross, County Attorney

Date: December 29, 2009

Re: County Interconnection Project

As you are aware, the County, Las Campanas Limited Partnership and the Las Campanas Homeowner's Water Cooperative entered into the Bulk Water Service Agreement to provide potable water on a wholesale basis to a portion of the Las Campanas development. See attached. The BWSA provides for County bulk water service to the Las Campanas Co-op through an interconnection with the BDD at Booster Station 3 and a lengthy pipeline to the Las Campanas Service Connection; the costs of providing the interconnection will be shared between the County and Las Campanas Limited Partnership on a 60/40 basis.

The BWSA will require a new pipeline interconnection between BS3 and the current Las Campanas Service Connection near BS4. The new pipeline is anticipated to be 24" in diameter and will be filled by a new pumping station located near BS3. The project will therefore consist of the pumping station, related utility connections, the 24 inch pipeline, SCADA equipment, and various components at the Las Campanas Service Connection. The pumping station located at BS3 will have to be appropriately sized to accommodate the expected demand from Las Campanas. However, that pump station will also need to be expandable if additional capacity (City or County) is needed in the vicinity. Possible additional demands could include City back-up or redundancy for the existing line between BS3 and BS4, additional capacity to the ten million gallon tank, or to satisfy County new demands pursuant to the Settlement Agreement with the City (which contemplates adjustment of City/County service area boundaries according to the presumptive city limits). These additional demands will require further development through a City/County utility service area agreement, the details of which are being fleshed out by a City/County staff working group. As a result, redundancy and flexibility will be essential features of the County Interconnection project to preserve options as the City/County agreement comes together.

After exploring a number of options to create the interconnection, the County is currently expecting to arrange for the design-build contractor to construct the interconnection project, and is discussing various technical options with the design-build contractor. If acceptable to the BDDB, considerable savings could be achieved by utilizing the services of the design-build contractor and the existing design-build contract instead of a wholly new bid and contract. In addition, the design-build contractor has expertise and competence with the project and would be able to integrate the County interconnection seamlessly into the BDD Project. It is expected that

BULK WATER SERVICE AGREEMENT

This Bulk Water Service Agreement ("the Agreement") is made this 16 day of October 2009 between Las Campanas Limited Partnership, a Delaware limited partnership, by and through Las Campanas Corporation, a New Mexico corporation, general partner of Las Campanas Limited Partnership, the Board of County Commissioners of Santa Fe County, and the Las Campanas Homeowners Water Cooperative.

RECITALS

WHEREAS, by an "Amendment of August 19, 1991, Agreement between Santa Fe County and Las Campanas Limited Partnership", dated January 22, 1993, by a "Master Plan Development Agreement" dated March 3, 1993, and by an Agreement dated May 18, 1994, the County required Las Campanas to acquire and allocate permanent water rights to meet the needs of the Las Campanas Project on a per-lot basis;

WHEREAS, the County and LCLP entered into an agreement dated May 18, 1994 ("the Replacement Delivery Facility Agreement") whereby, among other things, LCLP agreed to implement a replacement delivery facility to bring water to the Las Campanas community;

WHEREAS, at full build-out (anticipated to be 2030), Las Campanas will have allocated up to 568 acre-feet of water for residential uses, 84 acre-feet for commercial uses, and an assumed line loss of 52 acre-feet (8%);

WHEREAS, LCLP is now unable or unwilling to provide the replacement facilities described in the Replacement Facility Agreement and the Co-op desires to obtain water service from the County as a bulk water customer, and the County is willing to provide water service to the Co-op and not require construction of the replacement facilities so long as LCLP provides a substantial contribution to the required capital infrastructure and water rights to support the deliveries to the Co-op;

WHEREAS, the City of Santa Fe ("the City"), and the County are general partners in the Buckman Direct Diversion Project (the "BDD"), and the City, the County and LCLP (a limited partner in the BDD) are parties to the Facilities, Operations and Procedures Agreements ("the FOPA");

WHEREAS, under the FOPA (1) the City, County and LCLP will jointly fund the construction and fixed and variable operational expenses associated with the "Shared Facilities" of the Buckman Direct Diversion project, (2) LCLP will fund construction and fixed and variable operational expenses associated with the "Las Campanas Separate Facilities," described in Exhibit A to the FOPA;

WHEREAS, LCLP is willing to meet its obligations under the FOPA as described in the previous paragraph, but may, if acceptable to the parties, assign its obligations to the Co-op;

WHEREAS, LCLP is the owner of, and in the process of transferring the point of diversion for, 69.8055 acre-feet per annum of water rights from the Middle Rio Grande Valley to the BDD for use on the Las Campanas Project which shall be deeded to the Co-op upon issuance of a State Engineer permit;

WHEREAS, the Co-op is the owner of 639.6536 acre-feet per annum of water rights whose point of diversion is the City's Buckman Well Field;

WHEREAS, the Co-op has the responsibility as established by private contract to serve as the water utility for the Las Campanas Project pursuant to the Water Supply Agreement between LCLP and the Co-op dated January 22, 1993;

WHEREAS, LCLP intends to convey all of the necessary assets, contracts and agreements to make the Co-op the permanent water provider pursuant to an "Agreement to Construct and Transfer Water Improvements," dated January 22, 1993, in a manner and on terms acceptable to the Co-op;

WHEREAS, pursuant to Exhibit A, Article VIII of Resolution No. 2006-57 of the Board of County Commissioners (the "Santa Fe County Water Resources Department Line Extension and Water Service Policy" or "Resolution No. 2006-57") the County may provide bulk water deliveries to a community water system, mutual domestic water association, Cooperative water association, water and sanitation district, or other similar entity on a bulk service basis pursuant to an appropriate agreement and based on schedules provided by the County;

WHEREAS, the County had not intended to provide water service to the Las Campanas Development on account of LCLP's obligations under the Replacement Facility Agreement to provide all necessary infrastructure itself, and the County had therefore not planned for the substantial capital expenditures that will be required to serve the Development;

WHEREAS, to meet a portion, but not all, of its obligations under the Replacement Facility Agreement, LCLP will pay the construction costs of the Las Campanas Potable Water Tank and Chlorination Facility, a specified portion of the construction costs of the 24" County water line between Booster Station 3 and Booster Station 4/Las Campanas Service Connection to be constructed, and a specified portion of the construction costs of other items necessary for the County to provide bulk water to the Co-op as described in this Agreement; and

WHEREAS, the parties desire to set forth herein their mutual obligations and covenants with respect to the bulk water service.

NOW, THEREFORE, upon the mutual consideration described by this Agreement, including the covenants and promises contained herein, the receipt and sufficiency of which is acknowledged by the Parties, the County, LCLP and the Co-op agree as follows:

I. Definitions.

1. "Afy" means acre feet per year.

