



AGENDA

BUCKMAN DIRECT DIVERSION BOARD
OCTOBER 01, 2020 AT 4:00 PM
ATTEND VIRTUALLY



SPECIAL PROCEDURES FOR BUCKMAN DIRECT DIVERSION BOARD MEETING

Attendance: In response to the State's declaration of a Public Health Emergency, the Mayor's Proclamation of Emergency, and the ban on public gatherings of more than five (5) people, the Buckman Direct Diversion Board meeting will be conducted virtually.

Viewing: Members of the public may stream the meeting live on the City of Santa Fe's YouTube channel at <https://www.youtube.com/user/cityofsantafe>. The YouTube live stream can be accessed at this address from most smartphones, tablets, or computers.

The video recording of this meeting will also remain available for viewing at any time on the City's YouTube channel at <https://www.youtube.com/user/cityofsantafe>. Staff is available to help members of the public access pre-recorded meetings on-line at any time during normal business hours. Please call 955-6521 for assistance.

Agenda: The agenda for the meeting will be posted at <https://santafe.primegov.com/public/portal>.

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **APPROVAL OF AGENDA**
4. **APPROVAL OF CONSENT AGENDA**
5. **APPROVAL OF MINUTES**
 - a. APPROVAL OF MINUTES FROM THE SEPTEMBER 3, 2020 BUCKMAN DIRECT DIVERSION BOARD MEETING
6. **MATTERS FROM THE PUBLIC:**



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- a. **MATTERS FROM THE PUBLIC:** Buckman Direct Diversion Board will take matters from the public in written form via email through 1:00 pm on Thursday October 1, 2020. Emails must identify the submitting's party's name and should be sent to Jamie-Rae Diaz, City of Santa Fe, Public Utilities, Administrative Manager, at jldiaz@santafenm.gov. These comments will be distributed to the Board for review prior to the meeting and placed in the minutes of the meeting.

7. **PRESENTATION/INFORMATIONAL ITEMS**

- a. Monthly Update on BDD Operations. (Randy Sugrue, BDD Operations Superintendent, rcsugrue@santafenm.gov, 955-4501)
- b. Report from the Facilities Manager. VERBAL. (Rick Carpenter, BDD Facilities Manager, rrcarpenter@santafenm.gov, 955-4206)
- c. Report on 4th Quarter Financial Position for Fiscal Year 19/20. (Mackie Romero, BDD Financial Manager, mmromero1@santafenm.gov, 955-4506)
- d. Update on LANL MOU. (Kyle Harwood, BDD Legal Counsel, kyle@egolflaw.com, 986-9641)
- e. Presentation on BDD Shared Pool Agreement between Santa Fe County and the City of Santa Fe. (John Dupuis, Santa Fe County Utilities Director, jdupuis@santafecountynm.gov, 795-0123, Jesse Roach, Water Division Director, jdroach@santafenm.gov, 955-4309, and Rick Carpenter, BDD Facilities Manager, rrcarpenter@santafenm.gov, 955-4206)
- f. Update on potential new solar projects at Buckman Direct Diversion. (Regina Wheeler, Public Works Department Director, rawheeler@santafenm.gov, 955-6622 & Rick Carpenter, BDD Facilities Manager, rrcarpenter@santafenm.gov, 955-4206)

8. **ACTION ITEMS: CONSENT**

- a. Request for approval of the 2021 Buckman Direct Diversion Board Meeting Calendar. (Jamie-Rae Diaz, Public Utilities Administrative Manager, jldiaz@santafenm.gov, 955-4233)



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- b. Request for approval of the 2021 Fiscal Services and Audit Committee (FSAC) Meeting Calendar. (Mackie Romero, BDD Financial Manager, mmromero1@santafenm.gov, 955-4506)

9 MATTERS FROM BDD ATTORNEY

10. MATTERS FROM THE BOARD

11. NEXT MEETING: Thursday, November 5, 2020 at 4:00 PM

12. ADJOURN

13. EXECUTIVE SESSION

- a. In accordance with the New Mexico Open Meetings Act NMSA 1978, §10-15-1(H) (7), discussion regarding pending litigation in which the BDDDB is a participant, or may become a participant, including, without limitation: Buckman Direct Diversion Board v. CDM Smith, et al., First Judicial District Court Case No. D-101-CV-2018-01610. (Nancy R. Long, BDD Legal Counsel, nancy@longkomer.com, 982-8405)

Persons with disabilities in need of accommodations, contact the City Clerk's office at 955-6521, five (5) working days prior to meeting date.

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

September 3, 2020

This meeting of the Santa Fe County/City Buckman Direct Diversion Board meeting was called to order by Councilor JoAnne Vigil Coppler, Chair, at approximately 4:00 p.m.

In accordance with the Public Health Emergency Order issued by the State of New Mexico, and pursuant to the New Mexico Attorney General's Open Government Division Advisory during COVID-19, public entities are authorized to conduct virtual meetings.

[For clarity purposes, repetitive identification and confirmations of those on the line and their audibility have been eliminated and/or condensed in this transcript.]

Roll was called and the following members were present:

BDD Board Members Present:

Councilor JoAnne Vigil Coppler, Chair
Commissioner Anna Hansen, Vice Chair
Commissioner Anna Hamilton
J.C. Helms, Citizen Member
Councilor Carol Romero-Wirth
Tom Egelhoff, Las Campanas [non-voting]

Member(s) Excused:

None

BDD Board Alternate Members Present:

Peter Ives, Community Alternate
James Lightfoot, Las Campanas Alternate

Others Present:

Rick Carpenter, BDD Facilities Manager
Nancy Long, BDD Legal Counsel
Mackie Romero, BDD Finance Manager
Kyle Harwood, BDD Legal Counsel
Bernardine Padilla, BDD Public Relations Coordinator
Randy Sugrue, BDD Operations Superintendent
Greg Shaffer, County Attorney
Jamie-Rae Diaz, City Administrative Assistant
Joe Abeyta, City IT
Jesse Roach, City Water Division Director
Marcos Martinez, City Assistant Attorney

Raul Anaya, CliftonLarsonAllen
John Dupuis, County Water Division Director
Jay Lazarus, Glorieta Geoscience
James Bearzi, Glorieta Geoscience

3. APPROVAL OF AGENDA [*Exhibit 1: Agenda*]

There were no changes and Commissioner Hamilton moved to approve as published. Commissioner Hansen seconded. The Chair requested a roll call vote and the motion passed unanimously [5-0].

4. APPROVAL OF CONSENT AGENDA

COMMISSIONER HAMILTON: Madam Chair.

CHAIR VIGIL COPPLER: Yes.

COMMISSIONER HAMILTON: I wonder if we could take this item off consent because there are some non-controversial but interesting things that I think some questions would be good to discuss.

CHAIR VIGIL COPPLER: We have only one item –

COMMISSIONER HAMILTON: Yes, and I would like to take that item off consent.

CHAIR VIGIL COPPLER: Okay. Let's move on.

COMMISSIONER HANSEN: I would like to take it off consent also.

CHAIR VIGIL COPPLER: Okay. Do we have a motion to approve the consent and taking off that item?

Commissioner Hansen moved to approve the removal of the consent. Commissioner Hamilton seconded and the motion to approve passed by unanimous [5-0] roll call vote.

5. APPROVAL OF MINUTES: August 6, 2020 BDD Board Meeting

CHAIR VIGIL COPPLER: I would like to state and read for the record and our minutes that the only matter discussed during the Executive Session at our last Board meeting of August 6, 2020 was the matter as stated in the motion to go into executive session and no action was taken.

With that, do I have a motion to approve the minutes or any changes?

COMMISSIONER HAMILTON: So moved.

BOARD MEMBER HELMS: Second.

The Chair requested a roll call vote and the motion passed by unanimous [5-0] vote.

6. MATTERS FROM THE PUBLIC

CHAIR VIGIL COPPLER: Jamie-Rae, did we receive any matters from the public?

JAMIE-RAE DIAZ (Administrative Assistant): Madam Chair, there are none.

PRESENTATION & INFORMATIONAL ITEMS

7. Report on September 1, 2020 Fiscal Services Audit Committee (FSAC)

MACKIE ROMERO (BDD Finance Manager): Madam Chair, members of the Board, a Fiscal Services and Audit Committee meeting was held on Tuesday, September 1st. In attendance was myself, BDD Financial Manager, Rick Carpenter, BDD Facilities Manager, Commissioner Hamilton, John Dupuis from the County, James Lighfoot, Andrew Resnick and Tom Egelhoff, all from Las Campanas.

We discussed Informational item #10 and Discussion and Action item #16. Both of those items will be discussed in the agenda so I will go over those. There were no major issues or concerns. It was a short discussion and unless there are any questions or comments from those who attended, that is my report.

CHAIR VIGIL COPPLER: Thank you, Mackie. Do we have anyone that wants to say anything about that?

8. Monthly Update on BDD Operations

CHAIR VIGIL COPPLER: Randy Sugrue.

RANDY SUGRUE (Operations Superintendent): Thank you. Madam Chair, members of the Board. BDD operations for the month of August went reasonably well considering our obstacles, river flows and very dry conditions. Our raw water diversions for the month of August were approximately 8.96 million gallons per day. Our drinking water deliveries through our Booster Station 4A/5A averaged about 7.9 million gallons per day. Raw water delivery to Las Campanas, was approximately .84 million gallons per day. On site treated and non-treated water storage was about a quarter million gallons per day. We were providing actually a bit less than the report shows. A bit less than 61 percent of the water supply to the City and County for the month.

There is a brief regional demand and drought summary on page 2. Our year to date diversions are approximately depicted on the graph below. As rivers conditions were quite good considering turbidity has been low and we have had, essentially, no storm events to interrupt operations and we were able to divert significantly more than our average August diversions.

That's essentially it and I stand for questions.

CHAIR VIGIL COPPLER: Thank you. Commissioner Hamilton.

COMMISSIONER HAMILTON: It's just too interesting. It all makes sense but the river is still pretty low; right? And there were no difficulties diverting in August.

MR. SUGRUE: Because of the compact water release for the Albuquerque Middle Rio Grande Irrigation District, river flow is actually well above 500 cubic-feet per second. For this time of year, that's above average. So because there are no storm events of significance the water clarity is good and diversions have gone reasonable well. Demand, of course, is up because of the hot weather. So we and Canyon Road have been able to meet demand without any significant issues.

RICK CARPENTER (Facilities Manager): Madam Chair, Commissioner Hamilton, for this time of year we're doing better than we thought that we would have been doing. Both between San Juan-Chama and native water. There is a lot of native water in the river right now and we didn't anticipate that. It's going to drop off, and we know that, within a week or two and we're going to have to deal with it then. And the water quality is good. Turbidity is so low because we haven't had any thunderstorm events. For this time of year, the river – we're able to manage it really well.

COMMISSIONER HAMILTON: Okay, that's really interesting and you got to the other part of the question, which was what are we anticipating in the near future, so thank you .

CHAIR VIGIL COPPLER: Any other questions for Randy? Former-councilor Ives, nice to see you.

MR. IVES: Likewise and nice to be here. I had a question on page 2 of the update that shows the chart of the City of Santa Fe San Juan-Chama water in storage and at least what I'm looking at, it appears to only show El Vado and Heron. Is Abiquiu in there at all?

MR. SUGRUE: Yes, Abiquiu is the lightest area that is the highest amount. It appears to be about 16,000 acre-feet. You can't see next to the word Abiquiu, the gray square is quite light. I apologize for that.

MR. IVES: Yeah, it's totally off on the copy that I printed.

COMMISSIONER HAMILTON: I can see it on the electronic version but it is light. I guess it doesn't print well.

MR. IVES: If we look at the left-hand side of the chart, that light gray is Abiquiu and the dark gray is Heron?

MR. SUGRUE: There's a very light gray, there's a medium gray which is El Vado, that is on the left side a bit below 10,000 acre-feet and then Heron is gray and is about somewhat between 4,000 perhaps and 5,000.

MR. IVES: Am I correct in understanding El Vado is basically emptied of storage at this point in time?

MR. SUGRUE: That I don't have any answer to. Rick, can you interpret that?

MR. CARPENTER: Yes, but interpret might not be the right word. But the Corps of Engineers helps us straddle releases from Heron through El Vado into Abiquiu and we work with them. It's a collaborative effort but we work with them to maybe hold water in El Vado for a little while and then release it depending on what endangered species or rafting or what the conditions are on the river. But it does still end up in Abiquiu and we get to account for that and it's not water that is lost it is just water that is managed very well.

MR. IVES: I wasn't sure if it had anything to do with anticipated renovation work on El Vado and if they were trying to empty that out.

MR. CARPENTER: Not for us. That's for the bigger players on the river; the MRGCD, and Albuquerque and the Corps and the Bureau.

MR. IVES: Very good. Those were the only questions I had. Thank you.

CHAIR VIGIL COPPLER: Thank you. Randy, if this is one of the charts that we produce, is it possible to get in color the next time that you present?

MR. SUGRUE: I'll get with Jamie-Rae on that. It was in color at one

time and I believe they're printing the agendas in gray scale now. But there must be some solution for this that will make it a little more clear. Perhaps just a different chart type entirely. I'll look into that.

CHAIR VIGIL COPPLER: Don't go through too much trouble but just in case. Any other questions? Thank you, Randy.

9. Report from the Facilities Manager

MR. CARPENTER: Thank you, Madam Chair. Randy just covered pretty much everything I would have said and then sometimes I have an update on human resources and personnel but we know that's sort of just waiting for things to resolve themselves.

The one update I do have is that the BDD will be embarking starting tomorrow on a risk and resiliency assessment. We are required to do it by the AWIA. We need to do it by the end of the year. It's a good thing and something we all should be doing anyway. We may collaborate with the City for economies of scale and maybe save some money. We're not talking about a lot of money anyways -- \$10,000 to \$15,000 or maybe a little more. But it is something that needs to be done and we will be doing that. If the Board has any direction to us as staff on that we would be open to that and hoping that we could get good direction. It is something that we need to do. We'll be starting on that very, very soon.

If there are questions on that or direction that the Board would like to offer, we would like to have it.

CHAIR VIGIL COPPLER: Any questions for Rick? Thank you.

MR. CARPENTER: Thank you.

10. Presentation of the Buckman Direct Diversion Project Annual Financial Report for fiscal year ended June 30, 2019

MS. ROMERO: Madam Chair, members of the Board, per the Project Management and Fiscal Services Agreement, the fiscal agent's responsibilities include that after the end of each fiscal year and in accordance with the New Mexico State Audit Rule, that the BDD is to provide audited financial statements to its partners. On July 2, 2020 a report of independent certified accountants was issued by CliftonLarsonAllen, for the business type activities of the Buckman Direct Diversion fiscal year ending June 30, 2019.

The BDD is a single purpose governmental entity and has only business-type activities. The presentation of the financial statements includes consolidated activity of the following enterprise funds, the BDD operating fund, the BDD capital carve-out project fund, BDD emergency reserve fund and the BDD major repair and replacement fund. The auditors have disclosed the following audit finding which is a late submission of the audit report and prior year findings have been resolved in the auditors issued and unmodified report.

I do have Raul Anaya from CLA with us today. He'll go over the auditor's opinion of the report.

RAUL ANAYA (CLA): Thank you, Mackie. My name is Raul Anaya with the engagement principal on the engagement. We issued, as Mackie mentioned, an unmodified opinion which is a clean opinion: the highest opinion that an independent

auditor can give in that we believe the results contained in the financial statement are a fair and accurate result of what occurred during the year.

During our course work/test work, we also had one finding. It's a compliance finding which is the lowest level of finding, and that was related to an untimely submission of your audit. Your audit should be submitted in December 15, 2019 and as Mackie mentioned it was not submitted until July 2, 2020 about six months late. I have been working with Mackie and the City this year and we're hopeful that that finding can be removed.

CHAIR VIGIL COPPLER: Okay, thank you. Any questions from the Board? Commissioner Hansen.

