



# AGENDA

**BUCKMAN DIRECT DIVERSION BOARD**  
**NOVEMBER 05, 2020 AT 4:00 PM**  
**ATTEND VIRTUALLY**



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## **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 MINUTES**
  - a. APPROVAL OF MINUTES FROM THE OCTOBER 1, 2020 BUCKMAN DIRECT DIVERSION BOARD MEETING.
5. **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 November 5, 2020. Emails must identify the submitting's party's name and should be sent to Jamie-Rae Diaz, City of Santa Fe, Public Utilities,



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Administrative Manager, at [jldiaz@santafenm.gov](mailto: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.

6. **PRESENTATION/INFORMATIONAL ITEMS**

- a. Monthly Update on BDD Operations. (Randy Sugrue, BDD Operations Superintendent, [rcsugrue@santafenm.gov](mailto:rcsugrue@santafenm.gov), 955-4501)
- b. Report from the Facilities Manager. VERBAL. (Rick Carpenter, BDD Facilities Manager, [rrcarpenter@santafenm.gov](mailto:rrcarpenter@santafenm.gov), 955-4206)

7. **ACTION ITEMS: DISCUSSION**

- a. Discussion and Possible Action on the 2018 BDD LANL MOU extension of term for one (1) year and Update on negotiations. (Rick Carpenter, BDD Facilities Manager, [rrcarpenter@santafenm.gov](mailto:rrcarpenter@santafenm.gov), 955-4206 and Kyle Harwood, BDD Legal Counsel, [kyle@egolflaw.com](mailto:kyle@egolflaw.com), 986-9641)

8. **MATTERS FROM THE BOARD**

9. **NEXT MEETING: Thursday, December 3, 2020 at 4:00 PM**

10. **ADJOURN**

11. **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 BDDDB is a participant, including, without limitation: Buckman Direct Diversion Board v. CDM Smith, et al., First Judicial District Court Case No. D-101-CV-2018-01610.(Nancy R. Long, BDD Legal Counsel, [nancy@longkomer.com](mailto: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**

**October 1, 2020**

1. **CALL TO ORDER:** 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.]

2. **ROLL CALL** indicated the presence of a quorum with the following members present:

**BDD Board Members Present:**

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

**Member(s) Excused:**

None

**BDD Board Alternate Members Present:**

Peter Ives, Community 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  
Jamie-Rae Diaz, City Administrative Assistant  
Joe Abeyta, City IT  
Jesse Roach, City Water Division Director  
Marcos Martinez, City Assistant Attorney  
Caryn Grosse, City Water Conservation Specialist  
Regina Wheeler, City Public Works Director  
Yvonne Herrera, County Finance Director  
John Dupuis, County Water Division Director  
Jay Lazarus, Glorieta Geoscience  
James Bearzi, Glorieta Geoscience

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

Chair Vigil Coppler advised the Board that the official agenda is published on the City's website via the PrimeGov Portal.

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

**4. APPROVAL OF CONSENT AGENDA**

- a. **Request for Approval of the 2021 Buckman Direct Diversion Board Meeting Calendar**
- b. **Request for approval for the 2021 Fiscal Services and Audit Committee (FSAC) Meeting Calendar**

Commissioner Hansen moved to approve as published and Mr. Helms seconded. The motion passed by unanimous [5-0] roll call vote.

**5. APPROVAL OF MINUTES: September 3, 2020 BDD Board Meeting**

CHAIR VIGIL COPPLER: Before we vote, for the record and our minutes, I want to state that, the only matter discussed September 3, 2020 during executive session of our last Board meeting was the matter as stated in the motion to go into executive session and no action was taken.

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

**6. MATTERS FROM THE PUBLIC (See page 4)**

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

JAMIE-RAE DIAZ (Administrative Assistant): Madam Chair, there is a public comment by Rachel Conn and she has been sent an invite and whenever you allow her the time allotted she will be speak.

Ms. Conn was not present at this point and the Chair offered to return to this item when the speaker was available.

**7. PRESENTATION/INFORMATIONAL ITEMS**  
**a. Monthly Update on BDD Operations**

CHAIR VIGIL COPPLER: Randy Sugrue.

RANDY SUGRUE (Operations Superintendent): Madam Chair, members of the Board, September was another pretty good month for BDD. Our raw water diversions for the month averaged 7.52 million gallons per day. Our drinking water deliveries through our Booster Station 4A/5A averaged 7644 million gallons per day. Raw water delivery to Las Campanas, averaged .94 million gallons per day. On site treated and non-treated water storage averaged .14 million gallons per day. BDD was providing approximately 50 percent of the water supply to the City and County for the month.

I did attach a regional demand growth summary on page 2. The BDD year to date diversions are depicted in the graph and we're significantly above average at about 225.6 million gallons for the month. That's essentially our month of September and if you have any questions please let me know.

CHAIR VIGIL COPPLER: Committee, do you have any questions?  
Commissioner Hamilton.

COMMISSIONER HAMILTON: I was just wondering if there's a reason you think we're above average.

MR. SUGRUE: If you look at the graph, our average is listed on that graph for the last 10 years, as a matter of fact, and September our average diversion for the month is 186 million gallons and we diverted over 225. So, if you look at the graph it's the blue column as opposed to the green column. So it's quite a bit above average for the month.

COMMISSIONER HAMILTON: Yeah, I got that. And in fact we've been above the long-term average for three months; I was just wondering if you had some insight as to why.

MR. SUGRUE: Part of that, oddly is because it has been quite a dry year. Canyon Road Water Treatment Facility has averaged a little over 4 million gallons a day and so we've taken up the balance without utilizing any City of Buckman wells for the most part.

RICK CARPENTER (Facilities Manager): Madam Chair, Commissioner Hamilton, I was going to catch on this during my presentation but we're balancing the best we can with the other sources of supply with the City. We're under a lot of constraints with the Rio Grande Compact and how we want to manage our reservoirs. So the fact that the BDD is able to do a little more than average for this time of year, 7 or 8 million gallons a day when our demand is 10.5 or 11, is a good thing. We're just trying to use San Juan-Chama water while it's available, while we can still call for it, and then

have carry-over water in the reservoirs in case we don't have a good snow year which is starting to look like we may not. So that's why we're managing the system overall not necessary BDD. But we are integrated and that's kind of how we're operating right now.

We are thankful that there's water in the river and the water quality is good too, really good – as good as I have ever seen it. We're producing more water than we normally would here at October 1<sup>st</sup>. But that's the explanation as to why.

MR. SUGRUE: And I'd like to add that it hasn't been easy with our usual ongoing raw water pumping issues. We've had to make the best of the system that we have at this point to get 8 or 9 million gallons a day.

CHAIR VIGIL COPPLER: Anybody have any other questions? Before we go on to the next item, I understand that we are ready for public comment. Joe, would you please stream her in.

## **6. MATTERS FROM THE PUBLIC**

CHAIR VIGIL COPPLER: Ms. Conn, I will allow two minutes for your presentation/comment.

RACHEL CONN: Great, thank you. Hi, my name is Rachel Conn and I'm projects director with Amigos Bravos. Thank you for hearing my public comment.

I sent in a summary of that public comment earlier yesterday, and I'll summarize that here again, which is that I want to thank the Board for taking a leadership role in pushing back on the Dirty Water Rule, otherwise known as the Navigable Waters Protection Rule. The Board has submitted comments on the rule to EPA and I appreciate that. I am here today to request that a member of the Board appear in an outreach piece that we are putting together, Amigos Bravos is putting together a story map to outline the impacts that the Dirty Water Rule will have on New Mexico. There will be some information about avenues that the State can take to fill the gap, the regulatory gap left by the reduction of federal protections for New Mexico's waters.

What we are looking for is – it could be as simple as a member of the Board speaking briefly, reiterating the comments that were already submitted to EPA about the potential impacts of the Navigable Waters Protection Rule on the Buckman Diversion. That would be included as a little clip, like a minute clip in the story map which would have other stakeholders including the Environment Department, irrigators and sportsmen and women.

CHAIR VIGIL COPPLER: Okay.

COMMISSIONER HANSEN: Madam Chair.

CHAIR VIGIL COPPLER: This isn't a discussion item. But I am just going to ask Ms. Conn if you would send an email with the specifics and then the Board staff will determine how to proceed.

COMMISSIONER HAMILTON: I believe we all have that email.

CHAIR VIGIL COPPLER: All right. Thank you.

MS. CONN: Thank you. Councilor, there is one more thing. The filming is actually happening next week on Thursday so that's when the camera person is available and that will be happening. I wanted to put that out there and thank you so much for your time.

CHAIR VIGIL COPPLER: Thank you.

MR. ABEYTA: Ms. Conn, you'll be able to continue to watch on the City's YouTube page.

COMMISSIONER HANSEN: Madam Chair.

CHAIR VIGIL COPPLER: Yes.

COMMISSIONER HANSEN: Since I was one of the main leads on bringing this forward I would be happy to respond to Ms. Conn and work with her on the Dirty Water Rule, if that is okay with the rest of the Board.

COUNCILOR ROMERO-WIRTH: Just a point of order, this was a public comment so I don't think this is something we should be discussing in this meeting right now. It should be taken and discussed with the Chair directly.

CHAIR VIGIL COPPLER: Thank you and I appreciate that. I think everybody has heard and Mr. Carpenter, you're in charge of that.