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2. "Agreement" means this Bulk Water Service Agreement.

3. "Application" means the form used by Applicants to apply for New Water Deliveries from the Santa Fe County Water Resources Department pursuant to Resolution No. 2006-57.

4. "BDD" means the Buckman Direct Diversion Project.

5. "BDD Partners" refers to the City, the County, and LCLP.

6. "BDD Project" or "BDD" means the Buckman Direct Diversion Project which, through its diversion, treatment, transmission and related works, will divert up to 8,730 afy from the Rio Grande at Buckman as described in the draft Environmental Impact Statement for the Buckman Direct Diversion Project.

7. "Board" means the Board of County Commissioners of Santa Fe County, a political subdivision of the State of New Mexico.

8. "City" means the City of Santa Fe, a municipal corporation organized and existing under the Laws of the State of New Mexico.

9. "City/County Separate Facilities" shall have the meaning assigned to that phrase by the FOPA.

10. "Co-op" means the Las Campanas Homeowners Water Cooperative, a water Cooperative association organized and existing under the Laws of the State of New Mexico.

11. "County" means the Board of County Commissioners of Santa Fe County, New Mexico, a political subdivision of the State of New Mexico.

12. "Department" means the Santa Fe County Water Resources Division, a Division of the Growth Management Department, Santa Fe County.

13. "FOPA" means the Facility Operations and Procedures Agreement for the Buckman Direct Diversion Project between the City of Santa Fe, Santa Fe County and LCLP.

14. "LCLP" means Las Campanas Limited Partnership, a Delaware limited partnership, whose general partner is Las Campanas Corporation, a New Mexico corporation.

15. "Las Campanas Potable Water Tank" is the tank to be constructed to hold water under pressure that is delivered by the County to the Co-op pursuant to this Agreement.

16. "Las Campanas Project" means the residential structures and commercial uses in the Las Campanas development served or to be served by the Co-op, but excluding the golf course.

17. "Las Campanas Separate Facilities" shall have the meaning assigned to that phrase by the FOPA.

18. "Las Campanas Service Connection" means the point where the Co-op currently receives deliveries of water from the City of Santa Fe.

19. "Resolution No. 2006-57" means Resolution No. 2006-57 of the Board of County Commissioners (the "Santa Fe County Water Resources Department Line Extension and Water Service Policy" or "Resolution No. 2006-57") and Exhibit A thereto, or any successor resolution, ordinance or policy that governs water service provided by the County, or a regional successor entity.

20. "Shared Facilities" shall have the meaning assigned to that phrase by the FOPA.

II. General Water Service Terms.

A. The County shall deliver to the Co-op water in bulk in amounts requested by the Co-op as set forth under the terms of this Agreement. The water deliveries shall be pursuant to, and subject to, the terms of Resolution No. 2006-57.

B. The County shall provide a backup water supply when the BDD is not in operation.

C. The bulk water shall be delivered to the Las Campanas Service Connection or other point of delivery or points of delivery established by the parties. Each point of delivery established pursuant to this Agreement shall be based upon an engineering study approved by the Buckman Direct Diversion Board ("BDDB") and, as applicable, the City.

D. Once deliveries pursuant to this Agreement have been placed on the County's annual schedule of water deliveries pursuant to Article IV(B) of Resolution No. 2006-57, and so long as LCLP and the Co-op have fulfilled all of their obligations as set forth herein, then, for so long as LCLP and the Co-op comply with such obligations, the County shall provide bulk water service to the Co-op.

E. In the event of a shortage of water supply or an interruption of water supply due to operational constraints, insufficient water rights, or a lack of physical water, the County may curtail usage or customers in accordance with Resolution No. 2006-57 or emergency ordinance. The County shall have no liability for any reduction in bulk water deliveries due to water supply shortages or an interruption of water supply due to operational constraints.

F. Bulk water service is conditioned upon: (1) the contributions of LCLP towards the infrastructure being made, (2) all the infrastructure necessary to deliver water to the Las Campanas Service Connection being constructed, and (3) the transfer of ownership of the water rights to the County being completed.

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G. The County and the Co-op shall enter into an Operating Agreement implementing the provisions of this Agreement.

III. Service Area Boundary Extension.

The water service area boundary of Santa Fe County is hereby extended to include the area served by the Co-op, which will provide local distribution of water within those areas, excepting Estates I and II (served by the City), as shown on the attached map (Exhibit B).

IV. Charges and Fees for Water Service.

The Co-op shall pay fees and charges associated with bulk water service as set forth in schedules promulgated from time to time by the County and approved by the Board. The County may assess standby fees, meter fees, impact fees, connection fees, inspection fees and engineering fees, as applicable. The current bulk water service rates are attached for informational purposes as Exhibit C. Increases in bulk water service rates may be made by the County from time to time, using the methodology deemed appropriate by the County (which in most cases will utilize a cost of service study or annual indexed increase).

V. Infrastructure.

A. The following infrastructure is necessary for the County to provide water to LCLP/Co-op under this Agreement, and shall be constructed as set forth below:

1. Chlorination Facility. LCLP has constructed, and will further improve at its own expense, the chlorination facility and other necessary infrastructure at a point between the Las Campanas Service Connection and customers of the Co-op.

2. Master Meter. LCLP shall supply a master meter at the Las Campanas Service Connection. The master meter, once accepted by the County, shall become the property of the County, and the County shall have responsibility for operating the master future thereafter.

3. Las Campanas Potable Water Tank. LCLP shall provide a new potable water tank with 500,000 gallon capacity, at a point past the present Las Campanas Service Connection and the chlorination facility. The potable water tank will be utilized to store water to be supplied to the Co-op and to provide necessary pressure. The design and construction of the potable water tank shall be approved by the County in advance of any construction. LCLP shall pay for all costs associated with construction of the potable water tank, estimated at $1,200,000.00. The Co-op shall be responsible for operation of the potable water tank and for operation and maintenance of the tank. The County shall not be responsible for any of the capital costs of constructing the Potable Water Tank, or for the costs of operating, maintaining or improving the Potable Water Tank.

4. Connection, Meters, Pumps, Telemetry. LCLP shall install, and the Co-op shall own, maintain and operate, all necessary meters, valves and controls within the service area of the Co-op. LCLP/Co-op will coordinate with the County to ensure that its SCADA system is

compatible with the County's and the BDD's system, as appropriate. LCLP shall pay all costs associated with the meters, valves and controls. The County shall not be responsible for any of the capital costs of constructing the meters, valves, pumps and telemetry, or for the costs of operating, maintaining or improving the meters, valves, pumps or telemetry.