COMMISSIONER HANSEN: So we really don't have too much control over being late. I appreciate that you will be working with the City to try and resolve these issues because I think it's important that we have a clean audit and there's no reason for us to have a problem except for that the City is consistency late. And as long as I have sat on this Board, the City has been late. I would hope that we could make progress.

CHAIR VIGIL COPPLER: Thank you, Commissioner. Any other Board members have comments? Former-councilor Ives.

MR. IVES: Thank you, Madam Chair. I was just going to say that given that it is an unmodified opinion with no material deficiencies or significant findings other than tardiness, congrats to Mackie in particular for the good work on the financial side and all other staff because that's a wonderful position to be in. So, good job. Thank you.

MS. ROMERO: Thank you.

CHAIR VIGIL COPPLER: Thank you. And I saw some people clap.

11. Update on Waters of the United States (WOTUS) Litigation

MR. CARPENTER: It's an interesting topic and we have some issues to work through that do pertain to the BDD either directly or indirectly and we are seeking Board input on how to move forward. Since this is mostly a legal matter, I will turn it over to our esteemed attorney.

KYLE HARWOOD (BDD Counsel): Thank you, Rick. I think the esteemed attorney is probably Nancy, but I'll go ahead and talk at this point.

So you have in your packet you have a memo attempting to summarize the various litigation ongoing around the country on the WOTUS rule. There have been some questions from this Board in prior months about the status of Waters of the United States or as the new rule as it is known as the Navigable Waters Protection Rule. If you take a look at the memo, we've spent most of our time digging into the third case that is discussed which is where New Mexico and 16 other states and the District of Columbia and the City of New York has filed a lawsuit in northern California. I can speak briefly to any of these cases. I've taken a quick look at them. But the one that we have spent the most time understanding is the case described at point 3. This matter is on the agenda as an informational item at the request of the Board at a prior month, that we update the Board on these ongoing lawsuits. I'll stand for questions and just noted that if there is additional information that the Board would like, that's why this matter is on the agenda.

CHAIR VIGIL COPPLER: Commissioner Hansen.

COMMISSIONER HANSEN: Thank you, Madam Chair and thank you, Kyle and Rick. Can we file an Amicus brief with the Attorney General's Office in New Mexico and California?

MR. HARWOOD: I would feel more comfortable, Commissioner, discussing those details in an executive session which we can schedule for next month's meeting if you like. Specific possible litigation postures of the Board are probably more appropriate in executive session. I'm happy to work with Rick and Nancy to get that on an executive session for next month if you'd like to discuss active steps that the Board can take beyond these monitoring steps that you've asked us to do in the past.

COMMISSIONER HANSEN: I would like to know what our options are in that regard so if we could put this on the agenda for executive session I would be appreciative.

MR. HARWOOD: We'll try to make sure we have current information for that executive session if that's the desire of the Board.

CHAIR VIGIL COPPLER: Commissioner Hansen, do you have anything else?

COMMISSIONER HANSEN: No, I appreciate your update on all of this. I did wonder why we didn't join the District of Colorado suit or if that's even a possibility.

MR. HARWOOD: That lawsuit uniquely, Commissioner, was over the Rio Grande in Colorado.

COMMISSIONER HANSEN: Okay. And then what about number 5?

MR. HARWOOD: That one we are monitoring. We often get phone calls from colleagues, for example, New Mexico Wilderness Alliance, and if I recollect correctly, at least Nancy and I were not contacted but I don't know if lawyers for the City and the County were perhaps contacted about that. But what I will do for our executive session is I will check in with the New Mexico Wilderness Alliance and confirm the status of that matter and whether there might be something helpful the Board could do in that case.

COMMISSIONER HANSEN: And then, Madam Chair and Kyle, what is New Mexico Environment Department doing? Are they doing anything about this considering that we don't have primacy.

MR. HARWOOD: So they're doing a couple of things. I think on the legal front it's fair to say that the attorneys at the New Mexico Environment Department are working closely with their colleagues at the New Mexico Attorney General's Office. If your question is making sure that there is regulatory coverage or regulatory gap-filling for lack of a better word, we do talk with John Verheul who has addressed this Board in the past on NMED activities and I check in with him pretty regularly and I know that they have a very, very full plate right now with regulatory rulemaking and the last I heard on the primacy question that you specifically mentioned is that they were still evaluating it.

COMMISSIONER HANSEN: Okay, Madam Chair, thank you very much. And thank you, Kyle.

CHAIR VIGIL COPPLER: Okay, does anybody else have any questions on this item?

MR. IVES: One quick question, if I might, Madam Chair. Kyle, could you just explain what Chevron deference is?

MR. HARWOOD: Oh goodness, I was hoping someone would ask me that.

Chevron deference, in a nutshell, is the court's predilection to give the agencies some presumption of correctness in the development and application of their rules. There is a big – I'd say there's a fairly large, sort of philosophical fight going on in various cases across the board about whether it's appropriate and necessary to give those agencies that presumption. And what I'm not prepared to talk to in detail tonight but which I have been following generally is that the fight over Chevron deference and the court doesn't actually follow the political fault lines that you sometimes see in cases, and that's probably a more interesting issue that has been coming up recently. And of course, we're experiencing a big change in our judiciary with a lot of the appointments at the federal level. It will be very interesting to see if that deference to agencies continues going forward as it has in the past and it's not always upheld but it is an analysis.

MR. IVES: And I'm certainly familiar with the principle but wasn't sure if that was the name for what I have understood to be the case and I would only close by noting that I would have assumed that Chevron deference prior to the current administration had probably run in an opposite direction on those issues. So it's interesting that that preference might be used by different administrations for different points of view over the course of time. I'm not sure that that's the case, but, thank you.

MR. HARWOOD: It is being very carefully scrutinized right now as to whether it should continue in the way it has. I would be remiss if I did not hand the microphone to my colleague Ms. Long who may have something to add.

NANCY LONG (BDD Board Counsel): No, I don't have anything to add. I haven't looked at it in light of these cases in your memo that you've listed.

MR. IVES: Thank you.

CHAIR VIGIL COPPLER: Thank you all. Anybody else have any questions for Kyle on this item? Seeing none, thank you, Kyle.

12. Request for Approval of Buckman Direct Diversion and Canyon Road Water Treatment Plant Operator Exchange Program [Removed from Consent Agenda]

JESSE ROACH (City Water Division Director): Madam Chair, members of the Board, thank you. I brought this idea up in an informational context at the last Board meeting and now I am looking for formal approval from the Board of a proposal. Just briefly I would say that we at the City would like to increase understanding of the operations at both plants to operators at both plants. We believe that this increased understanding will provide enhanced resiliency and succession options at both plants and add professional options for the operators at those plants and hopefully more efficient operations through a greater set of experience brought to bear at problems at each plant by a wider set of eyes and improved communications between operators.

We're proposing two different sorts of exchanges and in each case one thing to be aware of is that operators have a specific level as certified by the New Mexico Environment Department so when we talk about these exchanges we're essentially talking if a level 2 operator from one plant works at another plant for eight hours, then at some point the opposite level and time should come to the other plant. The simplest to imagine would be a simultaneous exchange and this would be when both plants are operational and then a water operator of a given level at one plant would work at the other plant and vice versa. That would occur during the same pay period.

The other sort of exchange option would be if one or the other plant were shut down a water operator who normally would be working at the shutdown plant could be moved to work at the plant that is still operational. The proposal here is that we account for these – that we would account for the time that a BDD operator works, of a certain level, works at Canyon Road and if at the end of the fiscal year – and I should point out now that in this memo that I provided in the section labeled “cost, accounting of exchanges,” I mistakenly put calendar year in two places there. This should occur in a fiscal year. The idea would be that at the end of the fiscal year we have tracked the times that any operator normally at BDD has worked at Canyon Road and vice versa then we square those off and if there have been additional hours worked by a BDD operator at Canyon Road, those hours would then in final billing be reconciled as City-only costs. If on the other hand, the opposite is true, there would be no harm to BDD and that would just be a cost that the BDD has.

So with that change to not calendar year but instead to fiscal year, I would stand for question and hope that that form we consider requesting these operator exchanges. Also perhaps once I answer any questions to this, I would like to talk about how this fits into a City-County agreement that we’re calling, “The BDD Shared Pool” that we have reached the point of agreement at a staff level. And so we’d like to bring the terms of that agreement into the discussion as well.

CHAIR VIGIL COPPLER: Okay, thank you, Jesse, for the introduction. Commissioner Hamilton.

COMMISSIONER HAMILTON: I pulled this to actually be able to have related questions for Jesse and John Dupuis about the shared pool issues and how it was sort of indirectly related to the consent item so that’s really all I was interested in doing. If Jesse you and John could talk about the shared pool thing and how it relates.

CHAIR VIGIL COPPLER: I’m going to call on John Dupuis.

JOHN DUPUIS (County Water Division Director): Thank you. One of the things that I wanted to recognize is that the operator exchange program is one that the County utility can very well understand and see the benefits of and appreciate and for those reasons support Jesse in those efforts to accomplish that better understanding from operators for the different systems. I think our entire community has benefitted from those efforts and I wish him the best in succeeding to implement that program.

Additionally, one of the topics that Jesse mentioned was the BDD shared pool and Commissioner Hamilton mentioned that she wanted some further discussion and I appreciate the opportunity to discuss it further. And I, on a very high note, mention it does support the operator exchange program in that it allows greater operational flexibility without what is noted in the memo on this agenda item which is the exchange must be symmetrical and where there are not symmetry, the City pays for the cost associated with the asymmetry. So that’s a burden that if able to be overcome with other means allows for better implementation of the program, the BDD shared pool can allow for that. Mostly, it allows for the utilization of the County’s underutilized native water rights to be utilized for the benefit of the community in multiple ways. One of those benefits that I was trying to allude to, would allow shutdown of the BDD without any expense to the County different than if the BDD was operating. Therefore, allowing the operator exchange program to be much more flexible without incurring that asymmetry. The intent of mine is to bring the BDD shared pool terms to the County Commission and

I believe that Jesse has a similar process but I believe it does have to go through the Public Utilities Committee first and then through the City Council.

I just wanted to have the opportunity and I appreciate the opportunity to discuss those and stand for any questions if there are more details that anyone would like to hear about.

MR. ROACH: Madam Chair, if it pleases the Board, I would just give a very brief overview of what the BDD shared pool will do.

CHAIR VIGIL COPPLER: Okay.

MR. ROACH: Where probably most people on this call are familiar with this annual optimized water resource accounting that the BDD has is that during the course of a year when BDD is operational there may be times where more native water is taken and later times when all San Juan-Chama water is taken and we agree to sort of share those resources for the benefit of both partners. BDD's shared pool sort of takes this one step further by allowing the – when BDD diverts native water, treats it and then it is delivered to the City that water can be credited into what we're calling the shared pool. And then that water can roll over from year to year and be withdrawn by the County when BDD goes off line. Now if BDD goes offline for an unexpected reason, it is drawn down in a certain way but it also allows the City the flexibility to take BDD off line for operational efficiencies without, as John mentioned, financially impacting the County. It provides operational flexibility to the City and it provides some backup – or in some way you can think of it as a way for the County to be able to store some of their native water through this accounting exchange.

CHAIR VIGIL COPPLER: Okay, comments, questions from anyone. Commissioner Hansen and then Councilor Romero-Wirth.

COMMISSIONER HANSEN: Thank you, Chair, Jesse and John. Last year or the year before we worked on salaries and pay at the two facilities. so now do we have operators who have the same income level or the same hourly pay at both facilities, is this one of the things that we're heading towards or have we done this and it's now been finalized?

MR. ROACH: Madam Chair, Commissioner Hansen, that's the direction that we are heading towards, a set of job descriptions that are equivalent across both treatment plants. At the moment there's still I would say BDD operators are paid more and that sort of process will take time and attrition to fully implement.

COMMISSIONER HANSEN: Since BDD is considered a specialist plant, are we lowering the salary of BDD employees or are we bringing up the salaries of the Canyon Road people? I mean, is there really equity here for our operators? Are they getting paid what they expect?

MR. ROACH: Madam Chair, Commissioner Hansen, the answer to that is that no current BDD employees – salaries are not being reduced. Some Canyon Road operators did see a salary increase but the operators at BDD also in some ways had the top level of where they could get changed. So there was some – I would say there was some reduction to the career potential of those operators. This gets back to a different issue that I am not an expert on. It was something that I came into just as I was starting. I would be happy to gather more information if you need it but I am not the most expert on this issue.

CHAIR VIGIL COPPLER: Let me jump in on this point because it was probably a year ago that you all will recall that the compensation plan was being formulated and at that time this Board asked me to take the issue to the City prior to comp plan implementation. So I met with the City Manager, who was Erik Litzenberg at the time, and discussed all of the different qualifications between Canyon Road treatment operators and BDD operators because the Human Resources Office had declared that the BDD operators would be lowered in salary range with the comp plan. Well, apparently, nobody agreed with the Board or maybe they didn't understand it because I didn't get any feedback back after my meeting. And so as a result with the comp plan the salary ranges for the BDD operators were reduced to the Canyon Road operators. Nobody lost any salary but I think that's what Mr. Roach is referring to when it had some impact on their career effect but really what it did was lowered the top of their range because the Canyon Road operators were less.

The discussion was that the qualifications and the previous HR director and deputy director totally supported that the Canyon Road operators and the BDD operators were definitely different in their qualifications and should not have changed. That was the opinion when this came up before from the previous HR people. But with the comp plan and everybody being new and not really realizing, I don't think, it just happened anyway. So that is what happened. Our BDD operators were reduced in salary ranges to be equal to the Canyon Road operators and that's what we have today.

Commissioner Hansen, did you have any more?

COMMISSIONER HANSEN: Thank you, Madam Chair, for that reminder and explanation. I am still concerned about the reduction of not necessarily – the limits of what an operator can move up to and having a career path for operators still does concern me but I also recognize that this operator exchange program will have some benefits possibly to both bodies. There's just something that doesn't settle quite right with me and I might not be able to explain it but I'll leave it there at the moment.

CHAIR VIGIL COPPLER: Okay, thank you. Councilor Romero-Wirth.

COUNCILOR ROMERO WIRTH: Thank you, Madam Chair. I just want to be clear that what we're voting on tonight and what is on the consent agenda is this operator exchange program and that the shared pool teaser, if you will, is not on the agenda and we are not approving that at the moment because we don't have anything in our packets that refers specifically to that agreement or the outline of what that is.

CHAIR VIGIL COPPLER: Do you have any questions of anyone about that?

COUNCILOR ROMERO WIRTH: No. I just want to confirm and be clear that we are not approving the shared pool agreement tonight because that is not listed on our agenda and we have nothing in our packets pertaining to that.

CHAIR VIGIL COPPLER: Right. What we are being asked to do is to approve them proceeding with the operator exchange plan. Thank you for that. Anybody else have any comments? Do I have a motion?

COUNCILOR ROMERO WIRTH: Move to approve.

COMMISSIONER HAMILTON: I'll second.

The Chair requested a roll call vote and the motion passed by unanimous [5-0] vote.

DISCUSSION AND ACTION

13. Update and Possible Action on LANL MOU

MR. CARPENTER: Thank you Madam Chair and members of the Board. This is mostly an update but we're still looking for direction from the Board if the Board would like to do that. We are going to enter into the next phase of negotiations with LANL on the MOU. There are any number of items that Karl Harwood and Jay Lazarus from GGI have done a really good job of outlining what the priorities are. We tried hard not to necessarily prioritize them but the Board should be aware of what they are and not the least of which in my mind is the E-109.9 gage that we would like to have replaced somehow. Jay, you're the expert on this, do you want to weigh in on this or can you? Are you able to do it?

MR. HARWOOD: Let me provide a little more context, Rick, before we hand off some technical questions to Jay. What the memo covers is some fairly old news now. This memo was initially on the agenda for June and got pushed to July and then got pushed to August and now is pushed to September. So some of the information contained in this memo dates back to earlier times in the year when the Lab initially went into COVID-19 restrictions and there was some news media coverage of their suspension of environmental monitoring activities. You'll see under number 1 we talk about that, that June and July activities. I'm going to let Jay speak to the field trip that was conducted here in a minute because that's a very interesting, I think, update for the Board that happened some months ago. But let me just finish my kind of contextual overview.

