

SANTA FE COUNTY
REGULAR MEETING
BOARD OF COUNTY COMMISSIONERS

April 11, 2017

I. A. This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 4:10 p.m. by Chair Henry Roybal in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

B. Roll Call

Roll was called by County Clerk Geraldine Salazar and indicated the presence of a quorum as follows:

Members Present:

Commissioner Henry Roybal, Chair
Commissioner Anna Hansen, Vice Chair
Commissioner Anna Hamilton
Commissioner Ed Moreno

Members Excused:

Commissioner Robert A. Anaya

C. Pledge of Allegiance

D. State Pledge

E. Moment of Reflection

The Pledge of Allegiance was led by Alyssa Sena, the State Pledge by Cherylann Archuleta and the Moment of Reflection by Renee Cedillo of the Treasurer' Office.

I. F. **Approval of Agenda**

1. **Amendments**
2. **Tabled or Withdrawn Items**

CHAIR ROYBAL: Do we have any amendments or tabled or withdrawn items?

KATHERINE MILLER (County Manager): Mr. Chair, the original agenda was posted one week ago Tuesday at 2:00. Our amended agenda was posted on April 7th at 4:20 and the items that were added to the agenda at that time are on page 3. That was Matters from the County Attorney. That's item VI. A 1 through 4, and those are items to be discussed in executive session. And those are the only amendments or changes to the

agenda that I have at this time.

CHAIR ROYBAL: Okay. I do have a request from Commissioner Hansen to move item VII. B.1 and its approval and presentation of a proclamation proclaiming the month of April as National Poetry Month, and also I will be moving item III. C. 1, which is a resolution to request that aid, assistance, relief programs and federal funding to be provided to support the Santa Fe Pojoaque Soil & Water Conservation District. I'm going to move those to directly after the Consent Agenda. So if there's not any other changes what's the pleasure of the Board?

COMMISSIONER HANSEN: I'll move to approve.

CHAIR ROYBAL: I'll second.

The motion passed by unanimous [4-0] voice vote.

I. G. Approval of March 14, 2017 Board of County Commissioners Meeting Minutes

CHAIR ROYBAL: What's the pleasure of the Board? Commissioner Hansen.

COMMISSIONER HANSEN: Since I read the minutes I guess it's going to become a joke now. I have one change – it's actually two changes but it's on page 16 of the packet and it's under the presentation from the City of Santa Fe Film Commission, Commissioner David Lee Zlotoff In the first paragraph, last line, Jim Gollin's last name is spelled G-O-L-L-I-N. And it appears one other place. Did I mark that. It's towards the end. It's on page 20, down at the bottom, it's 7 lines from the bottom, James Gollin, G-O-L-L-I-N. And that is all the changes that I have.

CHAIR ROYBAL: Thank you, Commissioner Hansen. Is there a motion to approve the minutes with those changes?

COMMISSIONER HAMILTON: I move to approve the minutes with the tendered changes.

CHAIR ROYBAL: Is there a second?

COMMISSIONER MORENO: Second.

The motion passed by unanimous [4-0] voice vote.

II. CONSENT AGENDA

A. Resolutions

- 1. Resolution No. 2017-35, a Resolution Delegating Authority to the County Manager to Negotiate and Execute all Documents Necessary for the Conveyance of Property Located at 19 and 23 East Frontage Road, Edgewood, NM (Public Works Department/Terry Lease)**
- 2. Resolution No. 2017-36, a Resolution Delegating Authority to the County Manager to Negotiate and Execute All Documents Necessary for the Acquisition of Real Property for the**

Eldorado Fire Station No. 4 (Public Works Department/Terry Lease)

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

COMMISSIONER HANSEN: I move to approve the Consent Agenda.

COMMISSIONER HAMILTON: Second.

CHAIR ROYBAL: We have a motion from Commissioner Hansen and a second from Commissioner Hamilton.

The motion passed by unanimous [4-0] voice vote.

[Clerk Salazar provided the resolution numbers for these and all the subsequently passed resolutions.]

VII. B. Presentations

1. Approval and Presentation of a Proclamation Proclaiming the Month of April 2017, as National Poetry Month

COMMISSIONER HANSEN: Thank you very much. I was very happy to see that in yesterday's *New Mexican* that this was a month to celebrate poetry and it was in Our View and I wanted to just read one short statement, one sentence or two from the *New Mexican*. US Poet Laureate, Juan Felipe Herrera, who visited Santa Fe in 2017 to present a benefit reading for Somos un Pueblo Unido, wrote, Poetry is a call to action, and it also is an action.