5. 24" Supply Line. The County will construct a 24" supply line between Booster Station 3 and Booster Station 4/Las Campanas Service Connection, from which water shall be supplied by the County to LCLP/Co-op. LCLP shall pay 40% of construction costs estimated at $ 2,405,000.00 as its share of the cost of constructing the 24" line, and the County shall pay the remaining costs of constructing the line, which will be owned, operated and maintained by the County. The County may invoice LCLP monthly for its 40% share of construction costs as construction progresses, and LCLP shall make payments on the invoices within thirty (30) days of the date of the invoice.

B. General Construction Standards. LCLP and the County shall plan, design and construct the projects described in subsections V(A)(1) through (5) of this Agreement in accordance with Resolution No. 2006-57 and all applicable County building codes and regulations, and standards established by the American Water Works Association (AWWA). Prior to commencing construction, engineering plans shall be prepared and certified by a Licensed Professional Engineer in the State of New Mexico and submitted to the County for review and approval. The County may disapprove any engineering plans that do not comply with Resolution No. 2006-57 and the standards set forth herein. The improvements described herein may be phased, but each phase must independently comply with this Agreement and Resolution No. 2006-57. Construction may commence only after the County has issued its written approval of the engineering plans. Construction of the project must conform to the approved plans, and shall meet all applicable standards, and shall be performed in a workmanlike manner consistent with standards existing within the County. Personnel of the County shall be permitted reasonable access to the construction site during periods when construction is taking place, and shall be permitted to inspect the project and to issue relevant orders relating to the project, including stop work orders for work that does not conform to the approved plans, requiring that work be constructed according to the approved plans, and requiring that work meet all applicable codes and standards.

C. Necessary Easements and Rights-of-Way. LCLP/Co-op shall be responsible for obtaining all relevant easements and rights-of-way necessary to construct the improvements described in this Section. All easements and rights-of-way necessary to implement this Agreement, upon completion and acceptance , shall be granted to the County, without charge, including any and all permanent easements and rights-of-way over and across LCLP's/Co-op's property on which the improvements, and any components thereof, are located. Such grant shall be made through the appropriate plat dedication or instrument, and shall be recorded in the office of the Santa Fe County Clerk. The easements and rights-of-way may be located, to the extent possible considering cost and engineering feasibility, in a manner that avoids unreasonable interference with the LCLP/Co-op's contemplated uses of its property, in a way that complements the contemplated uses, and in accordance with sound construction and engineering standards and practices. In the event that easements and rights-of-way must be acquired from third parties who are not parties to this Agreement in order to complete the line extension

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project, acquisition of such easements and rights-of-way shall be the sole responsibility of the LCLP.

D. Infrastructure a Condition Precedent to Water Deliveries. After completion of the infrastructure improvements described in this Section, LCLP/Co-op shall be entitled to receive water service, so long as all other conditions of this Agreement have been met. All such service must be scheduled pursuant to Resolution No. 2006-57 (Exhibit A, Section IV (B) (1)), or any successor ordinance, resolution or policy of the County governing water service.

E. Changes. If the County desires that the infrastructure provided pursuant to this Section be modified to accommodate other reasonably anticipated County needs, the County may require amendments to this Agreement. Any such amendments shall be the subject of a separate written amendment by and between the County and LCLP/Co-op. Oral instructions to modify a line extension project to benefit the County shall not be valid in the absence of a valid written contract.

VI. Scope.

The County will not supply water to the Las Campanas golf courses under this Agreement. Water delivered to the Co-op pursuant to this Agreement shall not be used for the golf courses under any circumstances.

VII. Invoicing.

The County will provide a monthly invoice to the Co-op that describes the amount of bulk water supplied to the Co-op through the master meter, the cost of water, and the total cost of water delivered. The Co-op will pay the invoice within thirty days of receipt. Reasonable late charges for late payments may be assessed by the County consistent with its then effective rate schedule and general practices.

VIII. Quantity of Water to be Delivered.

A. This Agreement anticipates bulk water deliveries to the Co-op not to exceed 709.4591 afy of water upon completion of the Las Campanas development. It is not expected that deliveries will reach this volume for decades after inception of this Agreement.

B. At the inception of this Agreement, the County will deliver bulk water to the Co-op not to exceed 332 afy, so long as all conditions precedent to water delivery have been satisfied. The Co-op shall transfer to the County an equal amount of water rights (332 afy) to support these deliveries but the County shall exercise no control over water rights not deeded to the County.

C. If additional bulk water deliveries are desired, the Co-op (or LCLP) shall notify the County pursuant to Resolution No. 2006-57 of the need for additional water, shall schedule the increased deliveries through the County's normal process, and shall transfer additional water rights to support the additional deliveries, as provided in the following paragraphs. The amount of potable water that shall be delivered by the County shall be determined by the Co-op from

time to time and the Co-op shall provide advance notice of its need for additional water as provided in Resolution No. 2006-57. The Co-op shall cooperate with the County in its annual estimating of water needed in the upcoming year from the BDD pursuant to the FOPA.

D. Nothing in this Agreement shall modify "Amendment of August 19, 1991, Agreement between Santa Fe County and Las Campanas Limited Partnership", dated January 22, 1993, "Master Plan Development Agreement" dated March 3, 1993, and Agreement dated May 18, 1994.

E. Prior to any deliveries pursuant to this Agreement, the Co-op or LCLP (as appropriate) shall be required to deposit with the County water rights (or the cash equivalent) to support deliveries pursuant to this Agreement. All water rights proposed for transfer must be acceptable to the County. All transfers shall be by deed and shall be transferred in advance of water service. Such deed shall contain a provision providing for automatic reversion to the Co-op if this Agreement is terminated. This clause shall replace the reverter clause presently in the deeds providing for reversion to LCLP. The Co-op shall be co-applicant with the County on transfers between the Buckman well field and the BDD. Using a dedication form provided by the County, the Co-op or LCLP, as appropriate, may deposit water rights with the County at any time that are intended to support water deliveries in future years or to satisfy requirements under the Land Development Code, with the understanding that deposit of said water rights does not create a delivery obligation on the part of the County to delivery water in subsequent years other than as set forth in this Agreement and the annual schedules issued by the County pursuant Article IV(B) of Resolution No. 2006-57. If the Co-op or the LCLP, as appropriate, elects to make a cash deposit in lieu of water rights, deliveries will not be scheduled until the County has obtained water rights to match against scheduled deliveries.

F. The costs of providing offsets for previous pumping at the Buckman Well Field shall be paid for by LCLP/Co-op. The County shall have no responsibility for paying the costs, or making offsets, of the previous pumping at the Buckman Well Field.

G. If water deliveries are not made by the County pursuant to this Agreement for any reason for which water rights have been transferred as required by this Agreement, Co-op may demand that such unused water rights be transferred back to Co-op and, upon such demand, the County shall transfer the water rights to Co-op and the County's obligation to deliver bulk water with respect to the amount of water rights transferred shall be extinguished.