**7. b. Report from the Facilities Manager**

MR. CARPENTER: Thank you, Madam Chair and members of the Board. Just a few brief updates. Just recently we have arrived at the decision internally to advertise the two vacant positions that we have at BDD. That would be the warehouse planner/scheduler and the instrumentation and control technician. We are discovering that these positions cannot remain vacate for very long without it affecting our operations. I plan to move forward internally with the City of Santa Fe to get these positions advertised and funded and hopefully filled. The warehouse planner position was partially funded, if you'll recall, when we went through the budget cycle. But we can't wait much longer and I just wanted the Board to know that we are going to move forward and be proactive in filling these positions. I don't know if there's any questions on this before I move on.

COMMISSIONER HAMILTON: Could you just repeat –

CHAIR VIGIL COPPLER: Commissioner Hamilton.

COMMISSIONER HAMILTON: I am so sorry, Madam Chair. Could you just repeat the positions?

MR. CARPENTER: The first one is warehouse planner and scheduler and there is a lot more to it than it sounds like. It's planning for parts, ordering parts, doing purchase requisitions, tracking inventory and right now we're having to cover that with existing staff and it's just not working very well. We are getting by but it's not sustainable.

The other one is instrumentation and control tech. That's a backup to Eric Armstrong. That needs to be filled as well. We are covering that with existing positions but it's time to fill those positions if we can. So I'll be moving forward with that.

CHAIR VIGIL COPPLER: Okay, great. Carry on.

MR. CARPENTER: There is an item later on in the agenda where the LANL MOU update from my position under this item, I would just say that we are being proactive; we being myself, Kyle Harwood and Glorieta Geoscience. We have a strategy, we have an agenda, we have priorities and we'll likely get into that a little bit later. But I just wanted you to know that we're still moving forward despite the constraints whether it's COVID or budget items or the election or whatever it is, we are still going to do our best to keep the pressure on. There is an ability to extend the existing MOU and that might be something that we have to do. We'll report back to the Board on that at the next Board

meeting. But that's not my preference but we might end up there. But I want the Board to know that we're still being proactive on this item.

Also we had been working on the Source Water Protection Plan both the public outreach and the plan itself. For various reasons it didn't rise to the level of a high priority but we have resurrected it again, as well. I hope to report out in pretty significant detail at the next Board meeting on the progress that we've had getting this jump started again and making progress on this. It is a priority for the Board and we've had several discussions around this issue in the past.

Lastly, following up on Randy's presentation, we're doing better in the river than we thought we would in terms of volume. If you'll think back to the last Board meeting and even the previous Board meeting where we were concerned about having critically low flows, we haven't seen that yet. We are just a little bit under 500 cfs. But it's declining and probably within a week or so, maybe two, I don't know how long we'll be able to keep those flows up, we will be a critical low flow but then again, we'll be in October and demand will be down and we expect water quality to stay okay. We're calculating around 300 cfs, give or take 50. And how much we can divert, we'll see. We've never really been faced with this. Maybe we can't divert. Maybe we can divert. But that's why we, and the whole community of Santa Fe, are so fortunate that we have a diverse water supply portfolio where we can turn on wells in two different wellfields or pull water out of Canyon Road –or maybe can't stay on line. We don't know. But those critical low flows are coming and probably within a few days, a matter of days, and we'll see how we can adjust to stay on line and do what we need to do.

Madam Chair and members of the Board that concludes my update for the Board and I am happy to stand for questions.

CHAIR VIGIL COPPLER: Does anyone have any questions for Mr. Carpenter? Okay, thank you for the report.

**c. Report on 4<sup>th</sup> Quarter Financial Position for Fiscal Year 19/20**

MACKIE ROMERO (BDD Finance Manager): Madam Chair, members of the Board, this report is to update the BDD Board and its partners on the 4<sup>th</sup> quarter financial position as of June 30, 2020. In my report I have included our fiscal year 20 adopted budget which includes any budget adjustments. I have our expenditures for services and goods received as of June 30, 2020 and that is broken out by quarter. As you can see from my report which is page 2 of your packet, 4<sup>th</sup> quarter was our biggest quarter. We spent almost \$3.3 million closing out the year. Overall we spent almost \$8.6 million of our \$9.6 million budget. That was about 90 percent of our budget. This does not include the carry-over funding that was authorized by the Board several months back. So the Board approved – there was \$1 million left of our budget and you approved \$380,000 to carry forward to fiscal year 20-21 to continue ongoing projects.

The report includes the 90-day cash reserve credit which the partners use to support billings for the 4<sup>th</sup> quarter. The next part of the report is the billings, the reimbursements that each partner provided to BDD and this is based on actual water usage, for project wide and variable cost. I bill quarterly based on a projected percentage but we do have the final water numbers and this is the final billings for our partners.

We do get other revenue to support our budget and that's the PNM solar rebate revenue and then our DOE federal grant which we only spent about \$60,000 of our \$96,000 grant.

Page 3 of our report is our other funds which is the major repair and replacement fund and our emergency reserve fund. So our emergency reserve fund is fully funded at \$2 million, a little bit over \$2 million which includes some interest. Our major repair and replacement fund less expenses that have been authorized by the Board is at \$2.8 million. I did include a budget overview so that the Board and partners can see what was spent out of the major repair and replacement – which was authorized by the Board to continue projects, such as, the raw water lift station rebuilt pump project and our new pumps that was to Station 1A/2A. These projects are still ongoing and the Board did authorize carry forward of the funding for these projects and that was done back in June.

If there are any specific questions – typically this report certifies that BDD's reconciliation is done in preparation for our audit. So if there are any specific questions.

CHAIR VIGIL COPPLER: Any questions from the Board? Okay, thank you, Mackie. Very good job of keeping track of everything, thank you, we appreciate it.

MS. ROMERO: Thank you.

**d. Update on LANL MOU**

KYLE HARWOOD (BDD Counsel): Thank you, Madam Chair. Rick and I are going to share giving you a quick update. We also have our technical advisers, Jay Lazarus and James Bearzi either on video or on the phone. I'll do a couple of background items and then Rick can tell you what we're expecting and then Jay and James are available for any technical questions and we'll make this as efficient as possible, Madam Chair.

So as you know the MOU intended to establish roles and responsibilities with regard to coordination of monitoring the activities of LANL, DOE and the LA Pueblo Canyon Watershed that empties into the Rio Grande just a couple of miles upstream of our intake. We've had, I think, generally a productive and mutually supportive relationship over the last 10 years over the core principles of the MOU which are an early notification system so we know when stormwater is picking up sediments that might have contaminants of concern into the Rio Grande upstream of our intake and then also, the various other matters that we coordinate with LANL on. I won't get into the details. We have discussed the MOUs in the past at some depth. The ENS, the early notification system, is a key component.

The current MOU expires at the end of this year and as many of you know we have been briefing you on a work plan to develop and negotiate draft and bring to your attention and consideration a new MOU that will succeed after 2020. There is a provision for renewal of the existing MOU. I'll just mention that because we are getting towards the end of the year, there is a federal election and we have been hampered by the pandemic in working on this task particularly the last six months. We will be bringing you a recommendation at the November meeting. This is just an update because we haven't brought you any real substantive update in some months.

Rick, would you like me to hand off to you there?

MR. CARPENTER: Sure. I don't have a whole lot to add that I haven't already said. This is just an update. We do plan to bring something substantive back to the Board in November along with a work plan and hopefully a schedule that we can negotiate with the other parties. We can extend it as Kyle mentioned if we need to. It's not my first preference but I'm going to be as proactive as I can be on our side. But we want to have a meaningful dialogue with LANL so the priorities of the Board are addressed and not the least of which, as Kyle mentioned, the early notification system. That needs to be addressed and some other items as well.

Madam Chair, members of the Board, I think this is an update to let you know where we're at status wise and we will come back in November with probably an action item or at least seeking direction from the Board at that time.

MR. HARWOOD: Let me add a little more information. We did get some feedback from LANL in late September. They did provide responses to the Board approved May term sheet that we conveyed to LANL. Much of the feedback that we received was supportive of the general underlying principles, such as cooperation, sharing data and water quality management and monitoring are mutual priorities. They have agreed in concept to the continuation of the operation of maintenance of ENS as it is currently configured, and you'll note that that is a significant qualification since we, the Board, in our principles memo for a new MOU, did ask for an expanded ENS. They have agreed in principle to continued funding for sampling programs at our intake structure but did express some reservations about some of the increased sampling that we requested. We will be engaging with LANL again ahead of the next meeting and we'll bring you both a more specific set of updates and a specific recommendation on the MOU at the November meeting.

That really concludes what Rick and I intended to talk about in terms of breadth and depth, Madam Chair.

CHAIR VIGIL COPPLER: Thank you. Councilor Romero-Wirth.

COUNCILOR ROMERO-WIRTH: Thank you, Madam Chair. I was going to ask you what are the new parts of what's being talked about here? You touched on at least two, increased sampling, which I assume also means increased funding and then more in the early notification system. Are those the only and biggest differences between what we're hoping to gain in a new MOU and what we currently have?