And with that I have a proclamation, but I want to read a little bit from the memorandum that the Academy of American Poets established the month of April as National Poetry Month in 1996 and now it's the largest literary celebration in the world. National Poetry Month seeks to highlight the extraordinary legacy and ongoing achievement of American poets, introduced Americans to the pleasures and benefits of reading poetry, bringing poets and poetry to the public in immediate and innovative ways, makes poetry an important part of our children's education.

And with that, also I have invited one of our own local poets, Anne Valley Fox, to read one of her poems. She just published her fifth book, which is called *Nightfall*. She has lived in this community for over 40 years and I have known her all of that time. She is a long-time respected friend of mine. Before she comes up to read I would like to read the proclamation. It's in your book, B. 1 near the back and we could each take a turn.

Santa Fe County proclaims – the Board of County Commissioners of Santa Fe County proclaim the month of April 2017 as National Poetry Month.

Whereas, the Academy of American Poets established the month of April a National Poetry Month in 1996; and

COMMISSIONER MORENO: Whereas, National Poetry Month seeks to highlight the extraordinary legacy and ongoing achievement of American poets; introduce Americans to the pleasures and benefits of ready poetry; bring poets and poetry to the public in immediate and innovative ways; make poetry an important part of our children's education; and

COMMISSIONER HAMILTON: Whereas, as National Poetry Month under the leadership and direction of the Academy of American Poets, is now the largest literary celebration in the world; and

CHAIR ROYBAL: Whereas, poetry enhances and enriches the lives of all Americans; and

COMMISSIONER HANSEN: Whereas, poetry, as an essential part of the art and humanities affects every aspect of life in America today, including education, the economy, and community pride and development; and

COMMISSIONER MORENO: Whereas, poetry has produced some of the nation's leading creative artists and has inspired other artists in fields such as music, theater, film, dance and the visual arts.

COMMISSIONER HAMILTON: Now, therefore be it proclaimed by the Board of County Commissioners of Santa Fe County that the month of April 2017 is National Poetry Month.

COMMISSIONER HANSEN: Be it further proclaimed that Santa Fe County urges citizens to celebrate the cultural riches our community has to offer, and to recognize the important role poetry has in creating and sustaining this great nation with appropriate ceremonies, activities and programs. Adopted, approved and passed on this 11th day of April 2017. At that point I would like to invite Anne Valley Fox to come up and read a poem. I believe is a really important part of our artist life.

ANNE VALLEY FOX: Thank you, Anna. Thank you, Commissioners, for making space for poetry and the arts and all of us here. I'd like to read a poem called "The Solace of Trains". It's about a train ride that we took from Lamy Station to Winslow, Arizona one winter and then back to Lamy the following day.

I'm a big fan of train travel. I love the soothing motion of the train and I like the mournful tone of the train whistle, and I like the pace. You get where you're going but not too fast, and I never seem to tire of gazing out the window as landscape and villages and fields with animals and then an occasional city slides by. And I also appreciate conversations that tend to come up on trains. People, there's a special kind of intimacy that's possible with strangers on trains and when you disembark from the train you take with you something of those persons, those strangers that you spoke with.

"The Solace of Trains," this poem, was published in *El Palacio* magazine in 2010. There is some dialogue in it so I will try to sort of indicate this as I read. For instance, at the very beginning of the poem a cowboy from Iowa is speaking and at the end a widower from Winslow tells his sad story.

The Solace of Trains: The Superchief skates on snow-tufted sands between Gallup and Grants. A ruddy Iowan stands in the aisle beside our seats shooting the breeze. He speaks like Demosthenes, learning to talk with stones in his mouth. Not a farmer, but all his life living among them he owned quarter horses. Then one day he got on a mule and the ride was so smooth he never got back on a horse. Of course the mules have got to be broke real good.

After a harvest his five sons would load their wagons with the ears of corn abandoned in neighbors' fields and sell them to the miller for pocket money. Here, his wife, who is curled by the window turns her gaze from the flickering landscape and smiles. The land disrobes in sandy folds, cloud curtains flashing sky open and closed.