IX. Stranded Costs in the Shared Facilities.

The amount of fixed and variable costs of the Shared Facilities will continue to be the responsibility of LCLP pursuant to the FOPA, unless otherwise allocated by agreement of the parties to the FOPA or assigned by LCLP pursuant to the terms of the FOPA. LCLP will permit the County to use its peak day diversion capacity from time to time. The cost to the County for the assignment of LCLP's peak day diversion capacity when available, as that phrase is used in Section 7 of the FOPA, is the payment of a portion of LCLP's\Co-op's Fixed and Variable OMR&R Costs for the Shared Facilities, as required by Sections 20 and 21 of the FOPA, respectively. The County shall pay LCLP's annual Fixed OMR&R responsibility

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multiplied by the number of the Co-op's Water Rights used for water pursuant to this Agreement divided by 1,800 (the total amount of Water Rights LCLP\Co-op is permitted to use at the BDD under the Biological Opinion). For purposes of calculating the County's Variable OMR&R costs under Section 21 of the FOPA, water delivered to LCLP under this Agreement will be allocated to the County in determining each BDD partner's responsibility.

X. LCLP's Payment Obligations

The County has received assurances from LCLP that it will promptly make payments towards the LCLP's contribution to the cost of infrastructure provided in this Agreement. The County will closely monitor payments under this Agreement and timely payments for construction costs incurred. Late payments, or the failure to make payments, by LCLP, may expose the LCLP to litigation by the remaining parties to compel performance with the covenants of this Agreement, for damages, or other remedies provided by Law. LCLP agrees to secure a letter of commitment directly from Lloyds Banking Group providing an unconditional guarantee by Lloyds of the payments to be made by LCLP under this Agreement, up to $14 million.

XI. Prior Agreements

The County hereby relinquishes any option to purchase any portion of LCLP's/Co-op's assets for $1 as described in the Replacement Delivery Facility Agreement.

XII. Amendments and Termination

This Agreement may be amended, in writing, upon written consent by the both the County and the Co-op. Termination may only occur by agreement of both the County and the Co-op.

XIII. Severability Clause

In the event that any provision of this Agreement is determined to be contrary to law or otherwise legally invalid, the provision shall be severed from this Agreement, and the remaining provisions of this Agreement shall remain valid and binding on the parties.

XIV. Notices.

Any notice, demand, request or information authorized or related to this Agreement shall be deemed to have been given if mailed (return receipt requested), hand delivered or faxed as follows:

To the County: Santa Fe County Utilities Director
Santa Fe County
205 Montezuma
Santa Fe, New Mexico 87501
Phone: (505) 986-6210
Fax: (505) 992-8421

With a copy to:

County Manager
Santa Fe County
P.O. Box 276
Santa Fe, New Mexico 87504
Phone: (505) 986-6200
Fax: (505) 986-6362

County Attorney
Santa Fe County
P.O. Box 276
Santa Fe, New Mexico 87504
Phone: (505) 986-6279
Fax: (505) 986-6362

To LCLP:

Las Campanas Engineering
218 Camino La Tierra
Santa Fe, New Mexico 87506
Phone: (505) 986-8090
Fax: (505) 986-6076

With a copy to:

Counsel for Las Campanas
Law & Resource Planning Associates
201 Third Street NW, Suite 1750
Albuquerque, New Mexico 87102
Phone: (505) 346-0998
Fax: (505) 346-0997

To the Co-op:

President, Las Campanas Homeowners Water Cooperative
218 Camino La Tierra
Santa Fe, NM 87506
Phone: (505) 820-2669
Fax: (505) 629-1126

With a copy to:

Gen. Mgr., Las Campanas Homeowners Water Cooperative
218 Camino La Tierra
Santa Fe, NM 87506
Phone: (505) 629-1129
Fax: (505) 629-1126

Counsel for Las Campanas Homeowners Water Cooperative
Stein & Brockmann, PA
PO Box 5250
Santa Fe, NM 87502-5250
Phone: (505) 983-3880
Fax: (505) 986-1028

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IN WITNESS WHEREOF, each of the County of Santa Fe, New Mexico, the Co-op, and Las Campanas Limited Partnership, has caused this Agreement to be executed and delivered by its duly authorized representatives as of the date specified below:

THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY

By: _____ 10-28-09
Michael D. Anaya, Chair Date

ATTEST:

Valerie Espinoza, County Clerk

Approved as to form:

Stephen C. Ross, County Attorney

LAS CAMPANAS LIMITED PARTNERSHIP,
a Delaware limited partnership
By: Las Campanas Corporation, its General Partner

By: _____ 10/12/09

Date

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LAS CAMPANAS HOMEOWNERS WATER COOPERATIVE, a New Mexico Cooperative association

By: Gordon P. Wilson
Gordon P. Wilson, President

10/19/2009
Date

EXHIBIT 4

Update to the Buckman Direct Diversion Board on LANL Actions that Support the BDD Project
(LA-UR-10-0057)
1-7-10

The following is a summary of specific actions that LANL has taken to address the six requests that the Buckman Direct Diversion Board included in a November 2007 letter to the DOE and LANL.

Action Request 1 – Stop Migration

- LANL funded relocation of Los Alamos County's sanitary wastewater facility effluent to a location further upcanyon that the County had planned to facilitate establishment of additional 0.5 mile of stable riparian conditions.
- LANL improved the sediment trapping efficiency of the LA Canyon low-head weir by excavating ~5000 yd3 and creating additional capacity and capability for sediment retention.
- Cleanup of LA-SMA-2 (PCB site) in Los Alamos Canyon underway. Completion date expected in late Winter 2010.
- LANL is constructing large-scale grade-control structures in DP and Pueblo Canyons to mitigate transport of contaminated sediment. Completion of both structures is scheduled for January 2010.
- LANL planted ~10,000 willows within Pueblo Canyon. These establishment of dense willow thickets has already shown to be highly effective and reducing flood size and sediment transport.
- LANL has completed construction of a wing-ditch in Pueblo Canyon to divert storm water and reduce flow upcanyon of the Pueblo Canyon wetland.
- LANL completed construction of three cross-vane structures in Pueblo Canyon to reduce flow upcanyon of the Pueblo Canyon wetland.
- Sediment erosion controls are in place for all sites under NPDES Individual Permit. Further enhancements to these controls are pending.

