



AGENDA

BUCKMAN DIRECT DIVERSION BOARD
JANUARY 06, 2022 AT 4:00 PM
ATTEND VIRTUALLY



SPECIAL PROCEDURES FOR BUCKMAN DIRECT DIVERSION BOARD MEETING

Attendance: In response to the State's declaration of a Public Health Emergency, the Mayor's Proclamation of Emergency, and the ban on public gatherings in excess of those permitted in the current Public Health Order, and the need to incorporate technology and practices to re-institute in-person meetings consistent with the limitations established by the Order, the Buckman Direct Diversion Board meeting will be conducted virtually.

Viewing: Members of the public may join the Zoom meeting by internet or phone, as follows:

Internet: To join the Zoom meeting on the internet using a computer, laptop, smartphone, or tablet, use the following link: <https://santafenm-gov.zoom.us/j/82319904872?pwd=ZjJxT0JTMnk0ay9HK2pJR1VINkQdz09>

Passcode: 627642

Attendees should use the "Raise Hand" function to be recognized by the Chair to speak at the appropriate time.

Phone: To join the Zoom meeting using a phone, use the following phone numbers and Webinar ID: **US: 1 346 248 7799 - Webinar ID: 823 1990 4872 - Passcode:627642**

Phone attendees should press *9 to use the "Raise Hand" function to be recognized by the Chair to speak at the appropriate time.

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

Public Comment: To provide live public comment during the Public Comment section, you must join the Zoom meeting by internet or phone, as follows: Internet: To join the Zoom meeting on the internet using a computer, laptop, smartphone, or tablet, use the following link: <https://santafenm-gov.zoom.us/j/82319904872?pwd=ZjJxT0JTMnk0ay9HK2pJR1VINkQdz09>

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1. **CALL TO ORDER**
2. **ROLL CALL**
3. **APPROVAL OF AGENDA**
4. **MATTERS FROM THE PUBLIC:**

To provide a live comment you must join the Zoom meeting by internet or phone, please e-mail or call Jamie-Rae Diaz, Administrative Manager, Public Utilities, jldiaz@santafenm.gov, 955-4233 by 1 :00 p.m. the day of the meeting for the meeting link and/or call in number. To provide written comment please email Jamie-Rae Diaz, Administrative Manager, Public Utilities, jldiaz@santafenm.gov, 955-4233 by 1 :00 p.m. the day of meeting, emails must identify the submitting party's name. These comments will be distributed to the Board for review prior to the meeting and placed in the minutes of the meeting.

5. **APPROVAL OF CONSENT AGENDA**
6. **APPROVAL OF MINUTES**
 - a. Approval of Minutes from the December 2, 2021 Buckman Direct Diversion Board Meeting.
7. **PRESENTATION/INFORMATIONAL ITEMS**
 - a. Monthly Update on the BDD Operations. (Randy Sugrue, BDD Operations Superintendent, rcsugrue@santafenm.gov, 955-4501)
 - b. Report from the Facilities Manager. (Verbal)(Rick Carpenter, BDD Facilities Manager, rrcarpenter@santafenm.gov, 955-4507)
 - c. Update regarding termination of PNM Electric Facilities and Service Agreements for Booster Station 2A and for the Water Treatment Plant effective as of October 9, 2021. (Antoinette Armijo-Rougemont, Accounting Supervisor, amarmijo@santafenm.gov, 955-4506)



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- d. Status Update on BDDDB Audit as prepared by the City of Santa Fe. (Mary McCoy, Finance Department Director, mtmccoy@santafenm.gov, 955-6171)

8. ACTION ITEMS: CONSENT

- a. Request for Approval of annual payment to the Bureau of Land Management in the amount of \$68,034.50 for right-of-way rental fees. (Antoinette Armijo-Rougemont, Accounting Supervisor, amarmijo@santafenm.gov, 955-4506)

9. ACTION ITEMS: DISCUSSION AND ACTION

- a. County of SF Water policy Advisory Board Appointee from BDD. (County Commissioner Anna Hansen, BDDDB Chair)
- b. Consideration and Possible Action on Resolution 2022-1, Determining Reasonable Notice for Public Meetings of the Buckman Direct Diversion Board and allowing the Board to continue to Limit Public Attendance at Meetings Provided there is Sufficient Means to Allow Remote Participation and Allowing the Board to Cancel any Meeting to Preserve the Public Health, Safety, and Welfare and Allowing for Alternate Forms of Attendance by its Public Members. (Nancy R. Long, BDD Legal Counsel, nancy@longkomer.com, 505-982-8405)
- c. Appointment of the Citizen Member and Alternate Citizen Member to the Buckman Direct Diversion Board.(Nancy R. Long, BDD Legal Counsel, nancy@longkomer.com, 982-8405)
- d. Consideration and Possible Action on 2022 MOU between the US DOE, Office of Environmental Management, Los Alamos Field Office and the Buckman Direct Diversion Board Regarding Notification of Streamflow and Water Quality Monitoring in Los Alamos and Pueblo Canyons (Rick Carpenter, BDD Facilities Manager, rrcarpenter@santafenm.gov, 955-4507, Kyle S Harwood, BDD Legal Counsel, kyle@egolflaw.com, 986-9641)