Dave rode the train clear from Des Moines to Barstow, he says, to visit his wife's daughter. California is no place I'd ever want to live. There's nothing but sand and brush out there.

A new conductor comes on board in Albuquerque. She delivers a stern recitation of rules for passenger safety over the intercom. Rowdy behavior and children running from car to car will not be tolerated. Don't let the next stop be your destination, she says. The train is skirting Albuquerque's underpinnings, piled lumbar and rebar, cement mixers, trestles slashed with orange paint, a bow-legged barbecue crowding a tiny patio, six tankers parked in a row, a heap of children's bicycles painted purple and pink.

A junkyard Cerberus barks at the train. The locomotive musters speed, edging a pueblo village. Sheep pens, hornos, pickups loaded with firewood. Smokey the Bear guards a cottonwood bosque, jacketed fisherman cast into a pond. Fallow fields turn their stubbled cheeks to the sun. Farther north, pinon and cedar escarpments dazzled with snow. A house made of tires and straw. Peter Pumpkin eater's place, smoke chugging out of the chimney. Blue roof. Two appaloosas.

Next stop, Lamy. The Iowans watch us tug our bags from the overhead rack, 1,100 miles from home their faces are spongy with longing. This is our stop, we say. Well, good luck to you. The conductor, a big-boned blonde named Janice stands by the exit door with an elderly gentleman, also a Lamy. He boarded at Winslow, is headed up to Santa Fe to say good-bye to an old friend who is dying. And one good friend is worth 100 false ones, ¿qué no?

The train completes its hilly ascent and slows into Lamy, lone station and timbered saloon engulfed by mesa and sky. Our fellow traveler comes to the story he needs to tell. His wife had a stroke and lay in a coma for 17 days. He stayed by her side, then he took her home to die. I am so lonely now, he finishes, blinking back tears, but what can we do? Janice opens the iron door. She places the yellow stool on the platform and stands behind it, her leather glove extended. Please watch your step.

Stepping down, I reach for the fleeting solace of her hand.

Thank you so much and thanks to all the poetry and arts in Santa Fe and for entertaining us.

CHAIR ROYBAL: Commissioner Hansen.

COMMISSIONER HANSEN: I also want to thank Paul White for bringing this to my attention, that it was National Poetry Month and thank you all the poets in the world and in Santa Fe for making our community richer. I thank you very, very much. We have a proclamation and I will post it on my Facebook and website and the County page and it will be there available for people to see. So thank you. And also, everyone, this is my first proclamation as a County Commissioner and I'm very honored to have a proclamation supporting the arts. Thank you.

CHAIR ROYBAL: Thank you for bringing that forward, Commissioner Hansen. I really appreciate it. Is there any other comments from the Board? Seeing none, we'll go ahead and move on to the resolution.

III. C. Resolution

1. **Resolution No. 2017-37, a Resolution to Request that Aid, Assistance and Relief Programs and Federal Funding be Provided to Support the Santa Fe-Pojoaque Soil and Water Conservation District to Remediate a Failing Flood Control Structure**

CHAIR ROYBAL: We do have some individuals here. We have Alfredo Roybal and Jose Varela, if you guys would like to speak the floor is yours.

ALFREDO ROYBAL: Good afternoon. My name is Alfredo Roybal. I'm chairman of the Pojoaque Soil & Water Conservation District, and I've got with my Jose Varela Lopez, our vice chairman, and our resolution has to do with a dry flood control dam that we own – that we sponsor in Chimayo, in the Chimayo area. These are very large flood control dams and they were built in the 60s, early 60s and all and they were designed to hold back floodwater to protect agricultural land below them.

Over time they've been – housing and development has built up around the base of them. These were low hazard dams at one time and because of the development below them they're now considered high hazard dams. But getting back to this one dam that was of concern to us it has lasted 50 years and it has lived through its useful life. We are in the process of trying to rehabilitate it. It's hopefully going to be done here in the future but right now we're very – we're run out of storage capacity and we're concerned that it could overtop and or fail in the future, so that's what's driving us to ask for this resolution to have people recognize the danger and what it's about. Would you like to add something?