Action Request 2 – Properly monitor

- LANL added bimonthly monitoring of Rio Grande water above and at the Buckman site for comprehensive suite of constituents. Sampling has been underway for approximately 1.5 years. All data to date have been submitted to BDD project team.
- LANL has continued stormwater monitoring at existing watershed gages including the three key locations (E110, E060, E050) that will eventually communicate in real time to BDD operations.
- LANL will be implementing upgrades to the gaging stations at the three key locations that will eventually communicate in real time to BDD operations. One new station is also planned to support watershed monitoring in Pueblo Canyon

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- LANL coordinated the successful joint LANL/Buckman presentation to the San Ildefonso Tribal Council seeking permission to implement upgrades to monitoring station E110 on San Ildefonso land.
- LANL prepared a comprehensive monitoring plan for stormwater in the Los Alamos and Pueblo Canyon watershed. The plan was submitted to NMED on October 15, 2009.
- LANL continues a comprehensive quarterly groundwater monitoring program within the Buckman well field.
- LANL is working with the City of SF and NMED on planning for additional groundwater monitoring associated with the Buckman well field.

Action Request 3 – Characterize the "Slough" area near the Buckman site.

- Completed by BDD and NMED. Findings are consistent with LANL expectations.

Action Request 4 – Provide and early notification system

- The technical details of the early notification system are in development and are nearing completion. The company Sutron will design and implement the system in consultation with BDD technical staff to ensure effective communication with BDD operations. Expected installation will follow upgrades be prior to 2010 monsoon season.

Action Request 5 – Monitor LANL Contaminants in BDD diversions, Sand Return, Residuals, and Drinking water

- The change to the BDD's Request #5 has not, to date, been discussed in detail with LANL.

Action Request 6 – Provide funding for further independent peer review

- A $200K grant for the independent peer review has been put in place by DOE and a contract was recently awarded. Two meetings have taken place between LANL and the peer review contractor to establish protocol for transfer of data and information.

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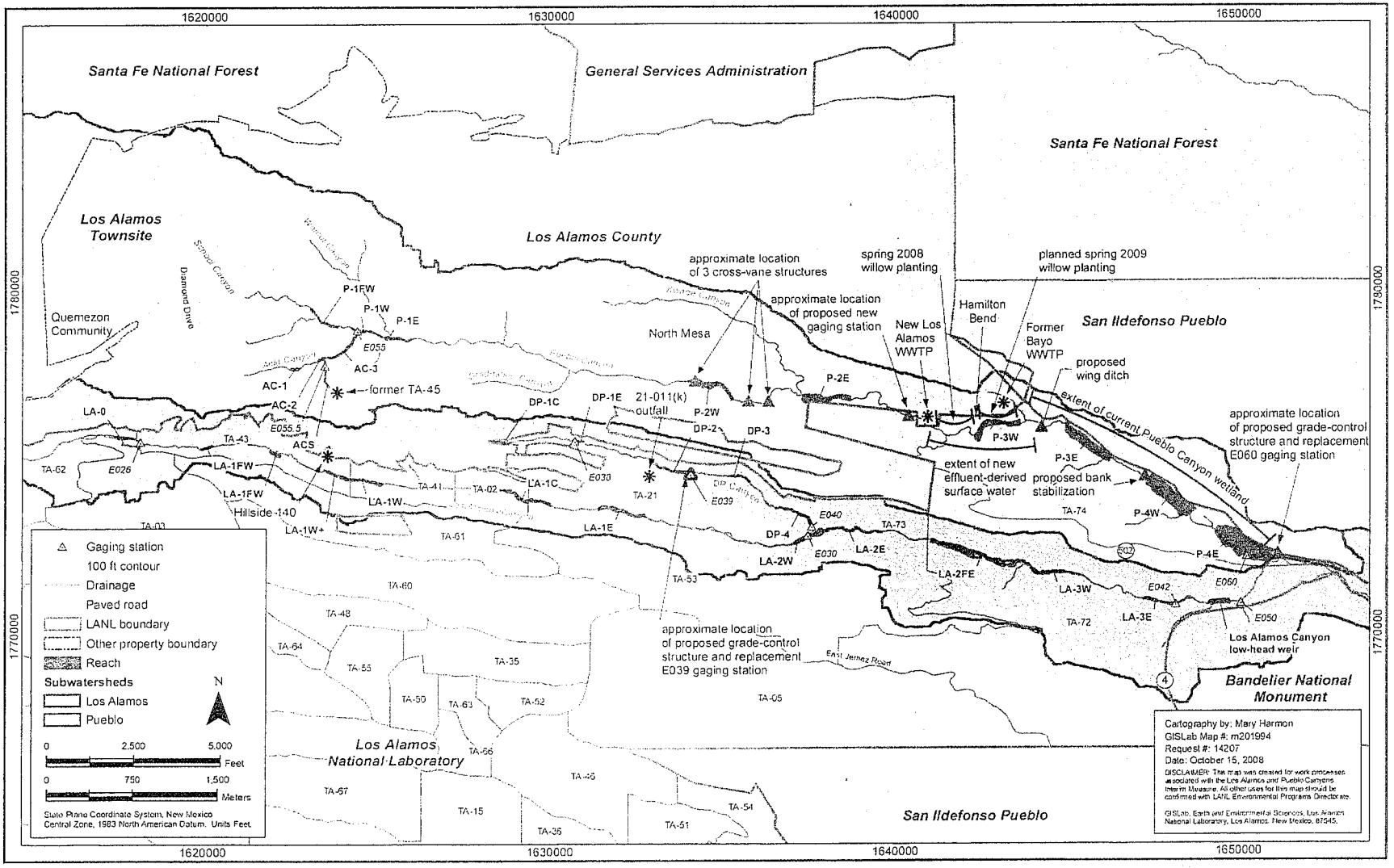
Los Alamos and Pueblo Canyons Stormwater Runoff Mitigations