We have continued to kind of prompt the Lab for response to the Board's May term sheet that you all approved that we take to the Lab and ask for everything that we want to see in the next iteration of our Board LANL MOU. I've been gently prompting to get some kind of response from staff up on the hill, there have been all sorts of various pandemic postures. They have been slowly opening and then slowly closing and stopping and such. As of today, funny how things happen on Board meeting dates, as of today, I've been informed that we'll have a written response from the Lab either the end of next week or Monday of the following week and so we expect to have a substantive update for the Board on the LANL MOU negotiations at the October meeting and that is good news.

We've been patient and obviously there have been extraordinary times as we all know. We had a schedule, the Board might recollect we had schedule from late last year or early this year that had a many month process where we thought we might be doing this and we thought we might be doing that. I think it's fair to observe at this point in the year that we've essentially lost all of the float in the schedule. When we get written responses in the next week or 10 days we're going to need to bring you a substantive update in October, perhaps even roll up our sleeves and bring you something for your consideration in November because there's only the meeting in December before we reach the end of the year which is our goal line.

We do have some alternatives that we will be briefing you all on as we get closer to the end of the year. But the goal that this Board set out for staff and consultants and which LANL agreed to was to have a draft MOU for 2021 before the end of the calendar year and that's still our goal and it's still the goal that LANL has committed to.

So I'm just noting that we lost most of the flow that was in the calendar basically for reasons of the pandemic but we're very much hoping to bring you and we don't know what

we're going to get from them yet, I'll be perfectly honest. We had a pretty long list of things that we felt confident were reasonable requests and we can provide more of an update in October.

MR. CARPENTER: If I could just add to that. Kyle did a great summary of where we're at why we are where we're at. COVID certainly isn't a help. There has also been some turnover at the Lab so we have some new faces and some new names and we're having to do get used to each other and educate them as much as we can. But the schedule is still the schedule and Kyle is doing a great job of letting them know that the schedule is still the schedule and so we'll keep the Board updated as needed.

MR. HARWOOD: Thank you, Rick, that's a great point. We will have had three site office managers in 2020 already who are essentially the client for the NNSA lawyer that I work with, that's my counterpart. He will have had three clients just this year in the site office manager position. Thank you for that Rick.

The only other last piece I want to do before I let Jay talk about the field trip that this Board did encourage GGI to do is that at the very end of my packet you'll see the written last three pages, it's a little buried, I apologize. On the last three pages of page 12 and 13, excuse me, that last two pages of my packet item was the LANL response to the media coverage that said they had suspended cleanup. It's not terribly clear what it is and I apologize but it is the Lab's press release around that and you'll see the kind of explanations that they provided there. With all of that introduction I do want Jay to just walk us quickly through the results of his field trip so we can get to any Board questions. I'm sorry to talk so long and potentially rush this part but Jay do you want to weigh in on your June visit?

JAY LAZARUS (Glorieta Geoscience): Actually, thank you, Madam Chairman, Kyle, Board members, actually it was James and my partner Paul Drakos that did the field trip so I'm going to turn it over to James now.

JAMES BEARZI (Glorieta Geoscience): Thanks, Jay. Thank you Madam Chair, members of the Board and Jay. This is James Bearzi, I am one of the scientists who work for Glorieta Geoscience and as Kyle's memo said on June 10th Paul Drakos and I went on a little field trip up there and a little bit of background. We had tried to get DOE and LANL to take us on a field trip with the main focus being to put eyes on the ENS locations, the actual locations that Buckman Direct Diversion uses for the early notification system. Between as Rick said a number of site manager turnover and then the COVID thing, we ended up reaching out to the New Mexico Environment Department Oversight Bureau. So we conducted this field trip in concert with them from publicly accessible lands to be able to see these.

The first topic, and you can see it in the packet, was to look at the different locations for the ENS and there are right now there are functionally four of them. I won't go into the details and I'll be happy to stand for questions but the most substantive one is where it says, E 109.9 and that was a location that was part of the ENS system but it hasn't been functional in a number of years because of flood events. All of the machinery is there. All of the sampling is there. Everything is there it is just that the flume itself by which they take samples and measure flow, is partially buried with sediment from likely the floods in 2014. Rick and Kyle have been urging DOE to rebuild it. That's part of the MOU negotiations and that's a very high priority.

Another focus of the field trip was to look at grade control structures in Los Alamos and Pueblo canyons. Think of them as sediment dams. They decrease the steepness of the

channel and so sediments that might otherwise make it to the Rio Grande might get stuck in the channel because it isn't steep enough anymore. The laboratory has built a number of these both in Los Alamos and Pueblo canyons and they are in various states of disrepair and function. Some of them still work just fine. Some of them don't work at all. One of the focus that we want to put on the MOU is to get Los Alamos to do a formal evaluation of these.

Another thing that we looked at were some of the Consent Order priorities as they might affect the Board. That would contaminate sites that are in Los Alamos and Pueblo Canyon watershed that would have potential to migrate downstream. Particularly, we are looking at Technical Area 21 which if you know anything about Los Alamos that up what is called DP Road. So there's the hardware store and the parts store, it's where you hang a hard left when you get up to the old Hilltop House at the Y up there. We took a look at those as well and we'll be urging DOE to make an accounting of where they are on those and how they prioritized those Consent Order items.

That's really the gist of the field trip. It was really good and also to connect with the New Mexico Environment Department and collaborate with them. We had the bureau chief of their Oversight Bureau as well as technical staff. So I appreciate the opportunity to brief the Board on this, Madam Chair, thank you.

MR. LAZARUS: James, could you please maybe elaborate a little bit on the access that NMED has from San I.

MR. BEARZI: Madam Chair, members of the Board, E-109.9 is about 3,000 feet upstream in Los Alamos Canyon from the confluence with the Rio Grande and it is right over the guardrail from 502. And it is on lands of San Ildefonso Pueblo. Right next door to E-109.9, and when I say right next door it's not even a stone's throw it's more like spitting distance, is the Environment Department. They have a sampling station there too that functions almost the same as E-109.9. They call theirs E-110. It's an auto sampler. It's measures flow. The only thing that it doesn't have is telemetry. The Environment Department has an MOU with San Ildefonso Pueblo so that they can have that sampler there. Under that MOU their data are embargoed for 60 days so that the Pueblo can review it. Functionally, the only thing that E-110 would need to be useful for us would be telemetry because they don't have a real time way to get data to pretty much anywhere. They have a data logger on site. Our MOU with San Ildefonso expired some years ago and that's another issue to get it done. So also at that location you may recall that BDD staff put in what's known as a radar station at that same location to see if that could work. I know that staff are not confident in the data and even San Ildefonso Pueblo has had its own sampler that was used many years ago very near that same location. So there's a lot of sampling that is trying to happen right now and right now the only one that is working is the Environment Department's. Thank you.

CHAIR VIGIL COPPLER: Commissioner Hamilton.

COMMISSIONER HAMILTON: Thanks for all the reports and the information is really good. But what limited red flag senses I have don't really – are lit up at this point. To me this is nothing that is happening at the federal level but everything to try to reduce measure on federal installation to do any kind of compliance. And I don't actually – COVID is a reason to make field sampling more difficult but it's not really a reason to make coordination on this kind of an agreement substantially delayed. I've been working on all kinds of federal projects virtually. So, to me it's more like a red flag that it's now

September and they've given absolutely no response. I just can't help but ask you guys, I know there's been a lot of personnel turnover. You don't have a good idea of what they're going to come back with. Do you have any sense with respect to the people, the new people that are in and whether they're being responsive? Because without that, I kind of expect in October to find out that they're not going to agree to things that we think are important and it's going to put us – and maybe there's no value in anticipating this. I have no idea what I'd do if they do and if we have any options to do anything if they come back with negative input. I wonder if any of the three of you could speak to that a little bit.

MR. CARPENTER: And, Madam Chair and Commissioner Hamilton, if I could, Madam Chair, may I interject?

CHAIR VIGIL COPPLER: Yes.

MR. CARPENTER: So we did get sidetracks with the whole COVID thing. We have been sidetracked because they have had so much turnover which is frustrating and it takes a long time to get these people educated on the issues themselves, much less the nuances of how this whole thing is suppose to work. But as I tried to say and Kyle has been doing a great job behind the scenes, the schedule is the schedule and we're not going to stand for it if we bust that schedule. And if it does look like it's going to happen, we're going to come back to the Board and we're going to say that we're worried that we might bust this schedule and now it's time to maybe do something else, if elected officials need to get involved or whatever. We'd like to keep it on the staff level. We think that's where it is most efficient. And that's my goal and that's what I can represent to the Board as we will stay on schedule as best we can.

COMMISSIONER HAMILTON: I just want to make it clear that this is in no way reflecting on how you guys have been handling this which I think is great and I do understand the staff turnover. I just feel a little bit suspicious about what Los Alamos is going to come forward with and that is all I was questioning.

MR. LAZARUS: Madam Chair, I would like to respond to Commissioner Hamilton's observation about field work during COVID. We at Glorieta, we've been doing field work in increasing amounts since about the third week of May following very strict New Mexico Environment Department protocols for how we are keeping ourselves and our employees safe. So we've been drilling, we've been drilling wells, we've been sampling, we've worked out of state so by following strict protocols the Environment Department has shared with us, is about as strict as I've seen and detailed, people can do field work safely.

CHAIR VIGIL COPPLER: Thank you.

MR. HARWOOD: I want to observe a couple of things because our colleagues up at the Lab may be watching this discussion on YouTube so I think what we want to finish the conversation with ultimately is that we are hoping for the best and planning for the worst in their response. And we do need them to provide us something in writing in the next 10 days as they have indicated that they will do. And as soon as we get that response which is delayed from May for reasons that we've already discussed, I'll be communicating that to the Board and coordinating with Nancy on ways of getting you those updates if something between this meeting and our next meeting is needed. And that's about the most we can do from this point in the calendar. We understand your concerns and I think the Lab understands your concerns and in the event we communicate directly with the Lab folks, which I do expect to do next week, I will take all of this energy and concern and make sure it is clear to them.

COMMISSIONER HAMILTON: Thank you. I appreciate the response. Thanks very much.

CHAIR VIGIL COPPLER: Okay, Commissioner Hansen.

COMMISSIONER HANSEN: Thank you, Madam Chair. So as you know one of my big concerns has been E-109.9 and getting an agreement with San I. It seems that we had an agreement with San I that was signed in 2014 but I don't see that the chair of the BDD every signed it. I don't have a copy that has a signature on it. Negotiating with San I, both DOE – but having us to be able to have telemetry and sampling at the moment the stream is moving is important to BDD because that's part of our early notification system. What I'm wondering is, is anybody talking to San I and if we are who are you talking to? And is it lawyer to lawyer or do we need some more gentle persuasion from elected officials to try and figure out what to do about getting this station E-109.9 back up and running because I feel that that is really imperative to BDD operations and I do believe that Daniel and Dani and a number of other staff members also feel that it is very important. I think Mr. Bearzi and Jay Lazarus also recognize that that is important to us as well Kyle and Rick. And so that – sampling is a very important issue to me and I want to know what we can do to move this forward.

MR. HARWOOD: Thank you, Commissioner. I think it is fair to say that there are a number of connections with San Ildefonso. I have spoken to John Dupuis the County Water Division Director over the last year or two about different requests that might be conveyed to San I. I will say that from my perspective – if it's okay, let me take a big step back. The current MOU that we're operating under is a three-year MOU that was negotiated and recommended to this Board by a prior facilities manager. And this Board has been experiencing this MOU and identifying things that it wants to improve in the next MOU and the Board is as involved, if not more involved, in the MOU than it ever has been since we did the first one which I worked on 10 years ago. So it seems to me that the relationship with San Ildefonso in LA-Pueblo Canyon needs to follow from the MOU negotiation with the Lab. That's kind of how we've set it up. We've had a number of issues that we want to talk to San Ildefonso about. There are issues outside of LA-Pueblo Canyon for example that we want to San Ildefonso about and we have had those conversations or the beginnings of them. But when it comes specifically to the LA-Pueblo Canyon monitoring stations that are E-109.9, E-110, other locations that GGI might identify that are even better than those two sites, that whole conversation with San I seems to follow from our basic umbrella agreement with the Lab. We've got to get agreement on the terms, agreement on cost sharing, agreement on the locations and then to the extent that some of those locations are on Pueblo land I do think that we're going to need to bring all of the skills and people including the many County staff and County elected officials that deal with the Pueblo on lots of different levels, all of those relationships and connections are going to probably be needed because these are complicated issues that involve placing equipment on Pueblo land which is fairly – not your everyday project.

So from my perspective the LA-Pueblo Canyon issues with respect to San Ildefonso do need to follow from the MOU negotiation. We are doing a new MOU negotiation that I, again, I am hopeful, I am not overly hopeful Commissioner Hamilton, but I am hopeful that we are going to get an earnest response to our reasonable requests from earlier this year. But I do want to say that a lot of the San Ildefonso issues flow from a successful umbrella agreement with the Lab of which the ENS is one of three main pillars in that MOU, and it's

perhaps the most important one for explaining to the public how the water does not divert water from the Rio Grande when there are significant LA-Pueblo Canyon flows. That is the design of the ENS.

I hope I have answered the question without talking too much.

CHAIR VIGIL COPPLER: Thank you, Kyle.

COMMISSIONER HANSEN: Madam Chair, I recognize that first things first sort of speak, but I think it is also incumbent and I didn't get an answer to my question about the agreement from San I that was signed by Governor Terry Aguilar; was that ever signed by the BDD chair who was Joe Maestas at that time?

MR. HARWOOD: I believe so. Nancy may remember more than I do. I have not looked in my archive for a countersigned copy of that, I'm sorry.

MS. LONG: Madam Chair and Commissioner Hansen, I believe it was signed by the chair at that time and I can verify that.

COMMISSIONER HANSEN: Okay. So that was almost six years ago. I think that the EM managers need to understand from us how important it is that we have a station that we know when the flows are happening in LA-Pueblo Canyon and that negotiating with the Pueblo is a priority and I don't think we can put this on John Dupuis to do. I think this is something that we need to put on DOE-EM and the Buckman attorneys, obviously, but we really need to be very clear that this is not an acceptable answer because the early notification system is incredibly important to the Buckman Direct Diversion. We've been lucky this year, the monsoons have been light. But it still doesn't give us – we still haven't had the information that we need to shutdown the plant if we have a serious runoff. I'm just expressing my frustration.

MR. CARPENTER: And, Madam Chair, if I could just interject a little bit on that. Commissioner Hansen, we do have the information we need to shut down the plant. The radar station is up and functional. We get real time data from it. The problem is that it is not the type of system that we would like. We don't get to sample the water. We don't know what the constituents are. We don't get to characterize the flood flows. But at no time is the BDD exposed to a risk that it shouldn't otherwise be taking.

MR. HARWOOD: And we will take your concerns, Commissioner Hansen, and combine them with the feedback from the Lab and I suspect this is just the preamble to the conversation that we're going to have in October about the MOU.

COMMISSIONER HANSEN: Yes, and I agree with you Rick that it is also really important to know what the constituents are, what is coming down the hill and what is flowing into the river. So that is another reason why sampling is so important. Thank you for listening to me, I appreciate it. And thank you for all of your hard work everybody on this MOU. I hope that the Lab is doing as hard of work and is as committed as we are to making this a successful MOU.

CHAIR VIGIL COPPLER: Thank you. Rick, is there anything else you need on this item? I think it ended up being a discussion or did you want any action?

MR. CARPENTER: Madam Chair, members of the Board, I think this is what we were hoping for, just general direction. I will leave it up to the attorneys if we need action at this point. But I certainly know what I need to do going forward.

MR. HARWOOD: I don't think we were asking for anything specific, Madam Chair. We just wanted to notice is in case you had additional direction for us but

this has been, as Rick said, a productive conversation and we're looking forward to bringing you something to actually act on in October.

CHAIR VIGIL COPPLER: Okay. I think we've spent a great deal of time talking about this and as long as you have what you need, I think we will move to the next item.