JOSE VARELA LOPEZ: Chairman Roybal, Commissioners, I guess the only thing I would add is that in addition to what Alfredo said is that we've been working for more than ten years to try to rehabilitate this dam. Now the numbers are that it's going to cost upwards of \$10 million and we've been going through the environmental assessment process which has taken quite a long time. After that process is finished, hopefully within six months, then the BLM will look over the documents and hopefully sign off on them, and at that time we can start looking for money to actually rehabilitate the dam. Our contribution is 35 percent of whatever the total amount is. The federal government pays the other part.

I would just like to say that a couple weeks ago with whatever meager budget we have we did actually do some excavations around the tower that releases water from the dam if we have a storm event, so we open up more ports so we hopefully will have more volume and capacity to let out water quickly into the Santa Cruz River as opposed to holding all that water above the sediment. And so we're hoping in the near term that that will help us but if we're able to garner any money from whatever source we will certainly try to enlarge the size of the pool so we can hold water because the consultants tell us right now that the dam will survive a 50-year flood event but it will not survive a 100-year flood event.

And the issue is, when those dams were built, like Alfredo said, they were basically to protect farmland. They were not there to protect houses. Now we're protecting people and property. And so as contemplated in the resolution I think it's a

wonderful step in the interim until we can actually get to that stage of rehabilitating the dam, that an early warning system be put in place so that the residents who live below the dam can be notified in a timely manner in case there is such an emergency. With that I would just like to thank Chairman Roybal for bringing this forward and to the Commissioners for hearing us out. Thank you.

CHAIR ROYBAL: Thank you, Mr. Roybal and Mr. Varela. I was pleased to be able to work with you guys on this resolution and honored. But I'm going to go ahead and read the background summary and it's going to be repetitive in a lot of aspects that were already covered by you guys but I'm going to go ahead and read that into the record and then when I get to the resolution I'd like for all of my fellow Commissioners to read a portion of the resolution into the record. So I'm going to go ahead and read the summary.

The Santa Fe-Pojoaque Soil and Water Conservation District, hereinafter referred to as the SFPSWCD or the conservation district sponsors seven earthen flood control dams in Santa Fe and Rio Arriba counties, and six of the dams lie just north of the Santa Fe County line near State Road 76 and were originally constructed to protect irrigated land from siltation in both Santa Fe and Rio Arriba counties. There has been an exponential increase in residential development below the dams since they were first constructed.

The Santa Cruz site 1 has approximately 17 percent of its original capacity due to sedimentation, thus there is a severely limited functional ability of the dam to capture all stormwater from a major storm event. Public infrastructure, schools, homes, businesses, farmland, and domesticated animals may be inundated if a large storm event were to compromise the dam's integrity, including loss of life.

So today we have this resolution, a resolution to request aid, assistance and relief programs and federal funding be provided to support the Santa Fe-Pojoaque Soil and Water Conservation District to remediate a failing flood control structure.

Whereas, the Santa Fe-Pojoaque Soil and Water Conservation District, hereinafter referred to as the conservation district, sponsors seven earthen flood control dams in Santa Fe and Rio Arriba counties; and

COMMISSIONER HANSEN: Whereas, six of the dams lie just north of the Santa Fe County line near State Road 76 and were originally constructed to protect irrigated land from the siltation in both Santa Fe and Rio Arriba counties; and

COMMISSIONER MORENO: Whereas, there has been an exponential increase in residential development below the dams since they were first constructed; and

COMMISSIONER HAMILTON: Whereas, the earthen dam sponsored by the conservation district known as Santa Cruz Site 1 was designed to have a 50-year lifespan and it has now been over 55 years since its construction; and

CHAIR ROYBAL: Whereas, the conservation district began planning for rehabilitation of the dam approximately ten years ago in anticipation of the end of the dam's useful life; and

COMMISSIONER HANSEN: Whereas, the Santa Cruz Site 1 dam has approximately 17 percent of its original capacity due to sedimentation from the Arroyo de la Cañada Ancha over the past 55 years, thus there is a severely limited functional ability of the dam to capture all stormwater from a major storm event; and

COMMISSIONER MORENO: Whereas, releasing water from the earthen emergency spillway could compromise the dam's integrity; and

COMMISSIONER HAMILTON: Whereas, the National Resource Conservation Service of the federal government is working on an environmental assessment, a requirement which must be satisfied prior to the conservation district submitting an application for funding to initiate the reconstruction of the dam; and

CHAIR ROYBAL: Whereas, public infrastructure, schools, homes, businesses, residences, farmland, and domesticated animals in Santa Fe County may be inundated if a large storm event were to compromise the dam including potential loss of life; and

Whereas, the conservation district has been unable to procure any substantial funding to date for use in mitigating the potential danger to downstream communities; and

Whereas, in recognition of the potential risk posed by the current conditions of the Santa Cruz Site 1, Santa Fe County included an early warning system in the event of the dam failure within the Santa Fe County Hazard Mitigation Plan submitted to FEMA.