Prepared for the Buckman Direct Diversion Board Meeting

January 7, 2010

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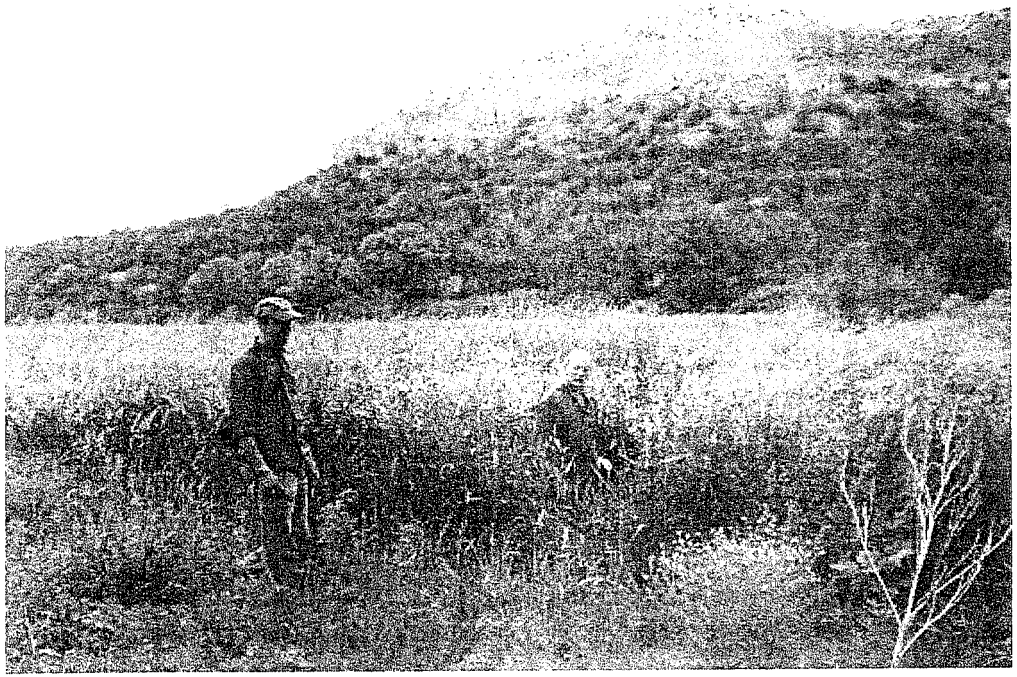
Los Alamos/Pueblo Watershed – Storm Water Runoff Mitigations



LA-UR-10-0057

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Use of Pueblo Canyon Wetland to Enhance Sediment Trapping



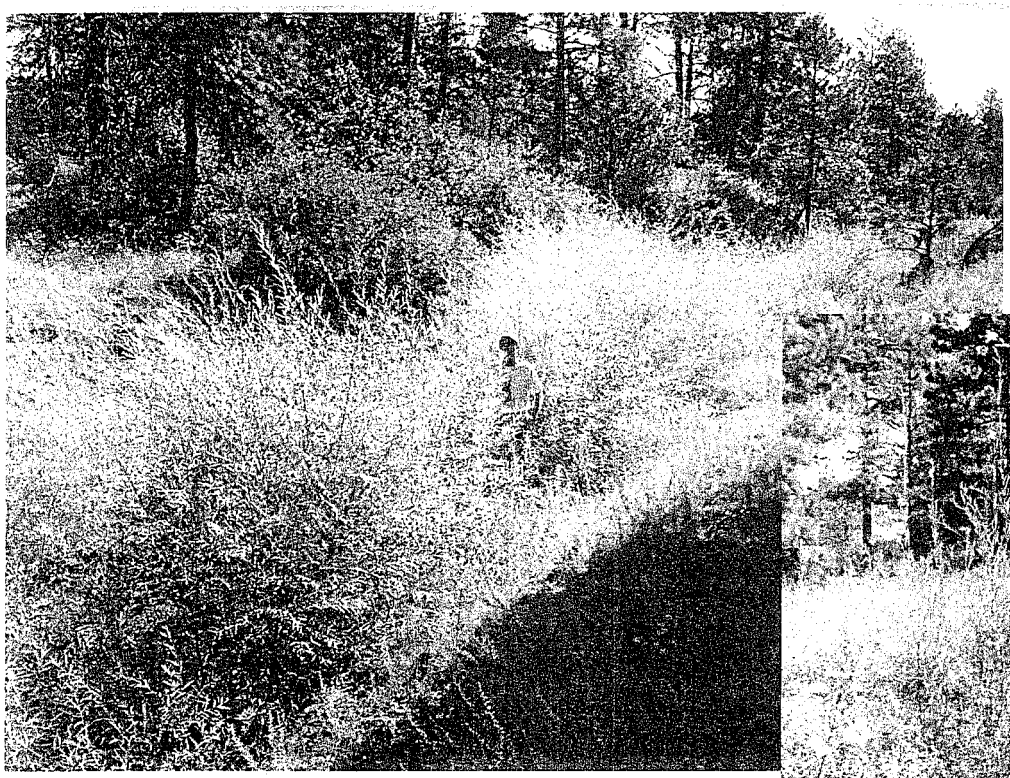
Healthy wetland will trap sediment as shown in photo on right

Wetland deposition



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Willows are used for Bank Stabilization and to Reduce Flood Peaks – willows at time of planting



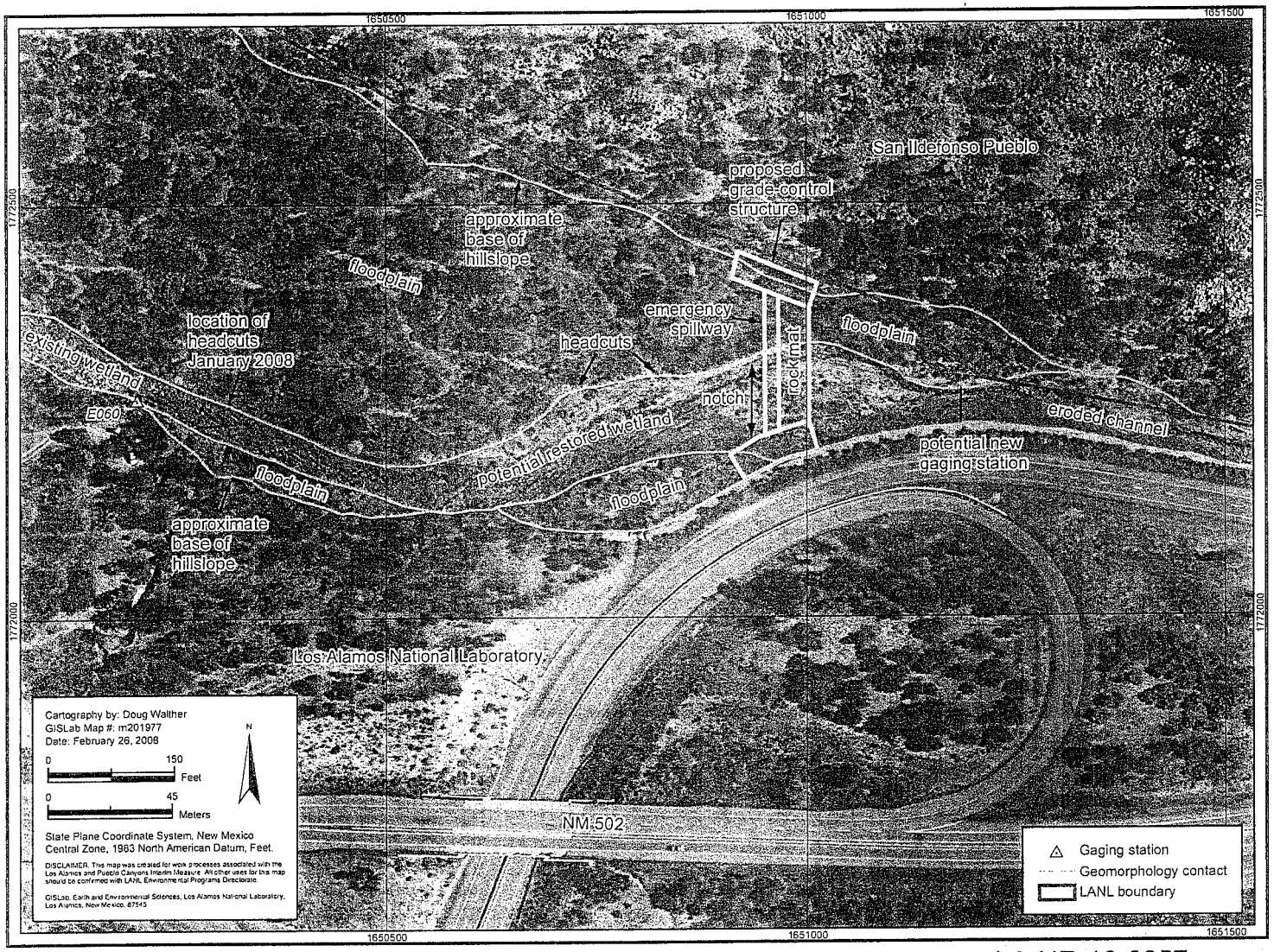
Maintains bank stability, traps sediment