MR. CARPENTER: Madam Chair and Councilor Romero-Wirth and members of the Board, those are probably two of the top priorities. Increase sampling, we always want to learn more, how to characterize flood flows and the constituents thereof. And the early notification system, which is a biggie because we're going to have to construct something and it's going to probably be on pueblo land and LANL will have to be a participant and a good team player. Those are at the top of the list I would say and we can get into this later at the next Board meeting specifically. But then on the list is also better data sharing and better ways to make it accessible sooner. Things like that where we can just work together better. We're inching our way there but we can do better.

Kyle, or Jay or James, I know you're on the call, we've talked around all of these issues, if you want to chime in now and I suppose, Madam Chair, if that pleases the Board.

**CHAIR VIGIL COPPLER:** Yes, is there anything that you would like to add? Mr. Lazarus.

**JAY LAZARUS (Glorieta Geoscience):** I was just going to say, that I'll turn it over the James right now and then I'll follow it up if need be. Go ahead, please, James.

**JAMES BEARZI (Glorieta Geoscience):** Madam Chair, thank you. This is James Bearzi of Glorieta Geoscience. I think that Rick and Kyle accurately conveyed what we're after that is in addition. Stormwater sampling that had been done early on, in the early MOUs, and has kind of gone by the wayside, reinstating the early notification station in lower Los Alamos Canyon, better data sharing and advance notice of submittals to regulatory agencies. For example, we think that LANL might want to collaborate better with us on that. And then having a rigorous look at how the structures installed in the canyons that are suppose to control sediments are functioning.

I appreciate the opportunity to update the Board and we'll talk to you more about it in November. Thank you.

**MR. LAZARUS:** Madam Chair, members of the Board, the other thing that I think is important for the Board to be thinking about is, as Rick was saying earlier, if the Lab has different reasons for not making very fast progress, we don't necessarily agree with those reasons. So if it comes to a situation where we have to extend the existing agreement, I think we would advise the Board at the time that it would be done incrementally and not for up to three years as the existing MOU says right now.

**CHAIR VIGIL COPPLER:** Okay, thank you. Mr. Harwood, do you have anything else to close y our segment?

**MR. HARWOOD:** No, thank you, Madam Chair. We'll be bringing you something more substantive at the coming Board meeting.

**CHAIR VIGIL COPPLER:** Commissioner Hamilton and then Commissioner Hansen.

**COMMISSIONER HAMILTON:** I was just wondering, sort of as a follow on for Councilor Romero-Wirth's question, what you think some of the road blocks or the likelihood of gaining some of these big items that – purportedly the biggest from our point of view that they seem to be pushing back on? Is there a sense that – did you do a risk assessment on what the probability is that we're going to get some of these or what strategy might improve the chances because, you know, it doesn't sound very good.

**MR. HARWOOD:** I can observe a couple of things, Commissioner. One is that this administration has greatly increased lab project funding very significantly while also cutting environmental funding for the same labs. So our request are running right into the headwinds of the decrease environmental funding for the labs even while the labs are obviously getting bigger mandates and more funding. The components of our request which is contained in the principles document that this Board approved back in May, have some significant dollars and some unquantified dollars in them and so I think that that is giving them some concern and perhaps understandably. We have been asking for them to embrace the concept and we'll do the project scoping and funding and I think it is hard for them to welcome that not knowing what the price tag might be.

I would say from my reading on things that it is a whole other work effort for them to go get new dollar for our relationship and to continue the money that has been

committed to this relationship with the Board and the specific issues to continue that funding is not as hard. But to add to it, especially if E109.9 is a \$2 million project, that's kind of a big deal and we don't know if that's much or that little to be honest.

I think that's the bulk of it. There is some other issues on the margins and we can talk about them more next month. But is that at least responsive to your question this evening?

COMMISSIONER HAMILTON: It is. I appreciate it. It makes me think of some additional thoughts about the strategy moving forward especially if we end up timing wise having to go into the new year and Jay's comment about doing it incrementally, that would maybe have us actually negotiating this after – in a new administration. But I suspect from what you're saying talking about that in more detail next month is more appropriate.

CHAIR VIGIL COPPLER: Thank you. Commissioner Hansen.

COMMISSIONER HANSEN: Thank you, Madam Chair. I just had a few comments about what you had laid out here and one of my concerns is the fact that Guaje Canyon tributary will not have sampling. Would it be possible to have two collated stations, an E-110 and another in Guaje Canyon? I'm just asking these items, I know that where we're in in the negotiations, but I'd like us to think about that – Guaje Canyon is referred to in our position on the memo of numbers 7, 12 and 13 and also referenced in number 22 and 24. So I would appreciate us trying to think about that.

And then I'm wondering when you say, "Board, staff, counsel and consultant," I know you mean Glorieta Geotech but are you also considering New Mexico ED as part of that? They are the eyes and the ears on the ground and they are a partner with us in many ways so I want to make sure that NMED may be available to do reconnaissance level review of the current state, eyes on the ground.

MR. HARWOOD: Thank you, Commissioner. I have a fairly straight forward answer to both of those. First of all, I'm going to ask James to address your Guaje Canyon questions specifically next month, if that's okay.

COMMISSIONER HANSEN: Okay.

MR. HARWOOD: And we'll have a comprehensive answer to that. And secondly you should know that GGI has been engaging with our partners and the regulator at NMED and we will make sure that our recommendation that comes to you next month has integrated engagement plan that NMED is shoulder to shoulder to us in our request to the Lab. And I'm going to make sure that Rick and James and Jay and I highlight that for you at the November presentation, if that is responsive to your question.

COMMISSIONER HANSEN: I appreciate that, thank you. I'm wondering if we can add the word "timely" which should be added to describe the ENS data that is submitted to BDD. And I refer to the BDD, DOE-LANL delay in directly reporting elevated hexavalent chromium levels in regional drinking water aquifer in 2004. So maybe the word "timely" in that line of number 22 would just encourage better response from LANL and DOE.

And I think those are just a few of the comments I have for right now and I appreciate all the work that you have done on this. I know that this is not easy and I am hoping that with the possibility of having a new administration we might have a different outcome.

MR. HARWOOD: I know our work with LANL is critically important and we will work with whomever up there is assigned our matter through rain and snow and drought. We will bring you back some recommendations in November that we think are appropriate for the coming part of the calendar, aware of the fact that it is very hard for federal managers to make decisions around federal elections regardless of the outcome. We will be meeting right after the election at the November meeting.

CHAIR VIGIL COPPLER: Thank you, Mr. Harwood. Appreciate your report.

e. **Presentation on BDD Shared Pool Agreement between Santa Fe County and the City of Santa Fe**

JOHN DUPUIS (County Water Utilities Director): Good afternoon, Madam Chair and Board members. I appreciate the opportunity to present to you an agreement that accomplishes something between the City and the County that better utilizes our resources and improves our sustainability and the water supply that is available to us throughout the period where it is utilized.

It's a relatively simple agreement even though it's difficult to read through. Some things are kind of dry and I was hoping to provide an overall explanation and then allow for any questions.

CHAIR VIGIL COPPLER: Okay, please, go ahead.

MR. DUPUIS: It's basically the fact that both parties have underutilized resources. The County has excess native water rights and cannot currently store those in the basin while the City has excess storage capacity in Abiquiu and is not fully utilizing that capacity. The optimized annual water rights accounting is a protocol that is outlined in our annual operating plan that we implemented in 2018 when the river level projections that we received early in the year were severe and we were concerned that there would not be native water in the river later in the year. Collectively we took action to over divert native water while it was available in the springtime and that later in the year when we would be using SJC water only, that would be utilized by the County to offset the over utilized amount earlier that year.

This practice has worked very well. It helped in that scenario in 2018. It has potential to help in the scenario we're currently experiencing and we feel that it works very well for us.

This agreement allows for alleviating a limitation that is inherent in our current protocol. Because we don't want to have carryover from one year to the next currently, we project how much water the County will use and try and only over divert early in the year that amount. But it is far short of the available native water rights the County has. Though there is approximately 1,000 acre-feet additional that we could divert earlier in the year and that could be stored because when there is a diversion of County native rights it is offsetting the need to divert San Juan-Chama water by the City. So that 1,000 acre-foot native water use would result in a 1,000 acre-feet of SJC water stored in Abiquiu by the City. And if you think about it, this could have been done in 2011 when we first opened the BDD. That's 10 years of 1,000 acre-foot that we watched flow right by the Buckman Direct Diversion and when you put it into that perspective, it seems imperative to work with the City in some way, shape or form to implement how we

utilize our resources so that can better the community in some way. And we've worked on this for some period of time. We've implemented it in part through the annual optimized accounting protocol and felt that it has a very positive benefit even if it's only done over a year. This just extends that by having an accounting system that tracks the amount that is over what the County will use in a year and provides for some benefit back to the County that the City finds acceptable but occurs outside of the functions of the BDD.

I hope that helps to explain it in general. There's lot of other nuance and if anyone has questions, I stand for questions.

CHAIR VIGIL COPPLER: Does anyone have any questions?  
Commissioner Hansen.

COMMISSIONER HANSEN: Thank you, John. I'm going to try and view this as a win-win agreement. I read it over a couple of times and I usually don't read agreements over a couple of times but as you said it is a little dry and dense. The only thing that I'm going to ask you is that maybe since the Board is involved in this, is that maybe we create a line item for the Board to sign, possibly on a consent agenda, once both parties have agreed to it, once it has gone through the City, once this has gone through the County and then it could come back to the Board so that they know that it's in our records also and that we know what is going on with the pool agreement as a Board. And it could be placed on consent after it was agreed by both parties or we could also discuss it. That was just one suggestion that I had.