Now, therefore be it resolved by the Board of County Commissioners of Santa Fe County to recognize that portions of Santa Fe County are at risk of potential disaster in the event the Santa Cruz Site 1 fails, and therefore supports aid, assistance, relief programs and funding that may be available for the conservation district from the state of New Mexico, from the United States Department of Agriculture, National Resources Conservation Service, from the Federal Emergency Management Agency, and from any other local, state or federal agency with resources to aid in this effort, especially resources that would fund an emergency alert system designed to alert Santa Fe County residents in the event the dam fails.

Passed and approved this 11th day of April 2017 by all the County Commissioners and also the County Clerk and the County Attorney. Thank you. Did you guys have anything additional?

MR. VARELA LOPEZ: We'd just like to thank the Commission very much.

CHAIR ROYBAL: Do we have a lot of discussion from the Board? Questions?

COMMISSIONER HAMILTON: I have a question. By the way, it's nice to see you. Last year when I was on the Water Policy Advisory Committee you did a presentation on this and it really can be alarming and it's certainly a serious situation which you guys have been looking at for quite a while which is very much appreciated. Is this a resolution to provide money or to show support?

CHAIR ROYBAL: To show support for federal funding, yes. Okay. So is that. Do we have any other comments from the Board?

COMMISSIONER HANSEN: Just thank you for bringing this forward and it's really great to see both of you again.

CHAIR ROYBAL: Thank you guys. So I'll entertain a motion.

COMMISSIONER HAMILTON: I would like to move that the County Commission approve this resolution.

COMMISSIONER HANSEN: Second.

CHAIR ROYBAL: So I have a motion and a second.

The motion passed by unanimous [4-0] voice vote.

MR. A. ROYBAL: Thank you, Commissioner Roybal and fellow Commissioners. And I'd also like to thank you for your continued annual support, financial support to help us with the operation and maintenance on these dams. It's greatly appreciated.

CHAIR ROYBAL: You're welcome, sir. Thank you.

III. ACTION ITEMS

B. Miscellaneous

1. **Request Authorization to Publish Title and General Summary of Ordinance No. 2017-___, an Ordinance Amending Ordinance No. 1991-6, as Amended by Ordinance No. 2017-1, to Delay the Effective Date of the Prohibition on Tethering an Unattended Dog Until January 1, 2018, and to Replace Appendix A to Ordinance No. 1991-6 Establishing Fees and Fines**

RACHEL BROWN (Deputy County Attorney): Good afternoon, Mr. Chair, Commissioners. Before you have a draft ordinance for consideration of publication of title and general summary, and I'd like to walk you through the history how we got here very quickly, so that you can put this in context.

As you'll recall, last year there was an effort to replace our animal control ordinance. Ultimately, at the beginning of this year we adopted an amendment to the existing ordinance that intended to address tethering and increase fees for licenses. We have a very limited charge as to the fee component of that ordinance. We then determined – the Commission determined to appoint a committee to consider further revisions to the ordinance and that committee is in the process of being formed, and there was a determination that the anti-tethering provision should be delayed in terms of implementation until that committee had an opportunity to make some further recommendations to you.

So this ordinance accomplishes that. Postponement of the tethering prohibition until January 1, 2018. In the process of working on that it was also determined that although we were supposed to change the fees so that all we did was increase the licensing fees of the existing fee and fine schedule, the fees and fines that had been proposed for the new ordinance were actually incorporated into the revisions, and so before you are choices. Appendix A-1 sets for the fee schedule as it exists now and simply adds in a fee that was inadvertently dropped off of the fee schedule for those individuals who failed to timely get a license, and that is a \$10 fee for the late procurement of the license. However, Appendix 2 reverts your fees back to what they were under the old ordinance and increases the licensing fee as we had intended to. And so the question is whether you would like to leave the fees as they are now, reincorporate the fee that was inadvertently dropped off for the late procurement of a license, or go

back to the fees that you used to have.