Los Alamos
NATIONAL LABORATORY
EST. 1943

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Pueblo Canyon Wetland Stabilization – Grade Control

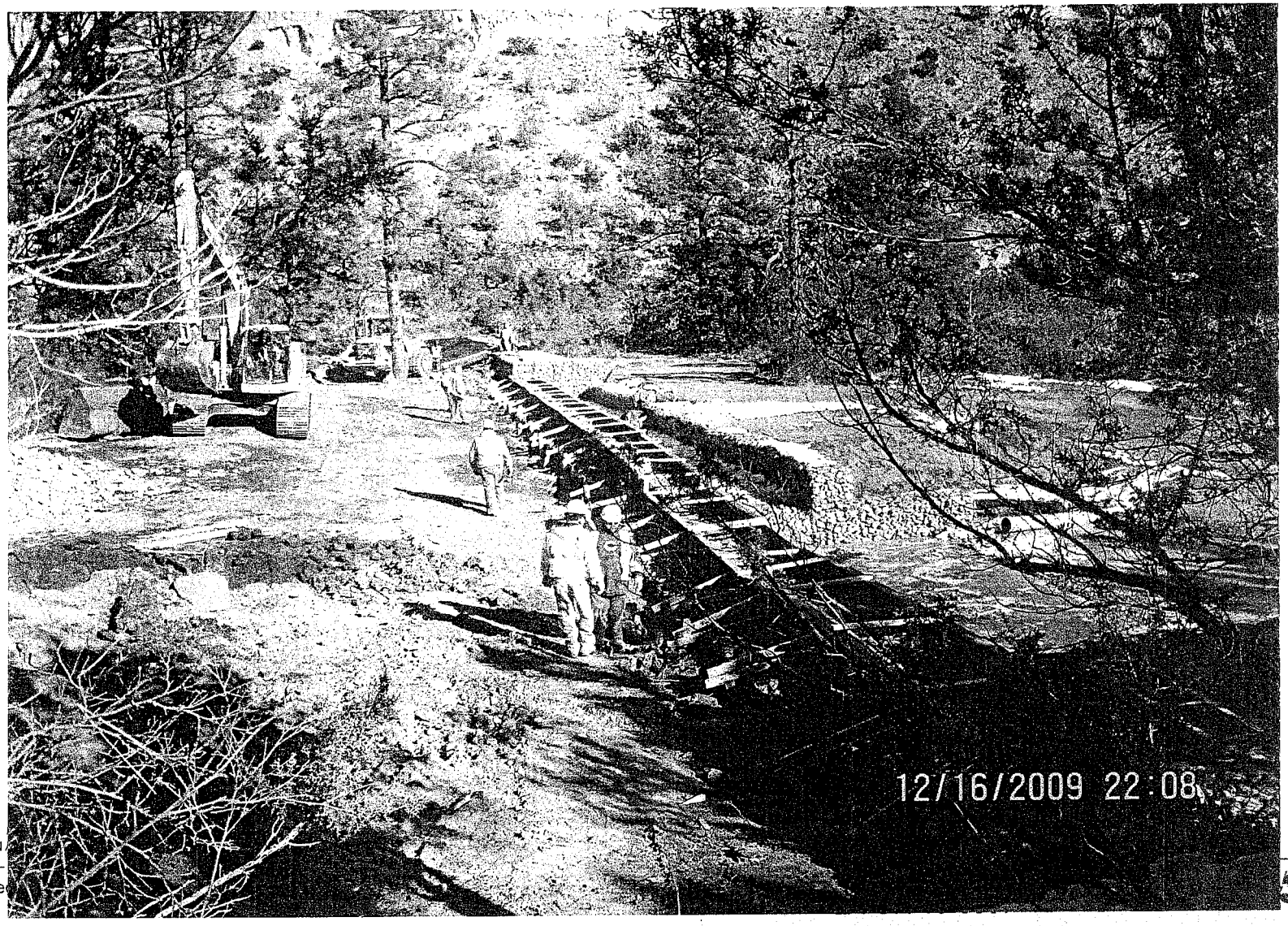


- Conceptual grade-control structure
- Extend and stabilize terminus of wetland

LA-UR-10-0057

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Pueblo Canyon Grade Control Structure under Construction