MR. HARWOOD: Madam Chair, just to know that Nancy and I have also made that suggestion to John Dupuis and Jesse Roach in a prior conversation about this item.

COMMISSIONER HANSEN: Good.

MR. CARPENTER: Madam Chair, if I could interject.

CHAIR VIGIL COPPLER: Sure.

MR. CARPENTER: And I don't want to pretend to be a water rights attorney but I think the Board should probably be a signator to it but from an operations perspective. The Board does not own these water rights that we're talking about. It's the City and the County. So we would be signing on as the operator and helping to facilitate the accounting which we're happy to do. But we don't control the water rights and I would just remind the Board of that.

CHAIR VIGIL COPPLER: Thank you.

COMMISSIONER HANSEN: It appears that there will be work for the facility and the operators to do in this agreement from what I could tell by reading it. I do think it is important that even though the Board doesn't own the water rights, I think it is important that the Board know what our facility management is doing as a Board with this.

CHAIR VIGIL COPPLER: Okay. Councilor Romero-Wirth.

COUNCILOR ROMERO-WIRTH: Thank you, Madam Chair. I'm a little bit confused. My understanding is that this is before the Board of County Commissioners, they'll approve and it'll come to the City and the governing body will approve. And then does the Board also have to approve, the Buckman Direct Diversion, us, do we also then approve? Are we talking about these signatures in lieu of the Board approving the agreement? I am a little bit confused of the role of the signatures.

**MR. HARWOOD:** The discussion that we've had Councilor, is that we would add a signature line to the version that is going to the County and that is going to the City and if those two water right owners agree to share their water rights in this manner it would just come back to this Board on consent to acknowledge the role of the Board staff in helping to implement the shared pool agreement that the two utilities have already agreed to. So the signature line would go into the draft before it goes to those governing bodies and it would come back to the Board on consent to just sort of acknowledge the role the Board directed staff have in implementing it. Is that responsive?

**COUNCILOR ROMERO-WIRTH:** Yes, I just think maybe we need to be clear, not just through a signature but in the consent agenda what it is. It is basically coming back to us so that we know that it's an agreement that has been made. It's not that we have to sign off on it in order for it to happen because it's basically the different governing boards have to approve, not this board.

**MR. HARWOOD:** As I talked to Jesse and John about it, had they not asked the BDD staff to do anything, this probably would have never come to the Board at all. But us lawyers really only have one tool in the toolbox in this zip code which is a signature. So if you have a signature and it's not filled out, it is arguably not an effective agreement. So we are talking about adding a signature line so that the Board acknowledges the job it has to do under the agreement. And we can draft it as an acknowledgement signature or something of that nature. But since the agreement does contemplate Board directed staff under the Project Management Fiscal Services Agreement, doing certain things it does seem appropriate. It would be like you and I agreeing that Rick was going to go fill up the car with gas, like –

**COUNCILOR ROMERO-WIRTH:** Yes, I understand but I don't want confusion down the road, especially if the two governing entities have some sort of disagreement or we have a disagreement on one side or the other that what our specific role is, right, that we're just acknowledging that we are to carry out the agreement between these two governing boards. It is not that we are necessary for the agreement to happen. I just think we need to be clear what it is our role is in this particular matter.

**NANCY LONG (BDD Counsel):** And, Councilor and members of Board, I think that's a very good idea and I think we can fashion the signature block for the Board to take care of what it is we are actually agreeing to do and our part in it. We're not part of the dispute resolution or that sort of thing but we're agreeing to really implement what has been agreed to by the City and the County.

**COUNCILOR ROMERO-WIRTH:** Yes, I think some paragraph and then our signature line versus being a signatory to the agreement itself.

**MS. LONG:** Right and so that if there are changes they need to come back to us too because that could implicate the Board and its staff on what the responsibilities are.

**COUNCILOR ROMERO-WIRTH:** Yeah, I am all right with that. Thank you, Madam Chair.

**CHAIR VIGIL COPPLER:** Thank you. Commissioner Hansen and then Commissioner Hamilton.

**COMMISSIONER HANSEN:** This is kind of exactly why I was asking. I want the Board to be aware of the agreement, and however Nancy and Kyle want to make

the addition of the signature line, that we have it there so that we are aware of the issues that happen not that we are one of the people that are agreeing to do this. But we will be carrying it out and staff of the BDD Board – the facilities manager will be carrying it out. Thank you.

**CHAIR VIGIL COPPLER:** Okay, Commissioner Hamilton.

**COMMISSIONER HAMILTON:** Thank you, Madam Chair. When I read this and in the recitals and from what John said, this seems to be a really good idea because it's making more efficient use of our resources. It gives the City access to the native water rights and that we could use more of them first – blah, blah, blah – but in reading this a few times and asking John several questions it seems that one of the implications of this, and I don't know if I missed John saying this but I think is very valuable, is recognizing the value of being able to shuffle when native rights are used and when San Juan rights are used as being able to store to more water than we otherwise would be able to which actually makes the City and the County together more resilient to low water stress which is one of our goals. Do I have that right? And if I do I wanted that to be just a little more explicit so we can appreciate that this could have some real value. It's not an accounting value. It's an actual water system resilience value to me.

**MR. DUPUIS:** Madam Chair, Board member Hamilton that is correct. It does give us a lot of operational flexibility and increases the sustainability for certain scenarios. One of them being, needing water from additional sources besides what's native in the river and then having that as a stored asset that can then be used for either entity through shared resources.

**COMMISSIONER HAMILTON:** Right, hence your comment that it might have been useful to have that now that we're going into a low water period; true?

**MR. DUPUIS:** Madam Chair, Board member Hamilton, that's correct. I believe Mr. Carpenter mentioned earlier that we expect there to be low flows to the extent that we may have nothing to divert from the intake at BDD. If this contract were in place we would have over diverted, more than we had earlier this year. There would be more storage in the reservoir upstream for later use and in the interim the City would provide some benefit to the County to offset that benefit of additional stored water by providing some water during the period where the BDD could not operate.

**COMMISSIONER HAMILTON:** Well, it seems to be a subtle point. I think it is kind of a big deal and I think it's a valuable thing that you, John and Jesse and everybody else involved, Rick, Kyle, Nancy, I think that this is a valuable thing.

**MR. DUPUIS:** Madam Chair, Commissioner Hamilton, I would like to say that it has been an extended group of people that have participated and that includes the staff at BDD in doing the annual optimize accounting that basically paved the way for us to be comfortable with implementing this in a more long term way. It was very apparent that it should be more than just the year as soon as we got through the first year. It was like, Why didn't we do this to a great extent? So this helps to implement that.

**CHAIR VIGIL COPPLER:** Okay. Is that all, Commissioner? Mr. Egelhoff.

**MEMBER EGELHOFF:** Yes, I had a question for John. Section 3A, the discretionary shutdowns; do you foresee more? We've never had discretionary shutdowns before and as an entity that isn't privy to this agreement, I rely on the delivery

of raw water, and is 3A is that more as drinking water or do you see the whole plant shutting down and no raw water deliveries? I was curious about 3A.

MR. DUPUIS: Madam Chair, Mr. Egelhoff, I think that we are trying to accommodate a request we heard from the City and Mr. Roach is on. I'm going to divert to him to fully explain but to my understanding I'd like to add, we want to provide as much flexibility as possible because it's an important facility and achieving benefits like previous Board meeting entertained having some cross-training and ability to have discretionary shutdown would enable that additional cross-training in a significant way. I would imagine it definitely entails that the deliveries that are needed are met.

JESSE ROACH (City Water Division Director): Madam Chair, Mr. Egelhoff, I would just chime in to say that that is envisioned as a discretionary shutdown of the treatment plant and by no means would this agreement in any way intend to leave Las Campanas less than whole. I would guess that those discretionary shutdowns will occur in the winter but if Las Campanas retains a demand than the diversion structure would still stay on to serve that demand.

MR. EGELHOFF: Okay, sounds good, thanks.

CHAIR VIGIL COPPLER: Any other questions for Mr. Dupuis.  
Councilor Romero-Wirth.

COUNCILOR ROMERO-WIRTH: Thank you, Madam Chair. That answer confuses me from Mr. Dupuis and maybe Mr. Roach as well. We had talked about the cross-training happening if BDD was shut down because of low flows. I don't think I have ever heard of a discretionary shutdown for that purpose. Wouldn't a shutdown impact Las Campanas just because it's shutdown? How do you guarantee to Las Campanas that you're not going to affect their delivery if you're shutdown for any reason, discretionary or not?

MR. DUPUIS: Madam Chair, Board member --

COUNCILOR ROMERO-WIRTH: Councilor Romero-Wirth is fine.

MR. DUPUIS: Yes, ma'am. You know, if the Club at Las Campanas is not taking raw water it doesn't require the intake to stay in operation if the other two entities don't need treatment at the treatment facility. That would be one way and circumstance where the entire facility could be shut down for that purpose that we're discussing. But you can do a shutdown not in the full sense that we understood in the past, we can do a partial shutdown that then allows operates to cross-train, maybe minimal staff being retained for continued use of the intake and up to Booster Station 2A and over the Club at Las Campanas without the treatment facility being in operation.