MR. CARPENTER: Thank you.

14. Update and Possible Action on NMED Triennial Review

MR. CARPENTER: Thank you, Madam Chair and members of the Board. I see that we're coming up on 5:30 and we still have a very long executive session. I'm not going to spend a lot of time introducing this item. Kyle, do you want to just take it over, briefly please.

MR. HARWOOD: I'll try and do this as quickly as possible. As you all know, GGI has been doing sort of a surveillance level review across the landscape of regulations on all the things that are in process at the State level; partly in light of changes in WOTUS, partly because the change of administration here in New Mexico last year and also as a result of regular regulatory proceedings. I think we still have James on the phone, let me just cut to the chase, which is the second and third pages of this memo which are quite literally a draft of a letter, a comment letter, to New Mexico Environment Department regarding 303-D and 305-B integrated report. It was released for public comment. The public comment does run next week which is why this is on your Board agenda as an action item. I think the memo is pretty clear about what's going on and the draft letter may be a little less clear because it does get into some of the technical comments that your Board technical consultants have recommended that a letter like this be sent. So I'm going to suggest that we hear any feedback from the Board and let myself or James or Rick respond to it but this is a recommendation to the Board to send this comment letter to NMED before the end of next week.

CHAIR VIGIL COPPLER: Okay, thank you. Councilor Romero-Wirth.

COUNCILOR ROMERO WIRTH: I'm not seeing the draft letter in my packet. Is anybody else having that issue?

[A discussion locating the draft ensued; it was placed on the screen and found]

CHAIR VIGIL COPPLER: Commissioner Hansen.

COMMISSIONER HANSEN: I think it's really important that we send this letter. I read this over last night and I thought it covered a lot of the points that you were trying to make and I support sending this letter to NMED on the issues of the Clean Water Act Integrated Reports.

MR. HARWOOD: Thank you.

CHAIR VIGIL COPPLER: Thank you. Any other comments? I support it too. Mr. Carpenter, would you like a motion on this or do you have consensus?

MR. CARPENTER: I think that Kyle and Nancy and I would like the Board to take action on this if we could ask.

COMMISSIONER HANSEN: I will move to approve to send this letter to the Clean Water Act and report to staff or Ms. Guevara.

MR. HARWOOD: Thank you.

CHAIR VIGIL COPPLER: Do I have a second?

COMMISSIONER HAMILTON: I'll second.

The Chair requested a roll call vote and the motion passed unanimously [5-0].

15. Update and Request for Ratification of the BDD Board's protest of the U.S Department of Energy and Los Alamos County's Water Right Transfer Application for Cr6 Remediation under OSE File No. RG-00485, et al.

MR. CARPENTER: Thank you, Madam Chair. This is not a new item for the Board to recognize and consider. We have filed a protest. We were under a strict timeline to do so to reserve our seat at the table. Kyle did a great job of it. This is simply as it states in the agenda item, a ratification by the Board that we did in fact file that protest and we will be following through with it. If there is an attorney on the call that wants to add to my comments, please do so briefly.

MR. HARWOOD: Thank you, Rick. Very briefly, we are asking for a vote. This is the first regularly scheduled Board meeting. As you all know this deadline came up between the agenda and meeting date of our last meeting so this is the first regular meeting since the protest has been filed and we would just ask in order to be abundantly compliant with the Open Meetings Act in the same way that Santa Fe County ratified the protest shortly after filing it, we would ask you to vote to endorse this protest. And for all other questions or comments, I'd like to suggest that we take it up – and we do have this item list under our Executive Session where I will be providing some additional details. But for this agenda item it is only that vote, Madam Chair.

CHAIR VIGIL COPPLER: Thank you. Commissioner Hansen.

COMMISSIONER HANSEN: I want to thank everyone, Kyle, Rick for all your comments, especially your comments to the press. I want to move to approve the ratification of the BDD Board protest to the US Department of Energy –

MR. HARWOOD: Protest of RG-00485, et al.

COMMISSIONER HANSEN: Yes, OSE, et al. Thank you.

COMMISSIONER HAMILTON: Second.

CHAIR VIGIL COPPLER: Any further discussion?

The Chair requested a roll call vote and the motion passed unanimously [5-0].

10. Discussion of Amended Fiscal Year 2021 Annual Operating Budget in the amount of \$8,763,715 plus \$626,705 in contributions to the Major Repair and Replacement Fund.

a) Request to ratify and formally adopt the amended for 2021 Annual Operating Budget in the amount of \$8,763,715 plus \$626,706 in contributions to the Major Repair and Replacement Fund

MS. ROMERO: Thank you, Madam Chair and members of the Board, the budget that was presented to the Board last meeting and I just wanted to go ahead and note the changes rather than going through the whole budget. The difference between the budget that was presented last meeting was that we increased this budget for your approval by

\$110,000 and that was to increase our overtime. Now our overtime is fully funded at \$150,000 and then we also added money back into the budget to cover a vacant planner/scheduler position which will be re-classed. The funding to fill that position mid-year was also included in this budget. So those are the two changes to this budget and I will stand for any questions.

CHAIR VIGIL COPPLER: Before we go to any question, I just want to state that the City had a meeting with Councilor Romero-Wirth, myself, the Mayor, the Finance Director and I don't remember who else – not very many people – and Mr. Roach and Shannon Jones and we all agreed that the budget that BDD first presented which is this budget before you, was adequate and the City gave their blessing to the budget that the BDD wanted and that's the budget before you. Commissioner Hamilton.

COMMISSIONER HAMILTON: I just want to express my appreciation of the effort that was put out to put these revisions in. Thanks very much.

CHAIR VIGIL COPPLER: Any other comments?

BOARD MEMBER HELMS: Yes, I'd like to say something.

CHAIR VIGIL COPPLER: Yes, go ahead JC.

BOARD MEMBER HELMS: I just want to say that I noticed our first budget eight months ago was at 10.3, then it went down to 9.3 and we all squawked. Now it's at 9.4. I'm going to assume that the staff at Buckman believes in this budget. I think Rick Carpenter has told me so that you stand by it and you can make things work with this budget; I'll accept that because you're the professionals. But I do want to say that in this entire process I got an unpleasant feeling that lines of communications, the pathway, went from City Council to City staff, City staff to Buckman staff and finally up to Buckman Board. I do not think that is the correct path. I think if the City has views to make, serious views at the budget level, not operational but budget level, they should go to the Board not put pressure on Buckman staff which then in turn puts pressure on the Buckman Board and that's not the way it works, it seems to me. I have a funny feeling that's what has been going on and I may be wrong. I don't expect anyone to confirm it but that's my opinion. For the record, I am supporting this budget.

CHAIR VIGIL COPPLER: Thank you. Any other comments? We need a motion?

COMMISSIONER HAMILTON: Motion to approve.

BOARD MEMBER HELMS: Second.

The Chair requested a roll call vote and the motion passed by unanimous [5-0] vote.

MATTERS FROM THE BOARD - None were presented.

NEXT REGULAR MEETING: Thursday, October 1, 2020 at 4:00pm

EXECUTIVE SESSION

In accordance with the New Mexico Open Meetings Act NMSA 1978, §10-15-1(H)(7), discussion regarding pending litigation in which the BDD is a participant, including, without limitation, : 1) BDD Board's Protest of the U.S Department of Energy and Los Alamos County's Water Right Transfer Application for Cr6 Remediation under OSE File No. RG-00485, et al. 2)

***Buckman Direct Diversion Board v. CDM Smith, et al., First Judicial District
Court Case No. D-101-CV-2018-01610***

CHAIR VIGIL COPPLER: I want to make sure everyone has the invitation to the Executive Session; does everyone have that? All right. I would ask that in the interest of time that you get the invitation and sign in again.

Nancy Long, do you want to take us into executive session?

MS. LONG: Yes, Madam Chair, you should ask for a motion to adjourn and go into executive session for those purposes as stated on the agenda in accordance with the New Mexico Open Meetings Act .

COMMISSIONER HANSEN: Madam Chair, I so move.

CHAIR VIGIL COPPLER: Okay, thank you.

COMMISSIONER HAMILTON: Second.

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

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

[The Board adjourned and met in executive session at 5:45 p.m.]

ADJOURNMENT

Chair Vigil Coppler declared this meeting adjourned at approximately 5:45 p.m.

Approved by:

JoAnne Vigil Coppler, Board Chair

Respectfully submitted:

Karen Farrell, Wordswork

ATTEST TO

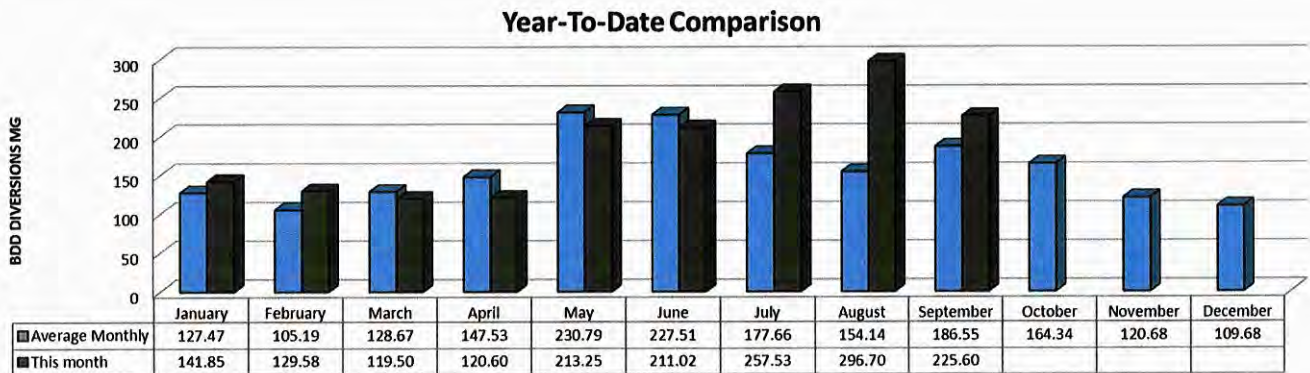
YOLANDA Y. VIGIL
SANTA FE CITY CLERK



Date: October 1, 2020
To: Buckman Direct Diversion Board
From: Randy Sugrue, BDD Operations Superintendent
Subject: Update on BDD Operations for the Month of September 2020

ITEM:

1. This memorandum is to update the Buckman Direct Diversion Board (BDDDB) on BDD operations during the month of September 2020. The BDD diversions and deliveries have averaged, in Million Gallons Per Day (MGD) as follows:
 - a. Raw water diversions: 7.52 MGD.
 - b. Drinking water deliveries through Booster Station 4A/5A: 6.44 MGD.
 - c. Raw water delivery to Las Campanas at BS2A: 0.94 MGD.
 - d. Onsite treated and non-treated water storage: 0.14 MGD Average.
2. The BDD is providing approximately 50% percent of the water supply to the City and County for the month.
3. Regional Demand/Drought Summary.
4. The BDD year-to-date diversions are depicted below:

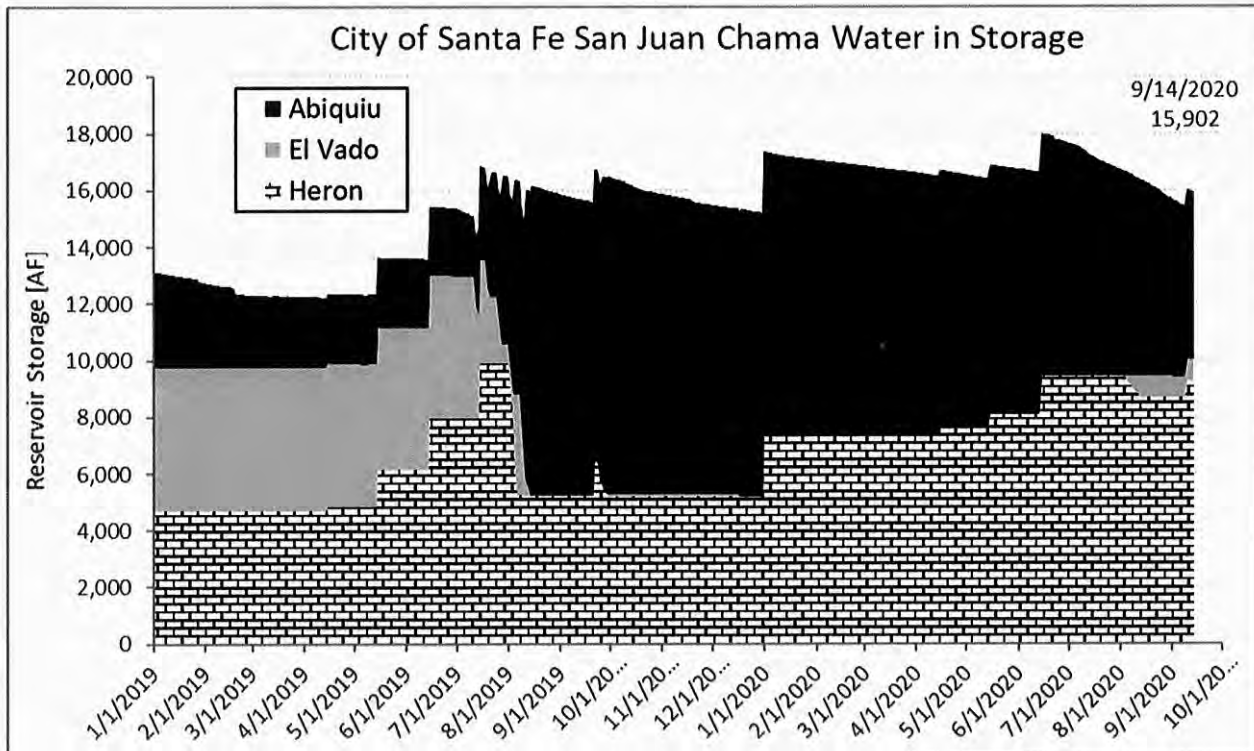




Regional Water Overview

Daily metered regional water demand for the month of September 2020 is approximately 11.5 MGD for the city and 1.2 MGD for the county.

Rio Grande flows for September 2020 average approximately 500 CFS (cubic feet per second.)



ENSO Summary

September 14, 2020

ENSO Alert System Status: La Niña Advisory. La Niña conditions are present.*Equatorial sea surface temperatures (SSTs) are below average across the east-central and eastern Pacific Ocean. The tropical atmospheric circulation is consistent with La Niña. La Niña conditions are present and are likely to continue through the Northern Hemisphere winter (~75% chance).