So Exhibit A-1 simply adds in the missing fee; Exhibit A-2 goes back to the fees as they were previously with the license increase. And so I would stand for questions and ask for direction as to whether you would like title and general summary published and if so, with either Exhibit A-1 or Exhibit A-2.

CHAIR ROYBAL: Okay. Questions from the Board? Has everybody had time to look over the two? Any other question? Commissioner Hansen.

COMMISSIONER HANSEN: I would like to make a motion to publish title and general summary for Appendix A-1.

CHAIR ROYBAL: Okay. We have a motion. Do we have a second?

COMMISSIONER MORENO: I'll second.

CHAIR ROYBAL: We have a motion and a second.

The motion passed by unanimous [4-0] voice vote.

MS. BROWN: Thank you.

CHAIR ROYBAL: Thank you.

COMMISSIONER HANSEN: Then don't we have to approve this ordinance?

MS. BROWN: Perhaps I should ask for clarification. Was your motion to address the ordinance in its entirety, or just the exhibit?

COMMISSIONER HANSEN: The entire ordinance, but that is included in the ordinance?

MS. BROWN: Correct.

COMMISSIONER HANSEN: Okay.

- III. B. 2. ***State of New Mexico, ex rel. State Engineer v. R. Lee Aamodt et al., US District Court, District of New Mexico, No. Civ. 66-06639 WJ/WPL [Exhibit 1:Staff Memorandum]***
- a. **Update on the Implementation of the Aamodt Water Rights Litigation Settlement Agreement and the Design and Construction of the Regional Water System Contemplated by the Settlement Agreement.**
 - b. **Policy Direction to Staff Regarding the Following Items: (1) Risks to Santa Fe County of State Not Fully Appropriating its Contribution to the Regional Water System; (2) Risks to Santa Fe County of the Regional Water System Not Being Substantially Complete by June 30, 2024; and (3) Design of the Regional Water System to Deliver Water to the Rest of Santa Fe County**

SANDRA ELY (Utilities): Good afternoon, Chairman and members of the Commission. You should have a memo in your packet kind of summarizing the issues before you this afternoon. The first item, as noted is for purely informational purposes and I will be presenting on that. The second item regarding the risks to the County should

the state not fully fund their contribution will be presented by Mr. Shaffer. And then the third item related to the risks to the County should the Regional Water System not be constructed by 2024, or substantially complete by 2024 will also be presented by Mr. Shaffer. And on the last item related to the sizing of the system I'll be presenting that with the assistance of Mr. Kelly, our Public Works Director. Also, John Utton will be available for any questions that we need to field to him.

So as a way of a little bit of background, the Board approved the Aamodt settlement agreement and the cost sharing and system integration agreement in 2013 and since that time the County staff have been working with the pueblos of San Ildefonso, Nambe, Pojoaque and Tesuque, as well as the federal government, the state and the City to implement the different provisions of the settlement agreement. One of the key provisions, of course, is the Regional Water System that would divert water just above Otowi on San Ildefonso property and be treated at San Ildefonso and transmitted up through each of the pueblos and on up to the Bishop's Lodge area.

In your memo you'll see a table summarizing the costs of the system. In 2006 dollars it's anticipated to cost \$259 million. Again, that's 2006 dollars. The lion's share of that is being paid for by the federal government, about 65 percent, and then the state, about 28 percent and the County about six percent.

To date the County has not put any money towards construction of the Regional Water System in part due to Resolution 2015-125 which requires the legal status of the roads within the exterior boundaries of the settlement to be legally resolved prior to appropriation. The County does continue though to move forward with the implementation of the settlement in anticipation of those easements being resolved.

So the first item under the update I'd like to bring to your attention is the publication of the draft environmental impact statement. The Bureau of Reclamation released that in January. The comment period for that has closed; it closed in February. Staff did provide some technical comments on that. We do anticipate that the EIS will be done in the spring of 2018. It has to be done prior to initiation of construction.