COUNCILOR ROMERO-WIRTH: Okay, that's helpful. I only wonder if Las Campanas wouldn't feel better if there were some sort of language in this agreement to suggest that any kind of "discretionary shutdown" will not impact their ability to draw or that it would be done in times when their delivery wouldn't be impacted. It seems that might be something they'd be interested in.

MR. DUPUIS: Madam Chair, Councilor Romero-Wirth, I don't want to speak for the attorneys but I am fairly certain just from the County's perspective and our need to have our deliveries met, the current agreements that we have around the BDD require operation of the facility to meet those demands.

COUNCILOR ROMERO-WIRTH: Okay.

MR. DUPUIS: So unless they don't exist otherwise, they have to be met.

COUNCILOR ROMERO-WIRTH: Okay, thank you, Madam Chair.

CHAIR VIGIL COPPLER: Former Councilor Ives, go head.

MR. IVES: Thank you, Madam Chair, a couple of questions. Mr. Dupuis you mentioned that there was potentially up to 1,000 acre-feet that were sort of affected by this [inaudible] every year of native County rights. How much or what's the extent of County right native Rio Grande water rights; can you quantify those for me?

MR. DUPUIS: Madam Chair, Councilor Ives or former Councilor, the current quantity of County native water rights is approximately 2,500 acre-feet and you may also care to know the current diversion that we make from BDD is around 1,400 acre-feet and we have been higher on some years up to 1,640-something previously.

MR. IVES: Got you, good, thank you. And in terms of BDD, if I remember correctly, 375 acre-feet annually?

MR. DUPUIS: Madam Chair, that is the quantity of San Juan-Chama water rights that we have, not native. That is correct.

MR. IVES: And the agreement as I read it requires a minimum of 150 acre-feet of the native Rio Grande waters to be diverted for City use on an annual basis; am I reading that correctly? And if it's helpful looking at paragraph 2, before subparagraph A, where it says, "a minimum of 167 acre-feet of County native water," which essentially comes down to 150 based upon one of the background sections on the bottom of one of the pages. Am I correct that it is a requirement to take 150 acre-feet, divert 167 which equals 150?

MR. DUPUIS: Madam Chair, Mr. Ives, the conditions below that section have to be met as well. For example, if the BDD shared pool is already at its maximum amount then it wouldn't be a requirement. That's really in place for creating the ability for the City to have up to a month of discretionary shutdown in the winter to enable what was discussed as a cross-training program that we feel very supportive of and think is a good idea. It improves the operational capabilities and flexibilities of both the City's system and BDD.

MR. IVES: True but I recognize that there's a maximum reference there of 1,100 unless the parties agree otherwise but it does provide that there's a minimum of 150 in the beginning of Section 2 and also 2A, unless I'm reading that incorrectly.

MR. DUPUIS: No, that is absolutely correct.

MR. IVES: Presumably and I don't know what is anticipated as an annual diversion, this could hold up to roughly seven years of that roughly 150 acre-feet which would then be a continuing obligation of the City through time. Is there any limitation on the City's storage of San Juan-Chama water?

MR. DUPUIS: I would defer to Mr. Roach to speak to that topic.

MR. ROACH: Madam Chair, Councilor Ives, there is a limit to how much space we have for storage in Abiquiu. I don't know that number off the top of my head.

MR. CARPENTER: Madam Chair, if I could. We have a contract with Albuquerque Bernalillo County Water Utility Authority for up to 10,000 acre-feet of storage in Abiquiu. There's a price to pay for it, 10 percent off the top when you put the water in the reservoir. But that's the capacity and then whatever is stored up in Heron before we have to call for it.

MR. IVES: My question is really related to timing whether or not there is any time limit on that storage right.

MR. CARPENTER: The storage right in Abiquiu has no time limit.

MR. IVES: Okay. And only the discretionary shutdowns, we have a protocol in place where if there is significant flow through some of the canyons into the Rio Grande through Los Alamos that we shut down operations; is that a discretionary or non-discretionary shutdown for purposes of this agreement?

MR. DUPUIS: That would be a non-discretionary shutdown.

MR. IVES: Is that the City's understanding as well?

MR. ROACH: Yes.

MR. IVES: Looking at the recitals, Subsection C, it says, "the County will gain additional backup and sources of supply when BDD is not in operation and both parties will achieve greater flexibility if BDD is not in operation then this water is stored as San Juan-Chama in Abiquiu," and there's no access to that water in any event; am I correct in that understanding?

MR. DUPUIS: That is correct.

MR. IVES: I think that those are all the questions I have on it at the moment. Thank you.

CHAIR VIGIL COPPLER: Thank you. Anybody else have anything before we move on? Thank you, Mr. Dupuis and everyone else.

**f. Update on potential new solar projects at Buckman Direct Diversion**

REGINA WHEELER (City Public Works Director): Thank you, Madam Chair and members of the Committee. We're here to give you a big update on the solar energy saving project that we've been working on for about a year now. We brought a couple of updates to the Board on these projects. So we've actually completed the investment grade audit now. It has been completed and certified by the Energy Minerals and Natural Resources Department. It has validated the savings estimates and also the measures that we're going to be implementing. That they are technically sound and can provide savings that are projected. So that is a great milestone.

Now we're at the point in the project to go ahead and fund these recommended improvements. The Buckman Direct Diversion includes about a megawatt of solar in two different locations. Let me get that exact number, it's 277 kilowatts at the BDD lift station and 739 kilowatts at Booster Station 2A as well as a number of LED lighting retrofits. These improvements were identified because they provide savings – for the investment and provide savings beyond that for a net positive cash flow for the Buckman Direct Diversion. The total investment for BDD is on the last page of the packet material. It is practically \$1 million dollars. And then the savings used to pay the debt service, so the debt service as we develop the program and we actually get the actual funding will be approximately \$200,000 a year. That will escalate over time because [audio difficulties] since energy costs escalate over time at an estimated 3 percent then your savings are greater over time and you can pay more into debt service. The City has begun to pursue the financing as one big package of loan. We're looking at [audio difficulties] lease purchase which is basically a loan of a special type, pretty straight forward, but allowed to go out to the market place for the whole \$15 million for the entire guaranteed energy savings project and then BDD is just responsible for their portion of the debt service.

That will get us all a better rate on the capital and a better return on the investment of this project.

Some of the questions that staff has asked with respect to this is Buckman has a 1.5 megawatt array at Booster Station 1A and so you guys have some experience with what it means to have a megawatt big array outside and then you also have a megawatt at the plant. The megawatt at the plant is owned by somebody else and that has its own challenges but the megawatt outside the booster station is owned by BDD and so some of the things that staff has learned and has asked this project to address is the challenge of weeding because actually the weeds will grow up and cover the bottom parts of the panel and reduce your production. And then also stormwater runoff can also be a challenge off of the panels because a megawatt of solar is about 6 acres so you're looking at 739 kilowatts which is going to be 4 of 5 acres, so it's a significant area of land that will have these arrays on them. So the Energy Services Company is looking into a solution that could include some gravel down below the front, they actual use this on residential installation, some gravel on the ground in front of the arrays where the water falls off to stop erosion that way and also to stop weeds. So it might be a really good solution.

I think that's the big picture of the thing. We're hoping to come back to the Buckman Direct Diversion. We've met with staff and with the attorney for Buckman and there's a recommendation that there's a separate agreement, just a page added to the agreement for Buckman and I don't know if Nancy might want to elaborate on that, what it will look like from a documentation and approval perspective. But I think that's the overview and I will be happy to answer questions.

CHAIR VIGIL COPPLER: Okay, open for questions. Commissioner Hansen.

COMMISSIONER HANSEN: Thank you, Regina. So this does not – what we're going to do will not go against any of our credits that we're already getting; is that correct? I believe I read that.

MS. WHEELER: Commissioner Hansen, that's correct. We had considered putting in more. You guys could – there's energy at the plant that could be offset by solar but we realize that it would affect the REC credits so recommending not to look at that really until those REC credits have expired.

COMMISSIONER HANSEN: And isn't it 2031 when they expire, something like that? So we're talking 10 years before we can do anymore. I think I read that but I'm not --

MS. WHEELER: The agreements are usually only for about 8 years from the time the solar is installed so I would be surprised if it was quite that long. But anyway, maybe Rick or Macki knows how long the REC agreement is for.

MR. CARPENTER: I'm sorry, are we talking about the one for 2A?

MS. WHEELER: The big one is the one in the plant.

MR. CARPENTER: That's 20 years.

MS. WHEELER: Oh, it's a 20 year.

MR. CARPENTER: But we're 10 years into it, 11 years.

COMMISSIONER HANSEN: Right, that's why I think it's 2031. That's what I read. The other array we have is privately owned so that's a whole different ballgame sort of speak.

Then the other question is that in the County we passed a pollinator resolution about possibly putting pollinating plants where we have disturbed land but I'm hearing you say that the weeds are causing a problem in front of the array so we're not getting all of the use. But I'm wondering if pollinator plants like milkweed or echinacea or maybe some low growing plants would work in some of these places that we are building the arrays? I'm just throwing it out as an idea to think about our pollinator friends who are having a hard time on the planet. So I just wanted to mention that.

Otherwise, thank you very much. I appreciate you bringing this to us.

CHAIR VIGIL COPPLER: All right. Anybody else have any questions? I have a question. Did we budget for this, Mackie?