Buckman Direct Diversion Monthly SJC and Native Diversions

Sep-20

In Acre-Feet

Month	Total SJC + Native Rights	SP-4842 RG Native COUNTY	SD-03418 RG Native LAS CAMPANAS	SJC Call Total	SP-2847-E SJC Call CITY	SP-2847-N-A SJC Call LAS CAMPANAS	All Partners Conveyance Losses
JAN	438.797	134.433	0.000	304.364	298.249	6.115	2.759
FEB	385.360	207.046	0.000	178.314	178.314	0.000	1.679
MAR	364.592	192.426	0.000	172.165	172.165	0.000	1.621
APR	362.944	178.481	0.000	184.463	125.850	58.613	1.737
MAY	635.468	523.991	0.000	111.477	109.015	2.463	0.889
JUN	650.009	522.607	0.000	127.402	3.256	124.146	1.017
JUL	784.520	0.000	0.000	784.520	780.957	3.564	3.663
AUG	874.354	0.000	0.000	874.354	841.945	32.409	4.214
SEP	692.070	0.000	0.000	692.070	635.070	57.520	2.248
OCT	0.000	0.000	0.000	0.000	0.000	0.000	0.000
NOV	0.000	0.000	0.000	0.000	0.000	0.000	0.000
DEC	0.000	0.000	0.000	0.000	0.000	0.000	0.000
TOTAL	5,188.114	1,758.984	0.000	3,429.650	3,144.820	284.830	19.827

In Million Gallons

Month	Native COUNTY	Native Las Campanas	SJC TOTAL	SJC CITY	SJC Las Campanas	All Partners Diversions
JAN	43.789	0.000	98.103	96.304	1.975	141.892
FEB	67.442	0.000	57.454	57.454	0.000	124.896
MAR	62.680	0.000	55.473	55.473	0.000	118.152
APR	58.137	0.000	59.435	40.622	18.919	117.572
MAY	170.681	0.000	35.812	33.143	0.749	206.493
JUN	170.230	0.000	40.927	1.046	39.881	211.158
JUL	0.000	0.000	252.754	252.056	1.148	252.754
AUG	0.000	0.000	281.681	271.726	10.460	281.681
SEP	0.000	0.000	225.430	203.860	18.567	225.430
OCT	0.000	0.000	0.000	0.000	0.000	0.000
NOV	0.000	0.000	0.000	0.000	0.000	0.000
DEC	0.000	0.000	0.000	0.000	0.000	0.000
TOTAL	572.959	0.000	1,107.069	1,011.683	91.699	1,680.028



Dec-19		In Acre-Feet					
Month	Total SJC + Native Rights	SP-4842 RG Native COUNTY	SD-03418 RG Native LAS CAMPANAS	SJC Call Total	SP-2847-E SJC Call CITY	SP-2847-N-A SJC Call LAS CAMPANAS	All Partners Conveyance Losses
JAN	327.677	56.671	0.000	271.007	271.007	0.000	2.483
FEB	278.357	71.266	0.000	207.090	207.090	0.000	1.908
MAR	134.335	88.610	0.000	45.725	45.725	0.000	3.498
APR	126.924	114.750	0.000	12.175	12.175	0.000	0.110
MAY	550.285	550.285	0.000	0.000	0.000	0.000	0.000
JUN	546.222	546.222	0.000	0.000	0.000	0.000	0.000
JUL	649.014	23.285	0.000	625.729	519.383	106.345	2.907
AUG	422.340	17.075	0.000	405.265	318.606	86.659	1.912
SEP	518.606	169.956	0.000	348.650	261.901	86.749	1.564
OCT	531.254	15.373	0.000	515.881	477.452	38.429	4.676
NOV	325.023	42.180	0.000	282.843	280.865	1.978	2.936
DEC	334.880	48.808	0.000	286.071	286.071	0.000	2.893
TOTAL	4,744.916	1,744.482	0.000	3,000.434	2,680.275	320.160	24.886

In Million Gallons

Month	Native COUNTY	Native Las Campanas	SJC TOTAL	SJC CITY	SJC Las Campanas	All Partners Diversions
JAN	18.460	0.000	87.342	87.342	0.000	105.802
FEB	23.214	0.000	66.739	66.739	0.000	89.953
MAR	28.863	0.000	13.735	13.735	0.000	42.598
APR	37.378	0.000	3.924	3.924	0.000	41.302
MAY	179.246	0.000	0.000	0.000	0.000	179.246
JUN	177.923	0.000	0.000	0.000	0.000	177.923
JUL	7.585	0.000	201.598	167.635	34.262	209.183
AUG	5.562	0.000	130.586	102.846	27.974	136.148
SEP	55.360	0.000	112.401	84.384	28.017	167.762
OCT	5.008	0.000	166.279	154.168	12.409	171.287
NOV	13.739	0.000	91.045	90.407	0.638	104.785
DEC	15.899	0.000	92.109	92.109	0.000	108.008
TOTAL	568.235	0.000	965.760	863.292	103.299	1,533.995



Buckman Direct Diversion Monthly SJC and Native Diversions

Dec-18

In Acre-Feet

Month	Total SJC + Native Rights	SP-4842 RG Native COUNTY	SD-03418 RG Native LAS CAMPANAS	SJC Call Total	SP-2847-E SJC Call CITY	SP-2847-N-A SJC Call LAS CAMPANAS	All Partners Conveyance Losses
JAN	383.578	77.954	0.000	305.624	305.624	0.000	2.708
FEB	343.467	75.227	0.000	268.240	268.240	0.000	2.415
MAR	363.780	267.512	0.000	96.268	96.268	0.000	4.036
APR	662.407	569.253	0.000	93.154	93.154	0.000	3.898
MAY	941.240	209.538	0.000	731.702	615.366	116.336	8.171
JUN	912.903	30.894	0.000	882.009	740.070	141.939	8.707
JUL	905.897	0.000	0.000	905.897	816.188	89.709	4.255
AUG	678.383	1.466	0.000	676.917	676.917	0.000	6.087
SEP	694.411	0.000	0.000	694.411	694.411	0.000	6.404
OCT	608.789	0.000	0.000	608.789	599.228	9.560	5.805
NOV	404.616	82.390	0.000	322.226	316.641	5.585	3.196
DEC	369.186	2.966	0.000	366.220	366.220	0.000	3.392
TOTAL	7,268.656	1,317.200	0.000	5,951.456	5,588.327	363.129	59.073

In Acre-Feet

Month	Native COUNTY	Native Las Campanas	SJC TOTAL	SJC CITY	SJC Las Campanas	All Partners Diversions
JAN	77.954	0.000	302.916	302.916	0.000	380.870
FEB	75.227	0.000	265.825	265.825	0.000	341.052
MAR	267.512	0.000	92.231	92.231	0.000	359.744
APR	569.253	0.000	89.256	89.256	0.000	658.509
MAY	209.538	0.000	723.531	608.494	115.037	933.069
JUN	30.894	0.000	873.302	732.764	140.538	904.196
JUL	0.000	0.000	900.737	811.539	89.198	900.737
AUG	1.466	0.000	670.830	670.830	0.000	672.295
SEP	0.000	0.000	688.007	688.007	0.000	688.007
OCT	0.000	0.000	602.984	593.515	9.469	602.984
NOV	82.390	0.000	319.030	313.500	5.530	401.420
DEC	2.966	0.000	362.829	362.829	0.000	365.794
TOTAL	1,317.200	0.000	5,891.477	5,531.706	359.772	7,208.677



Dec-17

In Acre-Feet

Month	Total SJC + Native Rights	SP-4842 RG Native COUNTY	SD-03418 RG Native LAS CAMPANAS	SJC Call Total	SP-2847-E SJC Call CITY	SP-2847-N-A SJC Call LAS CAMPANAS	All Partners Conveyance Losses
JAN	395.248	84.736	0.000	310.512	310.512	0.000	2.717
FEB	383.179	26.107	3.426	353.646	353.646	0.000	3.087
MAR	547.849	17.804	11.643	518.402	518.402	0.000	4.564
APR	592.385	381.170	0.000	211.216	211.216	0.000	1.821
MAY	488.240	478.925	0.000	9.315	9.315	0.000	0.072
JUN	616.871	12.970	0.000	603.900	477.780	126.121	5.517
JUL	626.113	23.719	0.000	602.394	484.406	117.988	5.429
AUG	557.303	17.073	0.000	540.230	540.230	0.000	4.871
SEP	637.339	230.584	0.000	406.755	395.200	11.555	3.873
OCT	444.333	127.611	0.000	316.723	316.723	0.000	2.938
NOV	356.536	107.143	0.000	249.394	203.128	46.266	1.658
DEC	360.218	73.071	0.000	287.147	287.147	0.000	2.321
TOTAL	6,005.614	1,580.910	15.069	4,409.635	4,107.705	301.930	38.868

In Acre-Feet

Month	Native COUNTY	Native Las Campanas	SJC TOTAL	SJC CITY	SJC Las Campanas	All Partners Diversions
JAN	84.736	0.000	307.795	307.795	0.000	392.531
FEB	26.107	3.426	350.559	350.559	0.000	380.091
MAR	17.804	11.643	513.838	513.838	0.000	543.285
APR	381.170	0.000	209.395	209.395	0.000	590.565
MAY	478.925	0.000	9.243	9.243	0.000	488.168
JUN	12.970	0.000	598.383	473.415	124.969	611.354
JUL	23.719	0.000	596.965	480.040	116.925	620.684
AUG	17.073	0.000	535.359	535.359	0.000	552.431
SEP	230.584	0.000	402.883	391.437	11.445	633.466
OCT	127.611	0.000	313.785	313.785	0.000	441.396
NOV	107.143	0.000	247.736	201.777	45.958	354.878
DEC	73.071	0.000	284.826	284.826	0.000	357.898
TOTAL	1,580.910	15.069	4,370.767	4,071.470	299.297	5,966.747

Memorandum



Buckman Direct Diversion

Date: October 1, 2020
To: Buckman Direct Diversion Board
From: Mackie Romero, BDD Financial Manager *MR*
Subject: 4th Quarter Financial Statements

Information Item:

This report is to update the BDD Board and its partners on the 4th quarter financial position as of June 30, 2020.

Budget Overview – A financial plan that quantifies our current and future operations.

- Beginning Budget – FY19/20 Adopted Budget includes any budget adjustments.
- Expended – Expenditures for services and/or goods received as of 6/30/2020.
- Available Balance – Represents vacancy savings and uncommitted budget balance as of June 30, 2020.
- Percentage – Represents percentage of expended budget balance.

90 Day Cash Reserve Credit – Represents the partners cash reserve credit, which is used to fund current and future obligations as per the BDD Working Capital and Billing Policy.

Fixed & Variable Costs – All expenses billed to our partners for services and/or goods received as of June 30, 2020.

Other Funds - Major Repair & Replacement and Emergency Reserve Fund monthly contributions, cash balances and budget overview of funds authorized by the BDDDB for expenditure.

This presentation of financial information for fiscal year ended June 30, 2020, certifies the Buckman Direct Diversion's accounting transactions are reconciled in preparation for the annual audit.

BDD will continue to provide quarterly updates with financial information to provide the highest level of transparency to our partners and the BDD Board.

If you require any additional information to be included in this report, please contact me.



Buckman Direct Diversion 341 Caja del Rio Santa Fe, NM 87506





4th Quarter Financial Statement – Operations
(07/01/2019-6/30/2020)

Budget Overview

CATEGORY	BEGINNING	EXPENDED	EXPENDED	EXPENDED	EXPENDED	TOTAL	BALANCE	EXP
	BUDGET	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter		AVAILABLE	BDGT %
Employee Salaries & Benefits	2,404,610	401,184	454,451	571,197	551,855	1,978,687	425,923	82%
Electricity	1,173,761	186,326	188,384	265,051	265,855	905,616	268,145	77%
Chemicals	970,000	227,804	178,789	171,602	291,211	869,406	100,594	90%
Solids	336,000	109,020	72,231	68,902	121,223	371,376	(35,376)	111%
Materials & Supplies	47,500	24,122	9,738	3,219	9,567	46,646	854	98%
Other Operating Costs	802,054	34,773	133,246	123,334	252,779	544,132	257,922	68%
Litigation Costs	1,125,840	281,975	193,406	142,386	379,074	996,841	128,999	89%
Fiscal Agent Fees	2,420,000	-	1,066,127	400,506	1,095,729	2,562,362	(142,362)	106%
TOTAL	320,644	-	-	-	320,644	320,644	-	100%
TOTAL	9,600,409	1,265,204	2,296,372	1,746,197	3,287,937	8,595,710	1,004,699	90%
DOE Federal Grant	96,000	-	52,465	4,920	-	57,385	38,615	60%
Total Expenses thru 6/30/2020					8,653,095			

90-Day Cash Reserve Credit

	Balance
City of Santa Fe	1,674,748
Santa Fe County	536,031
LC - Club	92,191
LC - Coop	18,637
Total	2,321,607

Fixed & Variable Cost – Operations

July - September	Total	Fixed	Variable (Projected)	Project Wide (Projected)
Partner Revenue				
City of Santa Fe	5,704,093	1,807,335	816,599	3,080,159
Santa Fe County	2,215,124	632,110	325,477	1,257,537
LC - Club	544,504	41,838	67,796	434,871
LC - Coop	56,626	53,992	2,635	-
Total	8,520,348	2,535,274	1,212,507	4,772,567
Other Revenue				
PNM Solar Rebate	75,362			
DOE Federal Grant	57,385			
Total	132,747			
Grand Total	8,653,095			



**4th Quarter Financial Statement – Other Funds
(07/01/2019-6/30/2020)**

Pre-Bills – Major Repair & Replacement Fund (Yearly Contribution)

	Total	City of SF	SF County	Las Campanas Coop	Las Campanas Club
Major Repair Fund	626,706	445,545	156,494	13,898	10,769
	626,706	445,545	156,494	13,898	10,769

Financial Position - Cash

	*Emergency Reserve	Major Repair
Balance at 06/30/2019	2,063,495	1,791,227
19/20 Yearly Contributions - Billed	-	626,706
Total	2,063,495	2,417,933
Less Expenses at 6/30/2020		(434,411)
Projected Cash Balance at 6/30/2020		2,852,344

* Emergency Reserve Fund has reached the funding target, per the established policy.

Budget Overview – Major Repair and Replacement Fund

CATEGORY	FY19/20 BUDGET	EXPENDED	EXPENDED	EXPENDED	EXPENDED	TOTAL	BALANCE AVAILABLE
		1st Quarter	2nd Quarter	3rd Quarter	4th Quarter		
Engineering Services	40,000	-	-	-	-	-	40,000
System Equipment	674,312	-	370,971	61,120	2,320	434,411	239,901
TOTAL	714,312	-	370,971	61,120	2,320	434,411	279,901

Memorandum



Buckman Direct Diversion

Date: September 22, 2020
To: Buckman Direct Diversion Board
From: Rick Carpenter, BDD Facility Manager
Kyle Harwood, BDD Legal Counsel
Subject: Preliminary Framework and Principles for 2020 LANL MOU

ITEM AND ISSUE:

The current BDD Board LANL MOU expires this year and BDD Project staff and counsel request guidance on a framework and principles for negotiating a new LANL MOU.

BACKGROUND:

The BDD Board directed staff to present the attached memo from April 29, 2020 to LANL NNSA for negotiation of a new MOU for 2021. We have received some feedback from LANL that will be discussed at the meeting.

Attachment:

BDD Board memo re LANL MOU Principles, dated April 29, 2020, and approved on May 7, 2020



Memorandum



Buckman Direct Diversion

Date: April 29, 2020
To: Buckman Direct Diversion Board
From: Rick Carpenter, BDD Facility Manager
Kyle Harwood, BDD Legal Counsel
Subject: Preliminary Framework and Principles for 2020 LANL MOU

ITEM AND ISSUE:

The current BDD Board LANL MOU expires this year and BDD Project staff and counsel request guidance on a framework and principles for negotiating a new LANL MOU.

BACKGROUND:

The background on the LANL MOU and issues addressed by the MOU are the topic of other memos to the Board.

RECOMMENDATIONS:

Board staff, counsel and consultants recommend the following principles be requested to be included in a new MOU.

Early Notification System in Los Alamos/Pueblo Canyon [section E.2 2017 MOU]

1. Continue to maintain the design and functionality of the ENS system in LA/Pueblo Canyon in order to provide the BDD Project real time notification of surface water flows in this tributary of the Rio Grande upstream of the BDD Project intake. Continue to identify stations by name in the MOU, and continue to operate E050.1, E060.1, E062 and E099 as components of the ENS.
2. Identify a schedule, budget and required approvals for the re-installation of E109.9 as a placeholder (subject to change of location or configuration depending on current condition and access agreement(s) with San Ildefonso Pueblo)
3. Evaluate and re-initiate the E110 station, and continue coordination with NMED on co-located samplers (note: which does not include the Guaje Canyon tributary)
4. Board staff, counsel and consultants, in conjunction with LANL staff, conduct a site visit of each station upon execution of the new MOU (subject to work and distance restrictions) and prepare a joint report of current conditions of each gage, control measures and changes in aggradation/incision of stream bed over time.



Buckman Direct Diversion 341 Caja del Rio Santa Fe, NM 87506



5. LANL/DOE will conduct inspection and maintenance of ENS components in April and October of each year with written inspection reports provided to BDD staff. Other inspections as needed if ENS is damaged.

6. Board staff, counsel and consultants will conduct independent assessment or co-inspections of ENS components as needed.

7. Board staff, counsel and consultants provide the BDD Board an annual report summarizing Los Alamos/Pueblo and Guaje Canyons flow events, whether or not detected by ENS stations. The summary will include a correlation with shut-off events at BDD and detection of flow at ENS locations.