The next item to bring to your attention is the contract that the Bureau of Reclamation awarded CDM Smith for the design-build portion of the Regional Water System. That contract is for \$91.9 million. Now, the design-build portion is for Phase 1 of the system, for that portion of the system. It covers the diversion, it covers the treatment and the transmission from San Ildefonso through Pojoaque. The Bureau of Reclamation has been working with the parties to get input on the design. We had an initial workshop the beginning of the month to help get them to 30 percent design and then they will be holding additional workshops as the design furthers, at 30 percent, 60 percent and 90 percent to receive input from the pueblos and the County.

The rest of the system will be a design-bid-build and that means it will be designed by the Denver office. They will go out to bid and then they will build it. You'll have separate entities doing the design and the build portion of the system. The first phase, design-build is scheduled to start in 2018 and finish in 2021 and it should be operational in 2021 using existing distribution lines at the San Ildefonso and Pojoaque pueblos. Please interrupt me if you have any questions as I go along.

I also wanted to let you all know about the request for proposal that was advertised April 2nd for an owner's representative to assist the County during the design,

construction and initial operation of the system. Because this is an active solicitation I'll mention a few things from the RFP itself but what I can comment on is very limited in the public forum. But the RFP does note that the contractor would do some of the following work for us. It would assist us with reviewing designs, controlling cost during construction operations, assisting with regulatory compliance and drafting some contracts and agreements and of course in closing out the system and getting the operations started.

The work will be determined by the County and of course will vary depending on the phase of the system and the design. We anticipate awarding this contract in June.

The water master rules, they haven't been published for the public yet but we anticipate that those will come out for public review later this month and it seems likely that those rules will include provisions that the Board asked us to support at the February meeting. In February we came forward with a proposal that we allow a partial transfer of water to the County once a customer elects to connect to the utility so that part of their water right would come to the County, they would connect, and then they could use the remainder for outdoor use. We anticipate that that will be there.

One thing I did not put in your memo is the planning of a water fair. Yes, Mr. Chair and Commissioner Hansen.

COMMISSIONER HANSEN: And these rules also –will it be about the non-responders?

MS. ELY: The issue related to the non-responders would be in the order to show cause. So there's two things we brought forward in February and one addressed the water master rules and how the water rights would be transferred to the County. Then there's this other process related to the proposed order to show cause in which we would file a motion with the court, with the other parties, and make a recommendation on when the well election should occur and what should go in there. And that would deal with the issue related to the fourth option, to not be part of the settlement as well as non-responders staying on their well rather than connecting to the County utility.

CHAIR ROYBAL: Commissioner Hamilton.

COMMISSIONER HAMILTON: I should have interrupted you earlier. Do you want me to wait on this question, because it's going back to the EIS.

MS. ELY: That's fine.

COMMISSIONER HAMILTON: Do you/the County have substantial concerns with any portion of the EIS?

MS. ELY: No, we did not. It actually looked pretty good and fairly well written. We have been looking at the earlier drafts, the administrative drafts and they incorporated many of our comments early on. So we had more minor, technical issues than anything and not substantial.

CHAIR ROYBAL: Any other questions? Okay. Go ahead.

MS. ELY: So we are organizing a water fair for probably the beginning of July. We've been coordinating with the New Mexico Environment Department, Los Alamos National Lab and the City of Santa Fe. We think it's important for people to have an understanding of their water quality before they make a well election. The water quality results could help inform their decision.

So that's all for me right now on the Aamodt update unless you have additional questions.

CHAIR ROYBAL: Will this just be a one-day fair?

MS. ELY: No. It's likely to be a two-day fair. We're looking at a Friday and a Saturday, July 7th and July 8th. We have been planning this for a while. It took a little bit of time to find the source of revenue for that because uranium samples cost a little bit more to test for. The Environment Department has in-field analysis capabilities for things like arsenic and nitrates and we will utilize that, but for some of the constituents who need to send off for analysis.

CHAIR ROYBAL: Commissioner Hamilton.

COMMISSIONER HAMILTON: I think you indirectly answered my question, how much sampling you were going to do as part of the fair, because that's what water fairs usually are for, and so people are going to have the option of bringing water samples to the fair to be tested and then distribute the results.

MS. ELY: That's exactly it, and it will be important to do a lot of good outreach, so that people know that that's available to them at no cost over those two days. So, Mr. Shaffer.

CHAIR ROYBAL: Thank you, Sandra. Attorney Shaffer.