MS. ROMERO: Madam Chair, Councilor, no not in this budget but it looks like there wouldn't be any upfront cost to BDD since that would be later after construction and then payment for the finances but Regina can answer that if she knows.

MS. WHEELER: Yes, Madam Chair, thank you so much Mackie, it's true we are projecting construction bids on the overall project to being early next year but the construction for the arrays for BDD will have to wait for special use permits to be approved by Forest Service. However, there is no net cost to the Buckman Direct Diversion because the money you're spending now on electricity you'll switch over to debt service once you have the array. Although, we had talked about a little bit of maintenance costs that we should include for possibly some security cameras to be trained on it and those kinds of incremental costs. We wouldn't expect this array to be completed before the end of 2021.

CHAIR VIGIL COPPLER: Okay, but we'll still have to know the figures when the budget is prepared. I'm reading on page 2 of the packet, what is the simple payback years; 12.5, 13.5 years?

MS. WHEELER: Yes, Madam Chair, that was part of the criteria for saying something was a feasible improvement. It had to have a payback period of 15 years or less. That means that with the savings of the energy from this improvement you could pay off the capital investment back fast and then after that it's pure revenue, basically, for BDD.

CHAIR VIGIL COPPLER: It still seems like a long time. Any other questions? Commissioner Hamilton.

COMMISSIONER HAMILTON: A real quick one. It was a very good comment about the possibility of adding gravel or anything to enhance infiltration and reduce erosion, is that part of the overall project costs or is that something that the BDD will have to add on? It's kind of a follow up.

MS. WHEELER: Yes, Madam Chair, Commissioner Hamilton, the contractor has not developed an estimate for that improvement that we have asked for but we intend it to be included in the cost of the project and it will not be a follow up cost.

COMMISSIONER HAMILTON: Thanks.

CHAIR VIGIL COPPLER: Okay, any last questions. Seeing none, thank you, Regina, appreciate it.

## 9. MATTERS FROM THE BDD ATTORNEY

MS. LONG: Yes, Madam Chair, members of the Board, I've been asked to report to you all about a matter involving the BDD operators. Operators at the BDD brought a prohibited practices charge against the City through the local union AFSCME 3999. This is separate and apart from the prohibited practices complaint that you may have read about and was reported on in the paper and just decided by the Public Employees Labor Relations Board. The issue in this charge was overtime. The allegation was that the furloughs imposed earlier this year involved overtime to the operators to their detriment and those continued until the furloughs were lifted. The collective bargaining agreement in one section prohibits arbitrarily limiting overtime by schedule implementation. So that was essentially the allegation.

The parties being the City and the Union have agreed to settle the case by the payment of the overtime for that period where overtime was not received. Any my understanding from the City attorney who handled the matter is that the settlement has been finalized and we just wanted you to know about it since it does involve BDD operations and personnel there.

CHAIR VIGIL COPPLER: Okay, this isn't an agenda item so I don't think there's any discussion unless, Nancy, you think there should be.

MS. LONG: No, Madam Chair, I don't believe so. I just wanted the Board to be aware of it. I was not involved in the case. I know that our facilities manager, Mr. Carpenter, was involved in it recently as it was being resolved. We wanted you all to know as well.

CHAIR VIGIL COPPLER: Thank you.

## 10. MATTERS FROM THE BOARD

CHAIR VIGIL COPPLER: Any matters from the Board? No, I don't have anything to report as well.

11. **NEXT MEETING: Thursday, November 5, 2020 at 4:00 p.m.**

## 13. 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 BDDB is a participant, or may become a participant, including, without limitation, : 1) *Buckman Direct Diversion Board v. CDM Smith, et al.*, First Judicial District**

CHAIR VIGIL COPPLER: We will be adjourning to go into executive session and you all have a separate invitation to go into executive session. Do you all have that? Commissioner Hansen.

COMMISSIONER HANSEN: I think we need to make a motion or will Nancy –

MS. LONG: I'm happy to suggest that motion for you to adopt. It is a motion to adjourn the meeting and go into executive session in accordance with the New Mexico Open Meetings Act for the case as described on the agenda to which the BDD is

a participant.

CHAIR VIGIL COPPLER: Commissioner Hansen, do you want to make that motion?

COMMISSIONER HANSEN: I do, I so move that we will adjourn and go into executive session.

**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 5:35 p.m.]

## **ADJOURNMENT**

Chair Vigil Coppler declared this meeting adjourned at approximately 5:35 p.m.

Approved by:

\_\_\_\_\_  
JoAnne Vigil Coppler, Board Chair

Respectfully submitted:

Karen Farrell, Wordswork

## **ATTEST TO**

\_\_\_\_\_  
YOLANDA Y. VIGIL  
SANTA FE CITY CLERK

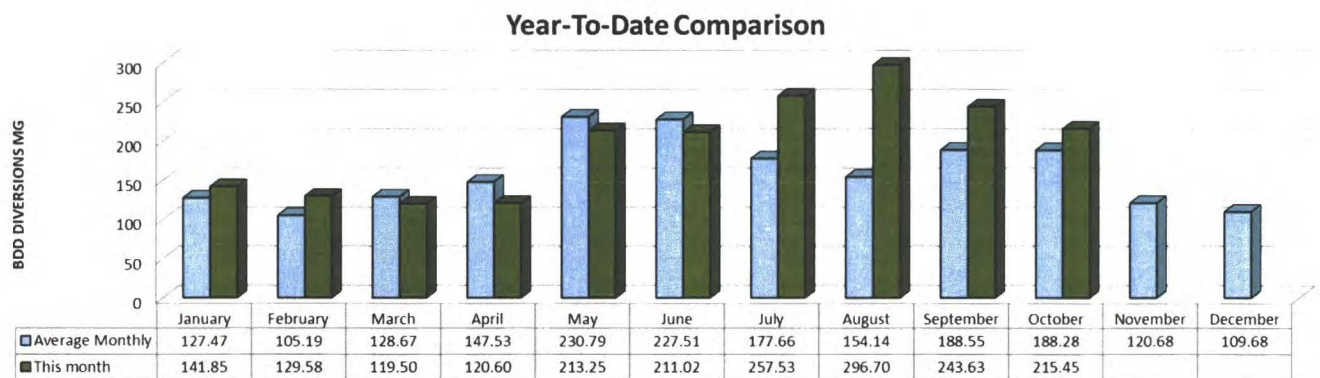




**Date:** November 5, 2020  
**To:** Buckman Direct Diversion Board  
**From:** Randy Sugrue, BDD Operations Superintendent  
**Subject:** Update on BDD Operations for the Month of October 2020

**ITEM:**

1. This memorandum is to update the Buckman Direct Diversion Board (BDDDB) on BDD operations during the month of October 2020. The BDD diversions and deliveries have averaged, in Million Gallons Per Day (MGD) as follows:
  - a. Raw water diversions: 6.95 MGD.
  - b. Drinking water deliveries through Booster Station 4A/5A: 6.16 MGD.
  - c. Raw water delivery to Las Campanas at BS2A: 0.59 MGD.
  - d. Onsite treated and non-treated water storage: 0.20 MGD Average.
2. The BDD is providing approximately 57% percent of the water supply to the City and County for the month.
3. Regional Demand/Drought Summary-see page 2.
4. The BDD year-to-date diversions are depicted below:

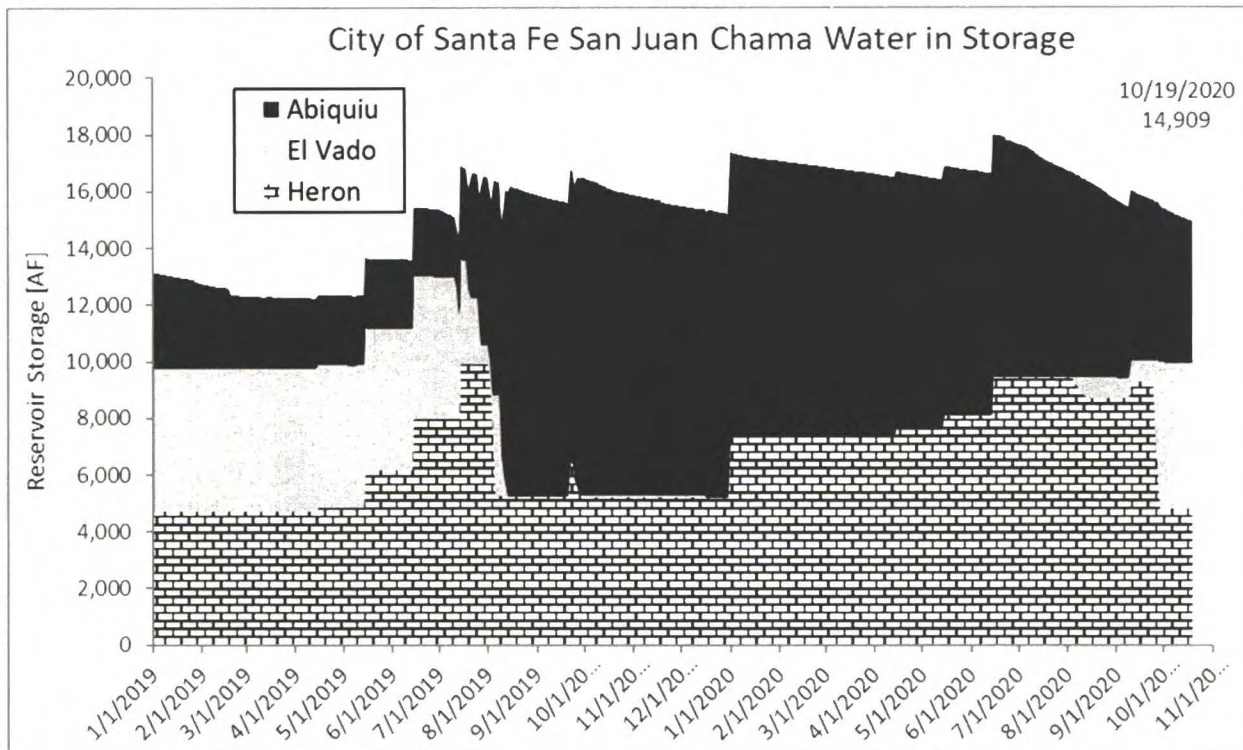




## Regional Water Overview

Daily metered regional water demand for the month of October 2020 is approximately 10.8 MGD for the city and 1.6 MGD for the county.