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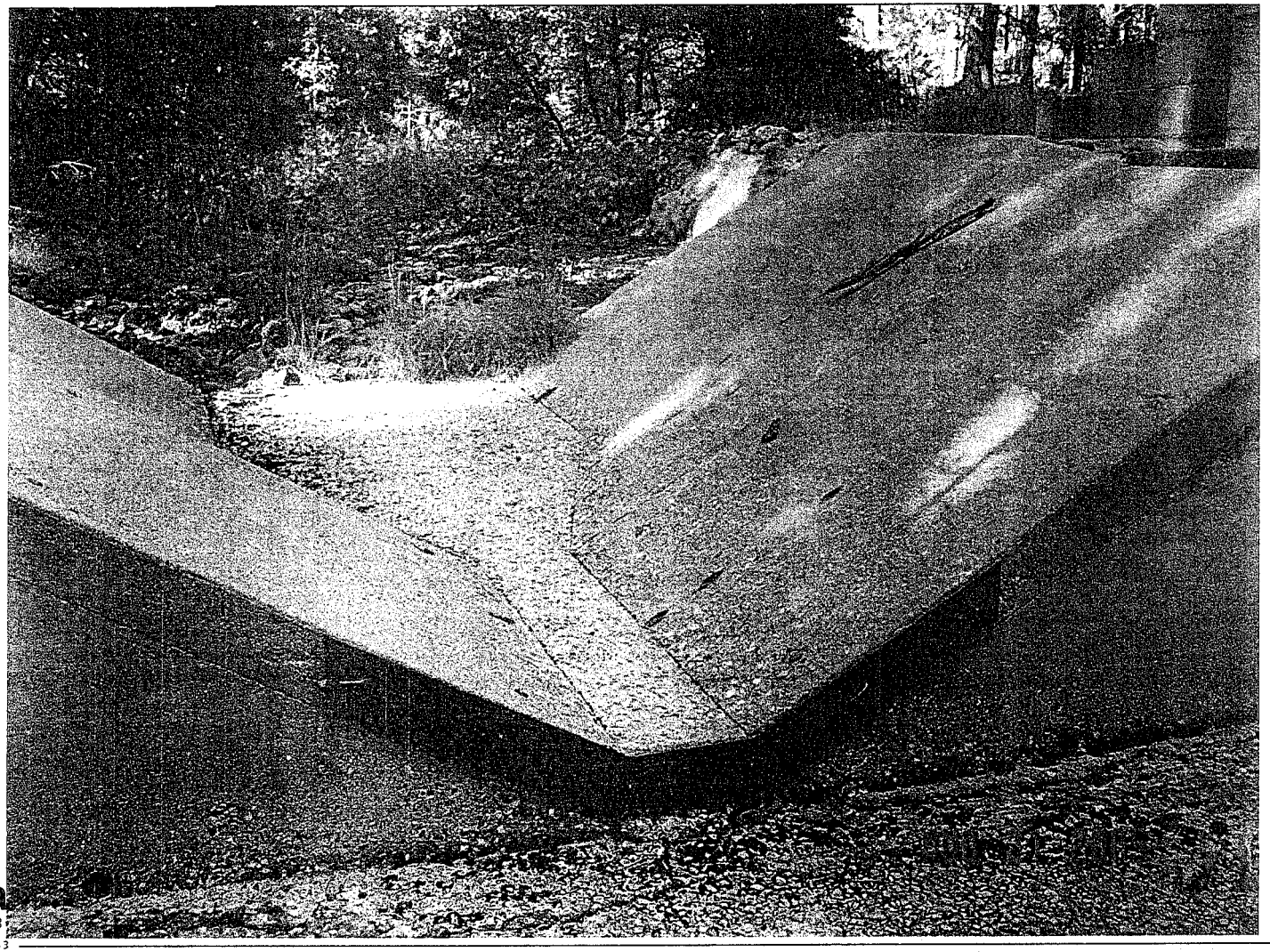
DP Canyon Grade Control Structure Under Construction



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Approximation of Planned Gaging Station Flume Design at E110, E050, E060



Operated by Los Alamos National Security, LLC for the U.S. Department of Energy's NNSA

LA-UR-10-0057

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EXHIBIT
tabbies 5

You're Invited to a Public Meetin
The Buckman Direct Diversion Project Independent Peer Review!

ChemRisk®

Thursday, January 14, 2010
5:30 - 7:30 p.m.
Jemez Room,
Santa Fe
Community College

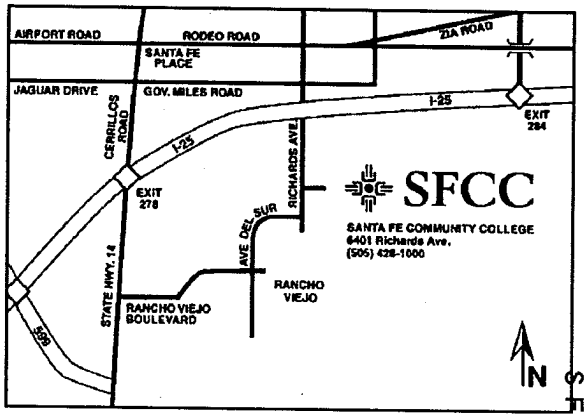
ChemRisk, a national leader in investigating historical operations at U.S. weapons plants, is performing an Independent Peer Review (IPR) of potential health risks to area residents from LANL-origin contaminants that have or could possibly reach the Rio Grande. This is the first of three public meetings hosted by the Buckman Direct Diversion (BDD) Project Board.

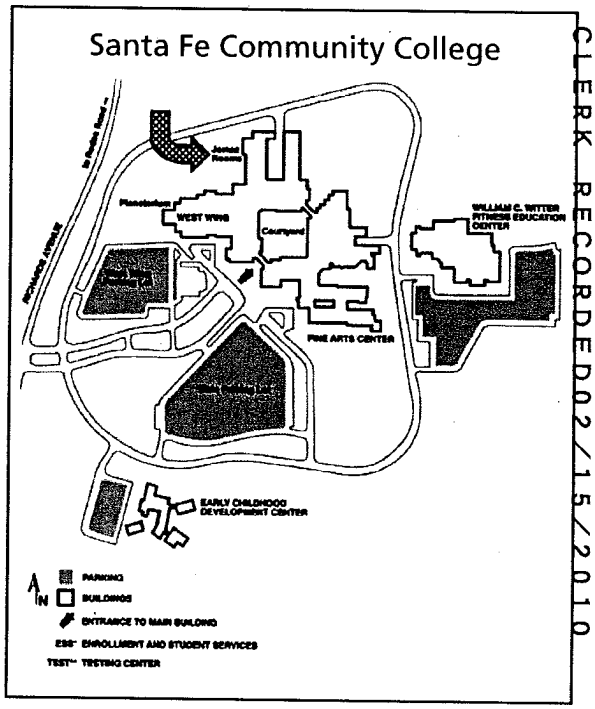
The meeting will cover:

- An introduction of the radiological scientists, toxicologists, hydrologists, risk assessment specialists, and medical doctor from ChemRisk and partner AMEC Earth and Environmental who will be conducting the Independent Peer Review; and
- A review of the project schedule, including preparation of draft deliverables, receiving comments from the public, responding to public comments and holding two additional public meetings to introduce the draft and final project deliverables.

The public is invited to discuss their concerns, questions and comments regarding the IPR and relevant issues. Comments and questions offered at this meeting will be summarized and considered as the IPR progresses.

Refreshments will be served. For more information, visit: **www.bddproject.org, www.chemrisk.com** or call **Tom Widner,** project manager, at **510-301-5984.**





Hosted by the BDD Project Board

Buckman Direct Diversion Project

SFC CLERK RECORDED 02/15/2010