MR. SHAFFER: Mr. Chair, Commissioners, so the first issue as to which we wanted to get some direction from the Board concerning is relative to the risk to the County of the state of New Mexico not fully appropriating its contribution to the Regional Water System and so as a macro-level overview to all this, we are getting to the point where parties now need to really make very concrete business decisions as well as substantial potential investments in the construction of the Regional Water System. And so staff felt it appropriate to begin bringing forward to the Board at appropriate times an analysis and assessment of some of the risk that are both embedded in the settlement agreement itself but also risks that are coming to light as a result of actions or inactions by other parties to the settlement agreement.

And so the first issue to be discussed is relative to inactions by parties to the settlement agreement and that's the fact that the state of New Mexico has not yet fully appropriated its substantial share of the construction costs relative to the Regional Water System and I'd say substantial with respect to the County's investment in the project, not with respect to the pueblo portion of the system. So again, the County interest in the system is supposed to be jointly funded by the state of New Mexico and by the County of Santa Fe and as Sandra's chart on the first page of the memo alludes to, if you look at the state's share of the contributions toward the County portion of the system it's about 86 percent of what is estimated in 2016 dollars to be the County portion of the system.

So again, in terms of actually obtaining a system that is useful to the County and meets the County's expectations at the time that the settlement agreement was entered into, the state's money, I don't think I overstate the point by saying it's substantial and it's material to the County.

And so at this point the state has appropriated and transferred to the Bureau of Reclamation approximately \$15 million towards its share of the Regional Water System. There was money that was appropriated – or excuse me; not appropriated. There was money included in the initial capital outlay bill, \$9.1 million towards Aamodt which ultimately was removed from the bill that passed the legislature and went to the Governor. In the event it's not significant because the Governor vetoed the capital outlay

bill so it's a non-event, but at this point in time we are looking at the prospect of the County being asked to contribute or commit to contributing its share of the construction costs of the Regional Water System and we don't have – certainly we don't have a legal commitment from the state of New Mexico that it's going to provide its share of the money.

And again, that presents a variety of risks to the County. If the County were to start to contribute construction money for the Regional Water System before the state had fully appropriated its share and committed its share you would be faced with the possibility that if the state failed to appropriate its share then the County would not have a system that actually met the County's needs. In addition, you could have an interruption to construction if the state doesn't timely appropriate money as the project is going forward because it's being scoped out and designed assuming a certain level of participation by all parties. And so that poses the risk that the system might not be timely constructed.

And then lastly, you do have a prospect of the County going forward and the state failing to appropriate money which would again leave the County in a situation where we don't have a workable or viable system. So the construction is going to go from the river outward and so if the money stopped materializing you could have diversion and treatment capacity but inadequate transmission or distribution capacity. So again, those are the risks that we would see given where we're at and to kind of wrap it up in a fine point before I stand for questions is that the County's assumption, and we've made this clear to the Bureau of Reclamation is when the County brings forward a contributing funds agreement, should the Board ultimately determine to enter one? At that point we anticipate that the County will have identified and set aside and/or pledged a specific fund or revenue stream to fully meet the County's obligations. So in other words it won't be an agreement that says, hey, it's subject to future appropriations if we make them but rather would be we're all in and here's how we're going to fund our contribution.

And so I think to put as fine a point on it as I can, that's staff recommendation is that we need to have at that same time the state making a similar commitment that it's all in with respect to the share that it has at least softly committed to providing. So I would stand for any questions but the staff recommendations are that we be directed to lobby the state legislature to fully appropriate its share of the Regional Water System and that as we move forward with consideration of a contributing funds agreement that the County's contributions expressly be made contingent upon the fact that the state has in fact showed that it's all in with respect to its share of the project.

CHAIR ROYBAL: I'm going to go to Commissioner Hansen and then to Commissioner Hamilton.

COMMISSIONER HANSEN: So Attorney Shaffer, what I understand from this session is that this \$9.1 million was contingent on the same issue that we have that the roads issue be dealt with and that's why it was pulled. So if that was part of what the state was doing, the same thing that we were doing. They were going along on the same path of the roads – the resolution that we passed, we're not going to contribute any money until we resolve the road issue. The state chose the same path that they're not going to go forward as long as the road issue is not resolved.

MR. SHAFFER: Mr. Chair, Commissioner Hansen, I don't believe that