8. Board staff, counsel and consultants will establish a renewed effort to document a Storm Water Quality Sampling Program and Report using DOE "Annual Surveillance Report" and NMED data.

9. LANL/DOE will provide funding for all inspections and identified improvements of \$XXX,000 (dependent on assessment of current condition of ENS stations and locations). Unexpended funds do not revert to DOE and instead may be carried over to future years for use on these issues.

Sediment Evaluations in Los Alamos/Pueblo Canyon

10. DOE will provide an annual report on sediment sampling/mapping and monitoring to BDD (including all submittals to regulatory agencies, such as DOE and NMED).

11. DOE will provide an initial summary of current and prior 5 year work effort regarding sediment sampling/mapping program, including technical details, regulatory notifications and approvals, and monitoring results of sediment control structures (including all submittals to regulatory agencies, such as DOE and NMED).

12. For actions taken in Los Alamos/Pueblo and Guaje Canyons, the BDD is copied on all correspondence between NMED/DOE and LANL, and is provided copies of all reports and workplans submitted to regulatory agencies (including DOE for monitoring, remediation and reporting of actions relations to radionuclides).

13. Board staff, counsel and consultants will conduct assessment of the Contaminant Inventory in the Los Alamos/Pueblo and Guaje Canyons to evaluate and update appropriate protections to LANL-derived pollutants.

14. DOE responded on March 31, 2020 to BDD's initial request for technical information on contaminated sites in Los Alamos/Pueblo Canyon, and DOE will provide updates annually to those requests for technical information as the issues are updated. Reconnaissance level review conducted by Board staff, counsel and consultants in conjunction with ENS "current state" assessment if significant data gaps are revealed.

BDD Project Location Sampling in Rio Grande [section E.3 2017 MOU]

15. Board staff, counsel and consultants will conduct Rio Grande base-flow and event water sampling in Rio Grande at the BDD Project intake.

16. Board staff, counsel and consultants to conduct sediment sampling on floodplain/slough/low water sediment exposure sites upstream of BDD and downstream of Los Alamos Canyon and at intake structure.

17. Board staff, counsel and consultants review and assess previous work to determine sampling locations, extent, and need for additional information.

18. DOE will provide new funding for Rio Grande sediment mapping sampling -- \$XXX,000 / year (tbd after assessment described above).

19. DOE will provide continued funding for Rio Grande water quality sampling -- \$96,000 / year

20. DOE will provide new funding for TREAT 5 -- \$70,000 project estimate cost

Data Sharing [section F. 2017 MOU]

21. DOE will continue to collect ENS data, and report to BDD.



22. DOE will continue to monitor or increase sediment sampling/mapping in response to results from 11-14 above, and report to BDD.

23. DOE will continue monitor and maintain sediment control structures, and report to BDD.

24. DOE will continue to monitor or increase storm water sampling and analysis at ENS sites in response to the results from 1-9 above, and report to BDD.

25. BDD will conduct project location sampling in Rio Grande and within treatment works (e.g., TREAT), and will provide to BDD and post verified/validated data on the BDD Project website.

Coordination with DOE/LANL and San Ildefonso Pueblo [section E.1 2017 MOU]

26. Recognize the importance and role of San Ildefonso Pueblo under DOE/San Ildefonso MOU, BDD/San Ildefonso MOU, conduct biannual MOU review meetings with all stakeholders and quarterly technical meetings regarding the new technical initiatives described above, annual schedule to be modified after initiatives are established.

List of Acronyms

BDD Buckman Direct Diversion
DOE U.S. Department of Energy
ENS Early Notification System
LANL Los Alamos National Laboratory
MOU Memorandum of Understanding
NMED – New Mexico Environment Department
TREAT – The Removal Efficiency and Assessments of Treatments



Memorandum



Buckman Direct Diversion

Date: September 22, 2020
To: Buckman Direct Diversion Board
From: John Dupuis, Santa Fe County Utilities Division Director
Subject: BDD Shared Pool Agreement Between Santa Fe County and the City of Santa Fe

ITEM AND ISSUE

Presentation on the proposed BDD Shared Pool Agreement Between Santa Fe County and the City of Santa Fe.

BACKGROUND AND SUMMARY

This relatively simple Agreement is based on the fact that both parties have underutilized resources. The County has excess native water that cannot currently be stored in-basin while the city has excess storage capacity that it is not fully utilizing. Through conjunctive management, the parties currently use native water to the greatest extent possible, as it cannot be stored. In practice this means that the City diverts County native water earlier in the year and the County diverts City SJC water later in the year when native rights may not be available.

This system has been working well, but is limited by a requirement to balance these diversions annually. The City has been limited in diverting County water by how much City water the County can reasonably use in the same year. This Agreement will continue this practice, but removes the annual accounting requirement by creating a credit "pool" where the County can deposit native water for the City's immediate use, and then call on that credit in that year or future years, when only San Juan Chama water or groundwater may be available.

The Agreement is temporary in nature, and will only remain in place so long as both parties see a benefit in continuing. It sets reasonable limits on the amount of water the County can place in the pool, and the amount of credit water that can be called on in a given year, while leaving open the opportunity to negotiate for more if mutually beneficial. It also accounts for any conveyance, diversion or storage losses that may occur.

Finally, this Agreement allows the City, as Operator of the BDD, to shut down for any reason, as long as the County is given 3 days' notice and is not required to use more than 150 AF of credit water to account for the shutdown. The Agreement allows the City to act more nimbly based off its own needs while also providing an additional backup supply to the County in the event of a planned shutdown.

Practically, water rights accounting under the Agreement will be handled as part of general water right diversion records, but any payments made to the City by the County will be done outside of BDD Project financial accounting.



Buckman Direct Diversion 341 Caja del Rio Santa Fe, NM 87506



BDD SHARED POOL AGREEMENT

This BDD Shared Pool Agreement (“Agreement”) is between Santa Fe County (“County”), a political subdivision of the State of New Mexico, and the City of Santa Fe (“City”), a New Mexico home-rule municipality (together the “Parties”).

Recitals

- A. The County and the City are partners in the Buckman Direct Diversion (“BDD”) under a Joint Powers Agreement (“the JPA”) executed on March 7, 2005.
- B. The County and City also executed a Water Resources Agreement on January 11, 2005 and then an Amended and Restated Water Resources Agreement on December 14, 2016 (“WRA”) to address utility-to-utility issues.
- C. The purpose of this Agreement is to make more efficient use of the parties’ respective available resources by making currently excess County native water rights available to the City and by making additional City system capacity and water sources available to the County through creation of a BDD Shared Pool. By creation of the BDD Shared Pool, the City will gain access to additional native supply, the County will gain additional back-up and sources of supply when the BDD is not in operation, and both parties will achieve greater flexibility in BDD operations.

Agreement

1. **Establishment of BDD Shared Pool.** The BDD Shared Pool is hereby created as an accounting pool of water within the BDD that will allow the City to use additional County native water rights and allow the County to deposit and bank water for later use at times when BDD production is restricted or shut-down either for unplanned or uncontrollable reasons or because of discretionary operational shutdowns of the BDD, as described in Paragraph 3 below. The maximum quantity balance of water credited at any time in the BDD Shared Pool is limited to 1,100 acre-feet (AF), unless the Parties agree in writing to a larger amount. Operation of the BDD Shared Pool is separate from and does not affect the Parties’ current practice of joint use of native and San Juan-Chama Project water pursuant to Optimized Annual Water Rights Accounting as described in the BDD Annual Operating Plan.
2. **Deposits into the BDD Shared Pool.** On or before December 1 of each year, the County will advise the City and the BDD of the quantity of additional County native water rights that will be available the coming year for diversion by the BDD for delivery to the City. Each year the BDD will divert for delivery to the City a minimum of 167 of acre-feet (AF) of County native water, subject to the following conditions and limitations:
 - a. To account for typical unaccounted water losses, 90% of the amount of water diverted will be credited to the County and deposited in the BDD Shared Pool. For example, diversion of 167 AF will result in a deposit of 150 AF.

- b. The quantity diverted may not exceed the quantity made available by the County for that year.
- c. Once the BDD Shared Pool is at its limit of 1,100 AF, no additional deposits may be credited without written agreement by the Parties.
- d. When hydrological conditions reasonably preclude diversion of the minimum of 167 AF during a given year, the quantity diverted and the corresponding amount deposited will be based on the actual amount diverted that year.

3. **Withdrawals and Deliveries from the BDD Shared Pool.** The County may withdraw water credits from the BDD Shared Pool and the City shall deliver water from the City's Independent Water System, as defined in the WRA, to the County's requested Points of Delivery, as described in Paragraph 9 of the WRA, under the following terms and conditions:

- a. **Discretionary Shutdowns.** When the City as BDD operator chooses to temporarily shut down the BDD for a discretionary reason, such as for operational efficiency or for system-wide cost savings, the rate of exchange of BDD Shared Pool water credits withdrawn to the quantity of water delivered from the City to the County shall be 1.0 to 1.0, meaning that for every AF delivered by the City to the County, the County's credit balance will be reduced by one AF. Discretionary shutdowns are characterized by a fully functional BDD that could be diverting and treating water throughout. The City may implement a discretionary shutdown of the BDD with a minimum of 3 days written notice to the County. Discretionary shutdowns shall not result in a debit to the BDD Shared Pool in excess of 150 AF per year, shall not result in a negative balance to the BDD Shared Pool, and must be timed and made at a sufficient flow rate so that all County demand otherwise supplied by the BDD will be met by the City from other City sources.
- b. **Non Discretionary Shutdowns.** When BDD production is restricted or shut down completely for any other reason, the rate of exchange of BDD Shared Pool water credits withdrawn to the quantity of water delivered by the City to the County shall be 1.1 to 1.0. In other words, for every AF of water that the City delivers to the County, the County's credit balance will be reduced by 1.1 AF. The Parties acknowledge that this exchange rate appropriately reflects that the City's water stored in Abiquiu Reservoir is a component of City back-up supply and is subject to a one time reduction of 10% of the amount stored for rights to such storage. In any calendar year, the City may limit withdrawal from the BDD Shared Pool to 550 AF and the associated delivery of City water to the County to 500 AF if delivery greater than that would result in more than 6,000 AF of groundwater use by the City. The City will exercise reasonable due diligence to make deliveries to the County at the greatest rate practicable, but the rate may be limited to no more than 1 million gallons per day during an unplanned shutdown.

4. **Accounting of Credit Balance.** The Parties shall calculate and maintain a running balance of the quantity of County water credits in the BDD Shared Pool. The County's water credit balance shall be increased by the quantity of additional deposits to and reduced by the amount of new withdrawals from the BDD Shared Pool. The County's water credit balance will be reduced at the

end of each calendar year by 10% of the December 31st value to reflect evaporative losses of City water in Abiquiu. Upon request by the County, the City at its sole discretion may approve a temporary negative balance. Deposits made to the BDD Shared Pool not used within a calendar year shall be carried over to the next year and credited to the County's running balance. The Parties will direct BDD staff to administer the BDD Shared Pool based on monthly diversion and use accounting of BDD water.

5. Cost Accounting and Billing.

- a. City Costs. The City will pay all costs associated with diversion, pumping and treatment of County native water delivered by the BDD to the City under this Agreement.
- b. County Costs. For water the County receives from the City under this Agreement, the County will pay the City at a rate equal to the variable cost of BDD water paid by the County during the same fiscal year in which the BDD Shared Pool water is delivered. For example, during fiscal year 2018-2019, the County paid \$402,354 in variable operating costs (electricity, chemicals, and solids) at BDD for 1393 AF of treated water, representing a variable cost of \$288.89 per AF. This rate would have been charged for any BDD Shared Pool water delivered that year. Because that rate will not be available until after final BDD invoicing for the fiscal year, the City can bill during the fiscal year using the variable cost of BDD water to the County during the previous fiscal year, with final reconciliation occurring after final BDD invoicing. In addition, for water delivered by the City to the County during unplanned shutdowns, the County will pay the City for wheeling the water through the City system based on the rate specified in the current wheeling agreement. The County will not pay a wheeling fee for water delivered by the City during planned shutdowns. If during an unplanned BDD shutdown the County expends all water credits and reaches a zero balance in the BDD Shared Pool and the City does not approve a temporary negative balance as described in Paragraph 4, any additional County use of City water will be billed at the then-current agreed upon wholesale and wheeling rates.

6. WRA Unaffected. This Agreement does not amend or affect the terms and conditions of the WRA. In particular, delivery by the City of water to the County from the BDD Shared Pool is separate from and does not affect the County's right to Wholesale Water Delivery from the City under Paragraph 3 of the WRA.

7. Term.

- a. This Agreement shall be effective on the latest signature date below and shall continue thereafter unless terminated pursuant to Paragraph 7(b).
- b. Either Party may terminate this Agreement for any reason by giving sixty (60) day's written notice of termination to the other Party. If terminated, the BDD Shared Pool balance if any, will be continue to be available for use by the County during BDD shutdowns,

consistent with the terms and conditions of this Agreement, until the balance has been fully utilized.

8. **Amendment.** This Agreement may be modified only by a written agreement between the Parties.

9. **Dispute Resolution.** The City and County agree to mediate disputes consistent with the Mediation Procedures Act, NMSA 1978, secs. 44-7B-1 through 44-7B-6 prior to initiating any litigation, to resolve any conflicts arising under this Agreement, the expenses of which shall be shared equally by the City and County. Disputes shall be first discussed by representatives of each party. Such representatives shall use their best efforts to amicably and promptly resolve the dispute. If the parties are unable to resolve the dispute through informal mechanisms or mediation within 60 days of the occurrence of the event or circumstances giving rise to the dispute, either party may give notice to the other party that the aggrieved party intends to litigate the dispute. Any dispute requiring notice shall be reported to the next meeting of the respective City and County governing bodies

10. **Entire Agreement.** This Agreement contains the Entire Agreement between the City and County with regard to the matters set forth herein.

11. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the Parties and their respective representatives, successors, and assigns.

12. **Law.** The laws of the State of New Mexico shall govern this Agreement

13. **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 City:

Director of the Water Division
City of Santa Fe
PO Box 909
Santa Fe, NM 87501
Phone: 955-420
Fax: 955-4352

With a copy to:

City Manager City of Santa Fe
PO Box 909
Santa Fe, NM 87501
Phone: 955-6509
Fax: 955-6683

Draft September 2, 2020

City Attorney City of Santa Fe
PO Box 909
Santa Fe, NM 87501 Phone:955-6511
Fax: 955-6748

To the County:

Santa Fe County Utilities Director Santa Fe County
PO Box 276
Santa Fe, N.M. 87504-0276 Phone: 992-9870
Fax: 992-3028

With a copy to:

County Manager
Santa Fe County
PO Box 276
Santa Fe, N.M.87504-0276 Phone: 986-6200
Fax: 986-2740

County Attorney
Santa Fe County
PO Box 276
Santa Fe, NM 87504-0276 Phone: 986-6279
Fax: 986-6362

a. Notice shall be deemed to have been given based upon the method of delivery, as follows: notices sent by facsimile or hand delivered shall be deemed given on the date of delivery, as evidenced, with respect to facsimile delivery, by a printout showing successful transmission of all pages included in the notice; notices sent by mail shall be deemed given three business days after the notice is mailed with postage prepaid.

b. A Party may change the persons to whom or addresses or fax numbers at which notice shall be given by giving all other Parties and the Authority notice of the change in accordance with this Article.

IN WITNESS WHEREOF, each of the City of Santa Fe, New Mexico, and the County of Santa Fe, New Mexico, has caused this Agreement to be executed and delivered by its duly authorized representatives as of the date specified below.