Rio Grande flows for October 2020 averaged approximately 300 CFS (cubic feet per second.)



## ENSO Summary

### October 19, 2020

ENSO Alert System Status: La Niña Advisory La Niña conditions are present.\*Equatorial sea surface temperatures (SSTs) are below average from the west-central to eastern Pacific Ocean.The tropical atmospheric circulation is consistent with La Niña.La Niña is likely to continue through the Northern Hemisphere winter 2020-21 (~85% chance) and into spring 2021 (~60% chance during February-April).\*



## Buckman Direct Diversion Monthly SJC and Native Diversions

Oct-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	854.602	19.752	4.214
SEP	762.357	0.000	0.000	762.357	682.372	79.985	3.556
OCT	661.430	0.000	0.000	661.430	605.280	56.150	4.307
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
<b>TOTAL</b>	<b>5,919.830</b>	<b>1,758.984</b>	<b>0.000</b>	<b>4,160.846</b>	<b>3,810.059</b>	<b>350.787</b>	<b>25.442</b>

### 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	275.811	6.375	281.681
SEP	0.000	0.000	245.686	219.863	25.823	245.686
OCT	0.000	0.000	215.450	197.160	18.290	215.450
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
<b>TOTAL</b>	<b>572.959</b>	<b>0.000</b>	<b>1,342.775</b>	<b>1,228.931</b>	<b>113.159</b>	<b>1,915.734</b>



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
<b>TOTAL</b>	<b>4,744.916</b>	<b>1,744.482</b>	<b>0.000</b>	<b>3,000.434</b>	<b>2,680.275</b>	<b>320.160</b>	<b>24.886</b>

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
<b>TOTAL</b>	<b>568.235</b>	<b>0.000</b>	<b>965.760</b>	<b>863.292</b>	<b>103.299</b>	<b>1,533.995</b>



**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
<b>TOTAL</b>	<b>7,268.656</b>	<b>1,317.200</b>	<b>0.000</b>	<b>5,951.456</b>	<b>5,588.327</b>	<b>363.129</b>	<b>59.073</b>

**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
<b>TOTAL</b>	<b>1,317.200</b>	<b>0.000</b>	<b>5,891.477</b>	<b>5,531.706</b>	<b>359.772</b>	<b>7,208.677</b>



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
<b>TOTAL</b>	<b>6,005.614</b>	<b>1,580.910</b>	<b>15.069</b>	<b>4,409.635</b>	<b>4,107.705</b>	<b>301.930</b>	<b>38.868</b>

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
<b>TOTAL</b>	<b>1,580.910</b>	<b>15.069</b>	<b>4,370.767</b>	<b>4,071.470</b>	<b>299.297</b>	<b>5,966.747</b>





Date: October 28, 2020

To: Buckman Direct Diversion Board

From: Rick Carpenter, BDD Facility Manager

Kyle Harwood, BDD Legal Counsel

Re: Update on BDD Board LANL MOU

### Item and Issue:

The current BDD Board LANL MOU expires December 1, 2020 and negotiations with LANL are ongoing to establish a new MOU based upon the principles and framework agreed upon by the Board.

### Background:

The background regarding the series of BDD Board - LANL MOUs (2010-2018) and issues addressed by the MOU are the subject of previous memos to the Board.

The MOU is intended to "... establish roles and responsibilities with regard to coordination of monitoring activities by Los Alamos National Laboratory (LANL) and the Department of Energy (DOE) in Los Alamos Canyon, Pueblo Canyon, and the Rio Grande in relation to operation of the [BDD] Project."

### Primary topics of the MOU:

- Continuation of the relationship developed between DOE and BDD Board
- Operation and maintenance of the Early Notification System (ENS) to enable BDD staff to make decisions regarding facility operations
- Funding and support for water quality surveillance monitoring at the BDD Project location as part of its sampling program

The current 2018 BDD Board – LANL MOU expires December 1, 2020 and there is a provision for extension of the current MOU.

### The status of negotiations regarding a new replacement MOU:

- BDD staff and consultants have been meeting with DOE/NNSA since January 2020 to negotiate the terms of a new MOU
- BDD Board approved the proposed framework and principles for a new MOU ("Term Sheet") at the May 2020 Board meeting.



- Several virtual and telephonic meetings over the summer
- DOE reviewed the framework, and provided their response late September, 2020.
- Negotiations are focused on the following issues:
  - **ENS: DOE agrees to continue operation and maintenance of ENS; DOE does not yet agree to reinstallation of E109.9 or stormwater sampling program**
  - **Sediment Evaluations: DOE does not yet agree to conducting any studies/mitigations beyond those required by NMED through the Consent Order**
  - **BDD Project Location Studies: DOE agrees to continue funding of Rio Grande sampling at intake location; DOE does not yet agree to funding TREAT 5**
  - **Data Sharing: DOE generally agree to data sharing, but does not yet agree to early notification to BDD of actions taken in LA/Pueblo Canyons, or submittals of documents to NMED**
  - **Coordination with San Ildefonso Pueblo: DOE generally agrees to meet with BDD and Pueblo staff, but not on a regular schedule.**

**Recommendations:**

BDD staff and consultants will continue to discuss with DOE/NNSA staff the Board's Term Sheet requests and narrow the difference in issues.

BDD staff and consultants recommend exercising the option to extend the current 2018 MOU for one year to allow for continued negotiation and in order to receive the \$96,000 grant for water quality sampling for the 2020 calendar year. BDD staff and consultants are working on the extension template and hope to have it available for review at the Board meeting on November 5<sup>th</sup>.

BDD staff and consultants recommend the Board vote to authorize the Chair to execute a one year extension to the 2018 MOU.



**The following text is the Board's Term Sheet followed in blue by DOE/NNSA response:**

**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.

As noted in our existing MOU, DOE EM-LA recognizes that water quality management and monitoring are mutual priorities and looks forward to continuing our relationship with the Buckman Direct Diversion Board (BDDDB). DOE EM-LA will continue to operate the BDD ENS, including E050.1, E060.1, E062, and E099, to provide BDD real-time stream flows data in Los Alamos and Pueblo Canyons. The DOE team will review the description of the ENS system in the existing MOU to ensure it is up-to-date.

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)

Streamflow gaging station E109.9 cannot be re-installed at the previous location because the channel significantly changed during September 2013, such that an accurate discharge estimation cannot be obtained at that location. Any consideration of a replacement would require a better understanding of the BDD Project's current need for such a facility. Should the parties mutually agree that a replacement is needed, a more detailed understanding of the BDD Project's needs for such a facility would allow for a more accurate assessment of the technical capabilities required, a budget and schedule. Of course, any discussion of location for such a facility on the property of the Pueblo de San Ildefonso would require consultation with and approval by the Pueblo de San Ildefonso.

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)

E110 is currently not a co-located sampler. E110 was a streamflow gaging station that DOE's Maintenance and Operations contractor installed and historically operated; however, it has been retired. The New Mexico Environment Department (NMED) Oversight Bureau (OB) operates a sampler at the former location of E110 and it is fully functional and collecting storm water samples on a regular basis each year. DOE would like to understand BDD's rationale for recommending the re-initiation a previously retired streamflow gaging station.

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.



Site visits are entirely welcome with advanced notice in order to make proper arrangements and adjust schedules. For site visits to E099, BDD staff, counsel and consultants would need to obtain an access permit from the Pueblo de San Ildefonso under their Memorandum of Agreement with the Pueblo de San Ildefonso. The current conditions of each gaging station, control measures and changes to channel systems are included within the annual Monitoring Report for Los Alamos/Pueblo Watershed Sediment Transport Mitigation Project submitted to NMED annually by April 30<sup>th</sup>. DOE will ensure BDD continues to receive this Report.

**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.**

DOE EM-LA conducts inspections weekly at streamflow gaging stations E050.1, E060.1, and E099, and visual verification at E062 year-round. Maintenance of these facilities is performed, as necessary. In addition, E050.1, E060.1, E062, and E099 are monitored remotely on a daily basis to ensure operability. In addition, information relevant to this request can be found in the annual Monitoring Report for Los Alamos/Pueblo Watershed Sediment Transport Mitigation Project.

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

DOE EM-LA acknowledges that BDD staff, counsel and consultants will prepare this assessment; however, DOE reserves the right to review, comment and respectfully disagree with any conclusions or recommendations, as appropriate.