CITY OF SANTA FE

Date

Attest:

Date

Approved as to form:

Date

SANTA FE COUNTY

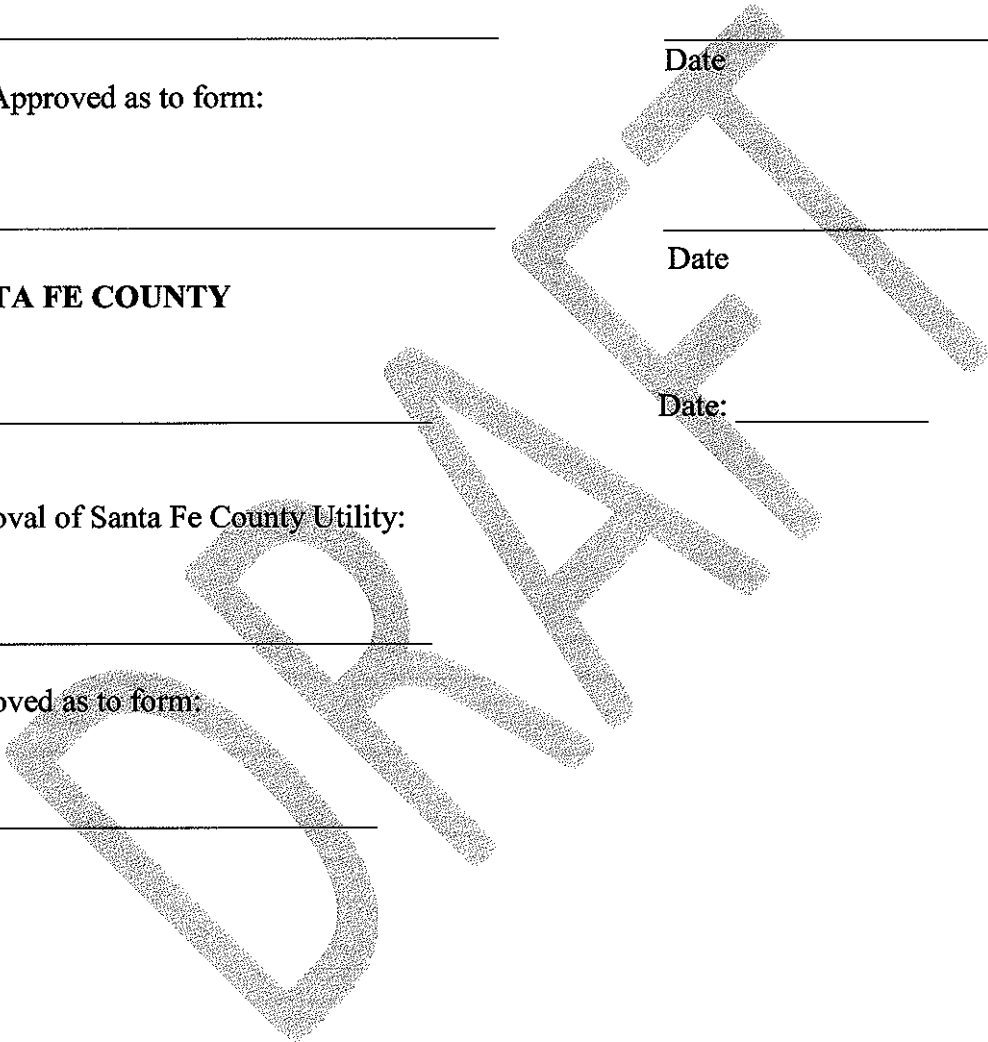
By: _____

Date: _____

Approval of Santa Fe County Utility:

By: _____

Approved as to form:



ATTACHMENT B

OPTIMIZED ANNUAL WATER RIGHTS ACCOUNTING PROTOCOL

Background

One of the principles of the shared nature of the BDD Project is that each of the partners (County, City and Las Campanas Coop 'LC Coop' & The Club at Las Campanas Inc. 'CLCI') provides access to their water rights that they want diverted and delivered to the respective points of interconnection where the BDD Project transmission lines terminate.

This memo is addressed to those persons at each of the 4 partners who have a role in managing the water rights covered by this policy. This memo will be included in the Annual Operating Plan for the BDD Project reviewed and approved by the BDD Project Partners.

The present accounting process for the diversion from the Rio Grande of SJCP and native NM water rights, and then delivery to each of the BDD Partners, has become inefficient and time consuming. In some cases, the complexity of the current accounting process has led to very significant staff time and reporting errors. The accounting process generally must be coordinated with state and federal agencies and must be done in accordance with BDD Project documents, OSE diversion permits and the Record of Decision for the EIS approval of the BDD Project. The state and federal agency accounting criteria requires the Project to provide detailed reports on volume, and attendant type of water right, that has been diverted.

The methods and procedures for Optimized Annual Water Right Accounting described below are designed to:

1. Lessen the time and resources required of staff to meet Project permitting requirements
2. Move the timing of native NM water rights diversions out of the restrictive time periods when conditions might adversely impact Project operations
3. Generally improve the efficiencies of operations and accounting to federal and state agencies as required by the respective permits
4. Improve the efficiencies of compliance with the City and County SJCP diversion permits
5. Generally optimize the use of SJCP water where appropriate and thereby make that SJCP water available for other purposes.

Introduction

In order to improve the efficiency of operations and the accounting process, staff has identified that an internal accounting process could be developed that changes the timing of diversions of the combined native NM water right portfolio. This proposal does not require the approval of the state and federal agencies and is designed to fit within the existing permit approvals.

For reporting to the state and federal agencies, this approach would show the native NM water rights being diverted at times of the year that avoid or lessen the low flow curtailment constraints described on pages 11-12 of the BDD Project Biological Opinion. By changing the timing of such diversions, the BDD Partners would create additional operational flexibility for the overall benefit of the BDD Project and staff of both the BDD Project and the agencies who monitor compliance with the existing permits.

Several permitting constraints limit the operational flexibility of the BDD Project. During the spring when the Rio Grande is in flood operations, SJCP water cannot be routed through Abiquiu Reservoir and BDD Project diversions of SJCP water can only be permitted by an inefficient process that requires an accounting 'exchange' for downstream stored water in coordination with state and federal agencies. The Biological Opinion limits the diversion of native NM water rights during times when the Rio Grande experiences low flow conditions. The SJCP diversion permits contain a strict rule that requires exact releases from upstream reservoirs and then exact diversions at the intake. The Optimized Annual Accounting method will provide compliance with the federal and state permits while also allowing for greater flexibility in operations for the Project and the BDD Partners.

The Optimized Annual Accounting method allows for some flexibility in the aggregate diversions since native NM water rights are available for diversion without calling for release. This change will allow native NM water rights to be diverted when they are most useful to meeting the combined BDD Project demands, and also allow SJCP water rights to be diverted when they are most useful to meeting the combined BDD Project demands. For example, the native NM water rights owned by the BDD Partners would be diverted during the likely flood operations time period to meet BDD Partner demand...and SJCP water rights owned by the BDD Partners would be diverted during the likely low flow time period to meet BDD Partner demand. A discrete amount of native NM water rights would be identified to balance the SJCP calls for delivery, and actual diversions must be within the native NM diversion flow constraint identified in the Biological Opinion. This will simplify the monthly accounting provided to the agencies and avoid changes to BDD Project operations during this time period. A significant part of the native NM water right portfolio will be scheduled for use during the likely flood operation time period to avoid changes in BDD Project operations during this time period. And the balance of the native NM water right portfolio would be used in the fall in order to preserve the combined SJCP water owned by BDD Partners.

Review of Permit Compliance

OSE permits: The City / County SJCP diversion permit contains the restriction described above, that strictly accounts for upstream reservoir releases and subsequent diversions. From the November 1, 2006 permit:

8. The maximum amount of San Juan-Chama Project water diverted in any day under this permit shall not exceed the amount of the permittees' San Juan- Chama water calculated to be in the Rio Grande at the BDD on that same day. The amount of the

permittees' SJCP water available for diversion at the BDD on a particular day shall be calculated as the amount of water released from either Heron or El Vado Reservoir two days prior to diversion at the BDD, less a 2% conveyance loss or the amount of water released from Abiquiu Reservoir one day prior to diversion at the BDD less a 0.9% conveyance loss. The State Engineer expressly reserves the right to adjust the travel time periods as better information becomes available or based on river channel conditions. The permittees shall notify the State Engineer at the time releases of SJCP water are ordered to be released or are ordered to be discontinued.

9. The permittees' maximum peak daily surface water diversion rate shall not exceed 32.0 cfs. The State Engineer recognizes that other external factors may further limit the actual diversion rate.

Note that 'Otowi Gage native flows' is a defined term from the ROD (discussed below) and is calculated as the total Otowi gage flow less SJCP releases for municipal and industrial uses. This definition of native flow is different from the definition that is used elsewhere in Rio Grande water management.

The proposed Optimized Annual Accounting method does not conflict with the SJCP permit conditions of approval, and is intended to simplify compliance with the permit requirements.

Several native NM water right permits that are permitted for diversion from the BDD were reviewed, and they typically contain two provisions that relate to operations. From a County transfer approved in 2010:

8. The maximum instantaneous rate of diversion from the Buckman Direct Diversion under all permits (San Juan Chama Project water and native water) shall not exceed 32.0 cfs, inclusive of amount of water necessary for sediment removal.

9. Diversion of water under this permit shall be subject to adherence with the Staged Curtailment Schedule (U.S. Department of Interior, Fish and wildlife Biologic Opinion, June 25, 2007 at 12) for the Buckman Project when Otowi Gage native flows are below 325 cfs.

Note that the requirement to comply with the Staged Curtailment Schedule has been the topic of a related work effort, and the OSE will not independently determine compliance with the BO requirement. The proposed Optimized Annual Accounting method does not conflict with the native NM water right permit conditions of approval, and is intended to simplify compliance with the permit requirements.

Staff of the OSE and ISC has indicated that they are not concerned with who is delivered which water rights (under the proposed Optimized Annual Accounting method) as long as the Rio Grande diversions are consistent with the Conditions of Approval of the permits.

BDD Board documents: The BDD JPA, City-County WRA and BDD PMFSA do not contain provisions that relate to the Optimized Annual Accounting method. BDD FOPA, section 8, states:

8. Water Rights and Divertible Water Supply. Each BDD Partner shall divert only that amount of water in the system for which water rights are in good standing with the New Mexico State Engineer, subject to the limitations on diversions at low flow set as forth in the BDD Project EIS or other applicable permits. The BDD Partners each recognize an individual responsibility to maintain their own water rights portfolio and to manage any water rights shortage within that portfolio. No BDD Partner shall make any claim or attempt to use another BDD Partner's water rights without the express written consent of that BDD Partner.

The final sentence of this section requires written consent to use another BDD Partner's water rights. In order to address this condition, staff and counsel recommend that the procedures described below be added to the BDD Project Annual Operating Plan. This Plan is prepared annually by the staff of the City, County and Las Campanas (CLCI and LC Coop), and is signed by the respective water utility directors.

BDD Project Biological Opinion: The Record of Decision issued by the US Forest Service and Bureau of Land Management incorporated the requirements of the Biological Opinion (BO) issued by the Fish and Wildlife Service. In general, the BO prescribes an annual maximum volume of diversion (8,730 ac-ft/yr), an annual maximum volume of SJCP and native NM water rights, and maximum rates of diversion (32 cfs, sediment return/net diversion, RG low flow native NM water right diversion limits). The BO does not contain a provision that limits the Optimized Annual Accounting method, and the proposed method intended to simplify compliance with the permit requirements.

Conclusion

In summary, the proposed Optimized Annual Accounting method provides for the full use of the native NM water right portfolio in the near term (providing the beneficial use requirement) and allows the BDD Partners to preserve as much SJCP water as possible in any given year. It provides a simplified and efficient process for staff and agency review, and is consistent with the permits and agreements for the BDD Project that have been reviewed.

Implementation of revised Optimized Annual Accounting Process

Staff and counsel recommend that the implementation of the revised accounting process be acknowledged by the respective water utility directors of the BDD Partners through inclusion in future year versions of the Annual Operating Plan (as is described in BDD Project documents).



City of Santa Fe, New Mexico

Memorandum



DATE: September 23, 2020

TO: Buckman Direct Diversion Board

FROM: Regina Wheeler, Public Works Department Director

ITEM AND ISSUE:

Update on Investment Grade Audit for solar and lighting improvement at Buckman Direct Diversion Project, Regina Wheeler, rawheeler@santafenm.gov, 505-955-6622.

BACKGROUND AND SUMMARY:

In August 2019, the City of Santa Fe initiated a contract with Yearout Energy Services Company (Yearout) to perform an Investment-Grade Energy Audit (IGA). Yearout was selected from a list of seven pre-qualified Energy Savings Companies (ESCOs) on the Statewide Price Agreement, because it is the only ESCO contractor is headquartered and fully staffed in New Mexico, one of three ESCOs listed as a PNM Authorized Contractor for retrofit rebates and has experience with solar and lighting retrofits for governmental entities. Partial funding of \$925,000 for this project was received from the NM State Legislature in the 2019 session.

Yearout evaluated 22 facilities, including Buckman Direct Diversion Facility, and 17 pumping and booster stations, including BDD Booster Stations #1A and #2A and BDD Lift Station, for solar, lighting and water conservation measures. The IGA included the assessment of information on 149 utility meters, 12,564 existing lighting fixtures, 759 existing domestic water fixtures, 67 existing low voltage transformers and existing building envelope conditions of 931,800 ft² of gross facility area across City facilities.

After assessing the meters, buildings and systems listed above, Yearout provided scope, conceptual design, costs and payback for LED retrofit lighting, solar, transformer retrofits, water conservation and building envelope improvements that met the City's criteria for feasibility. The Executive Summary of the IGA is attached in Exhibit 1. New Mexico Energy Minerals and Natural Resources Department oversees these projects and has reviewed and certified the findings and recommendations in the IGA (Exhibit 2.)

LED lighting retrofits and solar were determined to have energy savings that paid for the asset for BDD. Replacement of non-LED lighting with LEDs for interior lighting was recommended for the buildings at the Buckman Direct Diversion Facility, as well as BDD Booster Stations #1A and #2A, and BDD Lift Station. Existing LED lighting will not be replaced. Facility Improvement Measures (FIM) for LED lighting are shown below.

FIM No.	FIM Name	Facility	Year 1 Total Annual Savings	Labor, Equip & Material Costs	Estimated Utility Rebate	Net Cost	Simple Payback Years
1.35	LED Lighting	BDD Main	\$20,803	\$87,186	\$12,415	\$74,771	3.6
1.36	LED Lighting	BDD Booster Station #1A	\$1,413	\$10,654	\$1,076	\$9,578	6.8
1.37	LED Lighting	BDD Booster Station #2A	\$1,342	\$8,526	\$1,188	\$7,338	5.5
1.38	LED Lighting	BDD Lift Station	\$3,502	\$22,470	\$2,593	\$19,877	5.7

LED Lighting Scope of Work:

Proposed Modifications: This measure will retrofit and/or replace the existing interior and exterior incandescent, fluorescent, metal-halide and other lighting equipment with new Light Emitting Diode (LED) technology. This will significantly reduce the energy consumption of the lighting system while also improving security and the working environment. In addition, the proposed solution would standardize the lighting system throughout the facilities, resulting in simplified inventory requirements and reduced maintenance costs and work.

Occupancy and dimming controls will be added to private offices and conference rooms. Adding controls will help drive down energy costs and improve occupant comfort. Occupancy sensors will ensure energy is not wasted by automatically turning lights off when a space is vacant. The lighting controls will be set to 'vacant mode' which follows a manual-on, auto-off operation. Lighting levels will be commissioned during project implementation to IESNA recommendations in each perspective space. Dimming will allow users to reduce/increase light levels to their preference.

Solar is planned for BDD Booster Station #1A and BDD Lift Station. Additional solar was considered for the BDD plant, however, after further analysis indicated that a new array would likely cause the loss of the REC payments from the current array (approximately \$300K/year). Solar should be considered for the plant after the current REC contract expires in 2031. Note that the solar asset warranted life is 20 years and expected life is 30 years, so a payback in 13 years achieve significant savings over the life of the asset.