**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.**

DOE EM-LA acknowledges that BDD staff, counsel and consultants will prepare this report; however, DOE reserves the right to review, comment and respectfully disagree with any conclusions or recommendations, as appropriate.

**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.**

DOE EM-LA acknowledges that BDD staff, counsel and consultants will prepare this report; however, DOE reserves the right to review, comment and respectfully disagree with any conclusions or recommendations, as appropriate.

**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.**

In the current MOU with the BDD, DOE EM-LA provides funding in the annual amount of \$96,000, for various sampling and analytical costs toward the BDD Project Location Sampling Program at the BDD intake. Under the existing MOU, BDD is responsible for various maintenance, inspection, and repair costs of sampling stations at the BDD intake. DOE believes the existing annual funding for sampling and analytical costs toward the BDD Project Sampling Program is adequate. DOE will modify the grant language to allow for any remaining funds each year to be used toward other identified maintenance, inspections and repairs that BDD has documented are needed.

#### **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).**

Information and an evaluation of sediment data already exists in the Los Alamos National Laboratory Annual Site Environmental Report (ASER), and in the annual Monitoring Report for Los Alamos/Pueblo Watershed Sediment



Transport Mitigation Project. Further, all sediment sampling results are available on Intellus New Mexico, which is a publicly accessible database. DOE currently copies BDD on the annual Monitoring Report for Los Alamos/Pueblo Watershed Sediment Transport Mitigation Project and the associated annual Monitoring Plan for Los Alamos/Pueblo Watershed Sediment Transport Mitigation Project. All other official regulatory submittals related to LANL environmental cleanup can be found at the Los Alamos National Laboratory Electronic Public Reading Room (EPRR) (<https://epr.lanl.gov/>) for environmental cleanup documents through April 2018; Los Alamos Legacy Waste Cleanup EPRR (<https://ext.em-la.doe.gov/EPRR/>) for environmental cleanup documents post April 2018; NMED's website; or the National Pollutant Discharge Elimination System Individual Permit Public Website (<https://ext.em-la.doe.gov/ips>).

**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).**

This information can be found in annual Monitoring Report for Los Alamos/Pueblo Watershed Sediment Transport Mitigation Project, which details the monitoring of sediment control structures in the Los Alamos/Pueblo Canyons and in the ASER. DOE EM-LA currently copies BDD on the annual Monitoring Report for Los Alamos/Pueblo Watershed Sediment Transport Mitigation Project and the associated annual Monitoring Plan for Los Alamos/Pueblo Watershed Sediment Transport Mitigation Project. All other official regulatory submittals related to LANL environmental cleanup can be found at the Los Alamos National Laboratory Electronic Public Reading Room (EPRR) (<https://epr.lanl.gov/>) for environmental cleanup documents through April 2018; Los Alamos Legacy Waste Cleanup EPRR (<https://ext.em-la.doe.gov/EPRR/>) for environmental cleanup documents post April 2018; NMED's website; or the National Pollutant Discharge Elimination System Individual Permit Public Website (<https://ext.em-la.doe.gov/ips>).

**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).**

DOE EM-LA will continue to copy BDD on the annual Monitoring Report for Los Alamos/Pueblo Watershed Sediment Transport Mitigation Project and the associated annual Monitoring Plan for Los Alamos/Pueblo Watershed Sediment Transport Mitigation Project. All other official regulatory submittals related to LANL environmental cleanup can be found at the Los Alamos National Laboratory Electronic Public Reading Room (EPRR) (<https://epr.lanl.gov/>) for environmental cleanup documents through April 2018; Los Alamos Legacy Waste Cleanup EPRR (<https://ext.em-la.doe.gov/EPRR/>) for environmental cleanup documents post April 2018; NMED's website; or the National Pollutant Discharge Elimination System Individual Permit Public Website (<https://ext.em-la.doe.gov/ips>).

**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.**

DOE EM-LA acknowledges that BDD staff, counsel and consultants will conduct this assessment; however, DOE reserves the right to review, comment and respectfully disagree with any conclusions or recommendations, as appropriate.

**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.

Each year, DOE EM-LA will copy BDD on the annual Monitoring Report for Los Alamos/Pueblo Watershed Sediment Transport Mitigation Project and the associated annual Monitoring Plan for Los Alamos/Pueblo Watershed Sediment Transport Mitigation Project, which contains some of the information BDD has requested above. Further, all substantive documents similar to what was provided on March 31, 2020 and documents created since March 31, 2020, can be found at the Los Alamos National Laboratory Electronic Public Reading Room (EPRR) (<https://epr.lanl.gov/>) for environmental cleanup documents through April 2018; Los Alamos Legacy Waste Cleanup EPRR (<https://ext.em-la.doe.gov/EPRR/>) for environmental cleanup documents post April 2018; NMED's website; or the National Pollutant Discharge Elimination System Individual Permit Public Website (<https://ext.em-la.doe.gov/ips>).

### **BOD 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.**

Although DOE EM-LA would benefit from an understanding as to how such data is used to support operational decisions at the diversion, DOE EM-LA acknowledges that BDD staff, counsel and consultants will conduct base-flow and water sampling 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.**

Although DOE EM-LA would benefit from an understanding as to how such data is used to support operational decisions at the diversion, EM-LA acknowledges that BDD staff, counsel and consultants will conduct such sampling.

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

DOE EM-LA acknowledges that BDD staff, counsel and consultants will assess sampling locations, extent and need for additional information; however, DOE reserves the right to review, comment and respectfully disagree with any conclusions or recommendations, as appropriate.

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

DOE EM-LA currently performs Rio Grande sediment sampling as part of the monitoring efforts associated with the ASER. As such, DOE EM-LA does not agree to provide new funding for an activity DOE EM-LA is already funding under its cleanup contract. The ASER and the Rio Grande sampling data can be found in the Los Alamos National Laboratory Electronic Public Reading Room (<https://epr.lanl.gov/>).

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

In the current MOU with the BDDDB, DOE EM-LA provides funding through a grant in the annual amount of \$96,000, for various sampling and analytical costs toward the BDD Project Location Sampling Program at the BDD intake. DOE will continue to fund this grant for the duration of the MOU.

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



In the original MOU (2010-2015), DOE funded the initial Rio Grande Contaminant Fate Analysis (predecessor to the "The Removal Efficiency and Assessment of Treatments" (TREAT) Study). In the existing MOU and in the 2015-2017 MOU, the BDDB funded the TREAT study. DOE would like to better understand the rationale for performing a new TREAT study as well as an explanation for shifting the funding for such a study to DOE.

### Data Sharing

[section F. 2017 MOU]

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

DOE EM-LA will continue to collect and provide validated and verified streamflow data from ENS locations on an annual frequency, as described in the existing MOU. The DOE team will review the description of the ENS system in the existing MOU to ensure it is up-to-date.

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

DOE EM-LA will continue to execute sediment monitoring, sampling, and mapping as detailed in the annual Monitoring Plan for Los Alamos/Pueblo Watershed Sediment Transport Mitigation Project, the annual Monitoring Report for Los Alamos/Pueblo Watershed Sediment Transport Mitigation Project and the ASER. DOE EM-LA will continue to copy the BDD on the annual Monitoring Report and Monitoring Plan for Los Alamos/Pueblo Watershed Sediment Transport Mitigation Project. All other official regulatory submittals related to LANL environmental cleanup can be found at the Los Alamos National Laboratory Electronic Public Reading Room (EPRR) (<https://eprr.lanl.gov/>) for environmental cleanup documents through April 2018; Los Alamos Legacy Waste Cleanup EPRR (<https://ext.em-la.doe.gov/EPRR/>) for environmental cleanup documents post April 2018; NMED's website; or the National Pollutant Discharge Elimination System Individual Permit Public Website (<https://ext.em-la.doe.gov/ips>). With respect to any assessment or report produced by the BDDB staff, counsel and consultants, DOE reserves the right to review, comment, and respectfully disagree with any conclusions or recommendations, as appropriate.

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

DOE EM-LA will continue to collect data and to maintain sediment control structures as required by NMED. The results will be summarized in the annual Monitoring Report for Los Alamos/Pueblo Watershed Sediment Transport Mitigation Project which will be provided 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.

DOE EM-LA will continue to monitor and collect storm water samples at the ENS Sites as required by NMED in the annual Monitoring Plan for Los Alamos/Pueblo Watershed Sediment Transport Mitigation Project. The results will be summarized in the annual Monitoring Report for Los Alamos/Pueblo Watershed Sediment Transport Mitigation Project. With respect to any assessment or report produced by BDDB staff, counsel and consultants, DOE reserves the right to review, comment, and respectfully disagree with any conclusions or recommendations, as appropriate.



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.

DOE EM-LA acknowledges that BDD will conduct project sampling in the Rio Grande and within treatment works (i.e., TREAT) and posts such data to the BDD website. DOE EM-LA requests that such data be shared with DOE EM-LA.

#### **Coordination with DOE/LANL and San Ildefonso Pueblo**

[section E.12017 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.

DOE EM-LA's MOA with the Pueblo de San Ildefonso addresses access, collection and use of data. There are no provisions regarding an annual or bi-annual meeting between the parties. Any such provision would need to be negotiated between the parties. DOE EM-LA welcomes the opportunity to schedule technical meetings between DOE and BDD to discuss ongoing initiatives.