FIM No.	FIM Name	Facility	Year 1 Total Annual Savings	Labor, Equip & Material Costs	Estimated Utility Rebate	Net Cost	Simple Payback Years
2.36	Solar	BDD Booster Station #1A	\$137,989	\$1,728,339	\$0	\$1,728,339	12.5
2.38	Solar	BDD Lift Station	\$51,755	\$699,933	\$0	\$699,933	13.5

Solar Scope of Work:

Proposed Modifications: This measure will install new solar PV systems that will generate clean, renewable energy onsite for the next 25 to 50 years and reduce the amount of power purchased from the utility grid. This measure will provide complete turnkey installation, interconnection, startup, and commissioning of the solar PV systems. Land use agreements will require further determination at Public utility and BDD sites.

Savings Methodology: During the IGA, the COSF and YE established a target offset of the post-retrofit on-peak energy consumption through the installation of solar PV systems at select sites. The designed offset was set at 80% of post-retrofit on-peak energy consumption for the COSF Facility sites and 60% of post-retrofit on-peak energy consumption for the Water Utility and BDD sites. The lower target offset applied to the water utility and BDD sites was to account for potential load shifting of current on-peak operation to off-peak operation.

Next steps in the project are to secure financing, execute the Energy Performance Contract (EPC), gain interconnection approval from PNM for the solar arrays and secure special use permits for siting BDD arrays on Forest Services Land. The original IGA contract was amended to add a due diligence phase during which interconnection applications were submitted to PNM for all solar arrays and special use permit applications were submitted.

Special Use Permits (SUPs) are required for locating the BDD Lift Station and BS1A arrays. Applications for these SUPs were submitted to the Forest Service in June. An archeological literature review submitted as well. Forest Service is completing their review, somewhat delayed by forest fires. Forest Service has indicated they expect a Categorical Exclusion from NEPA for the SUP.

The City is soliciting offers for financing and expects to bring the EPC contract and financing packages for approval by BDD Board and Governing Body in November. An MOU will also be executed with the County for repayment of a portion of the financing for solar at BDD. The net cost to the City, BDD and the County will be zero since the payments for solar financing replace the cost of energy purchased from PNM.

The total cost and cash flow for BDD FIMs implementation is attached in Exhibit 3.

Attachments

1. Executive Summary of the Investment Grade Audit
2. EMNRD Certification of Guaranteed Energy Savings
3. Project Summary by Group showing BDD Cash Flow

YEAROUT

E N E R G Y



City of Santa Fe

Investment Grade Audit (IGA) Report
Executive Summary



1.0 Executive Summary

The City of Santa Fe (COSF) engaged Yearout Energy (YE) in August 2019 to perform an Investment Grade Audit (IGA) of several facilities of various types located in Santa Fe, NM. The goal of an IGA is to identify the potential project scope for budget-neutral facility upgrades thanks to reduced utility and O&M costs. The IGA was developed following the program guidelines outlined by the New Mexico Energy, Minerals, and Natural Resources Department (NM-EMNRD) and New Mexico General Services Department (NM-GSD).

The project specific objectives for this IGA include:

- Developing a self-funding, budget-neutral project with a finance period \leq 20 years
- Reduce energy and water consumption
- Reduce utility and operational costs
- Standardize equipment throughout city facilities
- Accelerate the implementation of renewable energy where feasible to support the Sustainable Santa Fe 25-Year Plan
- Implement LED lighting retrofit/replacement opportunities
- Reduce the COSF's environmental impact

An essential step in the IGA process is to establish the baseline performance for each facility from which proposed improvements will be measured. The following tables depict a summary of the baseline annual cost and energy consumption by utility type for all COSF facilities included in the IGA.

Table 1: Baseline Annual Cost Breakdown by Utility Type

Utility	\$/year
Electricity	\$3,888,817
Natural Gas	\$335,028
Water & Sewer	\$317,231
Total	\$4,541,076

Table 2: Baseline Annual Energy Consumption Breakdown by Utility Type

Utility	kBTU/year
Electricity	159,107,775
Natural Gas	75,732,660
Total	234,840,435

As a result of the comprehensive IGA process, Yearout Energy and the COSF have co-developed the following recommended Guaranteed Energy Service Performance Contract (GESPC) project:

Table 3: GESPC Project Summary

Turn-Key GESPC Project Price	\$15,442,785
Up-front Capital Contribution by COSF	\$1,125,000
Approximate Net Financed Amount	\$14,280,347
Year 1 Utility Savings	\$752,137
Year 1 Operations and Maintenance Savings	\$27,643
Estimated Incentives from Utility Provider(s)	\$230,392
Project Financing Period	18.0 Years
Weighted Average Service Life of Proposed Measures	31.0 Years
Percent Reduction in Annual Utility Costs*	16.8%
Environmental Impact (Reduction in Annual Emissions)	6,717,430 lbs. CO ₂
Environmental Impact (Direct Reduction in Annual Water Consumption)	2,007,380 gallons
Environmental Impact (Indirect Reduction in Annual Water Consumption)	3,264,992 gallons

*The percent reduction in annual utility costs takes into consideration existing or future REC payments made to the COSF

A fundamental benefit of GESPC projects is that they allow for the savings from measures with quicker returns on investment to supplement the funding of critical infrastructure improvements and/or high priority capital intensive measures such as renewable energy.

Throughout the IGA process, Yearout Energy collaborated closely with COSF to identify and co-develop Facility Improvement Measures (FIM) that would allow COSF to leverage future energy and operational savings to fund essential facility capital improvements through a GESPC. The FIMs recommended for implementation include:

- Upgrading approximately 9,000 existing lighting fixtures to LED technology
- Install 2.750MW DC renewable energy systems which are sized for a target offset of 80% of post-retrofit On-Peak consumption at select COSF facilities and a 60% of post-retrofit On-Peak consumption at select Water Utilities and Buckman Direct Diversion (BDD) sites
- Repair the underperforming existing solar PV carports at Genoveva Chavez Community Center to recover lost production and available REC payments
- Upgrade approximately 760 existing domestic water fixtures to reduce water consumption
- Remediate ~200 square feet of existing air leakage in building envelope
- Install 28 new high efficiency transformers
- Identify and correct billing errors to reduce utility costs
- Replace the roof at the Canyon Road Water Treatment Plant in order reduce energy and operational costs and support the installation of rooftop solar PV.

The benefits from those measures are summarized in the following table.

Table 4: Facility Improvement Measures (FIM) Summary

FIM No.	FIM Name	Year 1 Annual Utility Savings	Year 1 Annual O&M Savings	Year 1 Total Annual Savings	Labor, Equip & Material Costs	Estimated Utility Rebate	Net Cost	Average Service Life Years
1.00	LED Lighting	\$217,056	\$21,761	\$238,818	\$2,222,158	\$192,032	\$2,030,126	15.0
2.00	Renewable Energy	\$473,609	\$0	\$473,609	\$7,167,913	\$0	\$7,167,913	37.0
3.00	Water Conservation	\$14,404	\$1,135	\$15,539	\$173,807	\$21,450	\$152,357	20.0
4.00	Building Envelope	\$10,477	\$1,572	\$12,048	\$206,170	\$0	\$206,170	20.0

FIM No.	FIM Name	Year 1 Annual Utility Savings	Year 1 Annual O&M Savings	Year 1 Total Annual Savings	Labor, Equip & Material Costs	Estimated Utility Rebate	Net Cost	Average Service Life Years
5.00	HE Transformers	\$9,567	\$1,435	\$11,002	\$199,171	\$7,766	\$191,405	32.0
6.00	Utility Management	\$1,821	\$0	\$1,821	\$0	\$1,516	(\$1,516)	—
7.00	GCCC Solar Carport Repairs	\$25,204	\$0	\$25,204	\$155,730	\$7,628	\$148,102	20.0
8.00	Roof Replacement	\$0	\$1,740	\$1,740	\$199,918	\$0	\$199,918	20.0
Total		\$752,137	\$27,643	\$779,780	\$10,324,867	\$230,392	\$10,094,474	31.0

* Total Annual Savings include Utility Savings and O&M Savings.

Additional FIMs were investigated during the IGA but not recommended for a variety of reasons. A description of these FIMs is provided in Section 4.0 of this report.

The reduction in greenhouse gas (GHG) emissions is of particular interest for the City of Santa Fe. The “Sustainable Santa Fe 25-year Plan” calls for carbon neutrality by 2040 and targets 50% renewable energy consumption by 2025. The installation of solar photovoltaic (PV) energy, energy efficient lighting, high efficiency transformers and building envelope remediation make a significant contribution towards achieving these goals. The annual 6.7-million-pound reduction in CO₂ emissions is equivalent to planting 833 acres of trees or not driving 3.96 million miles each year. It is worth noting that these values are based on the current electricity supply mix and should the targets of the New Mexico Energy Transition Act be achieved, the reductions in GHG emissions by COSF would be even greater.

Following the review and acceptance of this report by COSF, NM-EMNRD and NM-OSE, Yearout Energy will develop a Guaranteed Utility Savings Contract (GUSC) to implement the final agreed-upon project scope. Yearout Energy anticipates the implementation of this project to commence in Q4, 2020, with a 16-month overall construction period.

State of New Mexico
Energy, Minerals and Natural Resources Department

Michelle Lujan Grisham
Governor

Sarah Cottrell Propst
Cabinet Secretary

Todd E. Leahy, JD, PhD
Deputy Secretary

Louise N. Martinez, Director
Energy Conservation and Management Division



September 12, 2020

BY EMAIL: mayor@santafenm.gov

Mayor Alan Webber
City of Santa Fe
200 Lincoln Ave
Santa Fe, NM 87504

SUBJECT: Certification of Guaranteed Energy Savings under the Public Facility Energy Efficiency and Water Conservation Act (NMSA 1978, Section 6-23-5) – City of Santa Fe

Dear Mayor Webber:

The Investment Grade Energy Audit submitted by the City of Santa Fe to implement energy efficiency and renewable measures in city facilities has been reviewed and is hereby approved. The Investment Grade Energy Audit was performed by Yearout Energy Services Co. (YESCO).

The Energy Conservation and Management Division (ECMD) of the New Mexico Energy, Minerals and Natural Resources Department (EMNRD) has certification responsibilities and provides technical assistance to governmental entities under the Public Facility Energy Efficiency and Water Conservation Act (Act). The two certifications needed from EMNRD for each energy performance contracting project under the Act are:

- Vendor is a Qualified Provider and meets EMNRD experience requirements; and
- Guaranteed energy savings appear to be accurately estimated and reasonable.

EMNRD reviewed the Investment Grade Energy Audit. EMNRD now issues the following certification:

- Qualifications were provided on December 1, 2017 approving YESCO as a qualified entity under EMNRD's experience criteria.
- EMNRD certifies that the guaranteed energy savings from the proposed efficiency measures appear to be accurately estimated and reasonable.

The City of Santa Fe Investment Grade Audit is hereby certified with these Special Conditions:

- Certification is contingent upon implementation of the measures as outlined in the investment grade energy audit. No significant changes in scope are to be considered unless submitted for review and approval by EMNRD.
- Section 6-23-4 Requires that the savings be guaranteed by the provider. Measurement and Verification of the savings is essential to determine if the savings are being met. A copy of the Annual Measurement and

Verification Report shall be provided to EMNRD every year the contract is in place by January 31st of the following year. These reports are essential to meet legislative reporting requirements.

- The 3-rd party reviewer costs of 1.0% percent of the total project cost are to be included and accounted for in the project contract to reimburse EMNRD.

Pursuant to NMSA 1978, Section 6-23-5 of the Act, EMNRD has performed its certification duties. It is recommended that The City of Santa Fe implement its approval requirements to comply with NMSA 1978, 6-23-8 of the Act. Please contact me at Harold.Trujillo@state.nm.us, 505-490-7912 or Louise.N.Martinez@state.nm.us, 505-476-3315 if there are any questions.

Sincerely,


Harold Trujillo, PE
Bureau Chief
ECMD Energy Technology & Engineering

cc: Regina Wheeler, Public Works Director rawheeler@santafenm.gov
Caryn Grosse, Project Administrator clgrosse@santafenm.gov
Louise Martinez, Director ECMD
David Griego, Engineer ECMD
Alex Montano, YESCO

Project Summary by Group

City of Santa Fe

September 24, 2020



Item	Facilities	Water Utilities	BDD	Total
Turn-Key Cost	\$6,122,614	\$5,495,534	\$3,824,638	\$15,442,785
Estimated Rebate	\$176,046	\$37,074	\$17,272	\$230,392
Capital Infusion	\$925,000	\$200,000	\$0	\$1,125,000
Net Amount After Rebate & Infusion	\$5,021,568	\$5,258,460	\$3,807,365	\$14,087,393
Year 1 Savings	\$301,821	\$261,155	\$216,804	\$779,780
Construction Period Interest (Capitalized Interest)	\$169,896	\$177,911	\$128,816	\$476,623
Closing Costs / Lender Fees	\$103,829	\$108,727	\$78,724	\$291,280
Total Financed Amount	\$5,295,293	\$5,545,099	\$4,014,905	\$14,855,297

Memorandum



Buckman Direct Diversion

Date: September 21, 2020

To: Buckman Direct Diversion Board

From: Jamie-Rae Diaz, Public Utilities Administrative Manager 

Via: Shannon Jones, Public Utilities Department Director 
Shannon.Jones (Sep 23, 2020 12:24 MDT)

ITEM AND ISSUE:

2021 Buckman Direct Diversion Board Meetings Calendar

BACKGROUND AND SUMMARY:

The Buckman Direct Diversion Board meetings are normally conducted on the 1st Thursday of each month. The meetings are held in the City Council Chambers starting at 4:00pm. The following is the proposed 2021 meeting calendar:

DATE OF MEETING

- Thursday, January 7, 2021 @4:00
- Thursday, February 4, 2021 @ 4:00
- Thursday, March 4, 2021 @ 4:00
- Thursday, April 1, 2021 @ 4:00
- Thursday, May 6, 2021 @4:00
- Thursday, June 3, 2021 @ 4:00
- Thursday, July 1, 2021 @ 4:00
- Thursday, August 5, 2021 @ 4:00
- Thursday, September 2, 2021 @4:00
- Thursday, October 7, 2021 @ 4:00
- Thursday, November 4, 2021 @ 4:00
- Thursday, December 2, 2021 @4:00

RECOMMENDED ACTION:

For your approval.





Date: October 1, 2020
To: Buckman Direct Diversion Board
From: Mackie M. Romero, BDD Financial Manager *MR*
Subject: 2021 FSAC Meeting Calendar

ITEM AND ISSUE:

2021 Fiscal Services and Audit Committee (FSAC) Meeting Calendar

BACKGROUND AND SUMMARY:

The BDD FSAC meetings are normally conducted within the 1st week of each month, prior to the BDD Board meetings.

The following is the proposed 2021 schedule for the Fiscal Services and Audit Committee meetings:

<u>FSAC</u>	<u>BDDDB</u>	<u>BCC</u>
Tuesday January 5 th @ 4:30pm	January 7 th	January 12 th & 26 th
Tuesday February 2 nd @ 4:30pm	February 4 th	February 9 th & 23 rd
Tuesday March 2 nd @ 4:30pm	March 4 th	March 9 th & 30 th
Monday March 29 th @ 1:30pm	April 1 st	April 13 th & 27 th
Tuesday May 4 th @ 4:30pm	May 6 th	May 11 th & 25 th
Tuesday June 1 st @ 4:30pm	June 3 rd	June 8 th & 29 th
Monday June 28 th @ 1:30pm	July 1 st	July 13 th & 27 th
Tuesday August 3 rd @ 4:30pm	August 5 th	August 10 th & 31 st
Monday August 30 th @ 1:30pm	September 2 nd	September 14 th & 28 th
Tuesday October 5 th @ 4:30pm	October 7 th	October 12 th & 26 th
Tuesday November 2 nd @ 4:30pm	November 4 th	November 9 th & 30 th
Monday November 29 th @ 1:30pm	December 2 nd	December 14 th & 28 th

This schedule was drafted so as not to conflict with Santa Fe County Commission meetings and miscellaneous City of Santa Fe committee meetings and City Council meetings, therefore dates and times are subject to change.

ACTION REQUESTED:

For your approval.