10. MATTERS FROM THE BOARD



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11. **NEXT MEETING: Thursday, February 3, 2022 at 4:00 PM**
 12. **ADJOURN**
 13. **EXECUTIVE SESSION**
 - a. In accordance with the New Mexico Open Meetings Act NMSA 1978, §10-15-1(H)(7), discussion regarding pending litigation in which the BDDDB is a participant, specifically: Buckman Direct Diversion Board v. CDM Smith, et al., First Judicial District Court Case No. D-101-CV-2018-01610.(Nancy R. Long, BDD Legal Counsel, nancy@longkomer.com, 982-8405)

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

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

December 2, 2021

1. CALL TO ORDER

This meeting of the Santa Fe County & City Buckman Direct Diversion Board meeting was called to order by Chair Anna Hansen at approximately 4:04 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. All votes were conducted by roll call.

[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: Roll was called and a quorum was present as shown:

BDD Board Members Present:

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

Member(s) Excused:

None

BDD Board Alternates(s) Present:

Peter Ives

Others Present:

Rick Carpenter, BDD Facilities Manager
Nancy Long, BDD Legal Counsel
Kyle Harwood, BDD Legal Counsel
Bernardine Padilla, BDD Public Relations Coordinator
Randy Sugrue, BDD Operations Superintendent
Jamie-Rae Diaz, City Administrative Assistant
Antoinette Armijo-Rougemont, BDD Financial Manager
Jesse Roach, City Water Division Director
Michael Mikolanis, DOE-EM-LA, Manager
Jay Lazarus, Glorieta Geoscience
Joni Arends, CCNS

3. APPROVAL OF AGENDA

There were no changes to the published agenda.

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

4. MATTERS FROM THE PUBLIC

CHAIR HANSEN: Jamie-Rae, do we have anybody from the public who wishes to speak?

JAMIE-RAE DIAZ (Administrative Assistant): Madam Chair, I did not receive any inquiries for Matters from the Public.

CHAIR HANSEN: Okay, so I will open Matters from the Public but I don't see anybody on and I will close Matters from the Public and we will move on.

MS. DIAZ: Madam Chair, before you close it, Joni Arends raised her hand.

CHAIR HANSEN: Okay. Thank you very much.

MS. DIAZ: Joni, go ahead and try unmuting yourself.

JONI ARENDS: Thank you very much. Joni Arends, Concerned Citizens for Nuclear Safety. First of all I wanted to thank Councilor Vigil Coppler for her leadership on the Buckman and specifically for her work with regard to the issues with the salaries – I'm not going to have the right words today, but the salary issues at the beginning of the pandemic for the employees. So thank you very much and I wish you the best.

COUNCILOR VIGIL COPPLER: Thank you very much.

MS. ARENDS: And second, I want to talk about the whole holistic process from the Buckman to the Paseo wastewater treatment facility on Airport Road and the issues with regard to the exceedences of the water leaving the plant as well as the safety issues are becoming – I know this is beyond the scope of what the Buckman Board can do, but because it is a holistic system of the water coming in from the river and going out to the river, if the Buckman Board can say anything about the safety issues there, and the exceedences of contamination down the river, CCNS would be grateful. So thank you very much.

CHAIR HANSEN: Thank you, Ms. Arends. I agree that it is a holistic system and I think that in the future when we look at water that we need to look at wastewater as an important part of this, and I won't say anything more now because it's not on the agenda but thank you for your comments. So with that I will close Matters from the Public.

5. APPROVAL OF CONSENT AGENDA

There were no items listed under the Consent Agenda.

6. APPROVAL OF MINUTES

a. November 3, 2021 Buckman Direct Diversion Board Meeting

There were no changes offered and Councilor Vigil Coppler moved to approve. Mr. Helms seconded. The motion passed by unanimous [5-0] roll call vote.

7. PRESENTATION/INFORMATIONAL ITEMS

a. Monthly Update on BDD Operations

CHAIR HANSEN: Randy Sugrue, welcome, and we look forward to hearing your monthly update.

RANDY SUGRUE (Operations Superintendent): Thank you, Madam Chair, members of the Board. This is my report for BDD operations for the month of November 2021. Our raw water diversions averaged about 4.76 million gallons per day, drinking water deliveries through our Booster Stations 4A/5A, averaged about 4.69 million gallons per day. Raw water delivery to Las Campanas was limited to the first of November to the tune of about 180,000 gallons. Our onsite treated and non-treated water storage, about 70,000 gallons average per day. BDD is providing approximately 75 percent of the water supply. You can see our year to date diversions as compared to our average diversions for the last 11 years, it's a little bit more than average for the month of November.

On page 2 we have our regional water overview demand, about 6.3 million gallons per day, City and County. Rio Grande flows for the month of November averaged about 575 cubic feet per second. Just a side note there, for the last few days they are releasing water from El Vado, transferring water down the Rio Grande to Elephant Butte and so the flow has jumped up suddenly for a few day to about 1,500 cubic feet per second. We've experienced a slight turbidity issues for a couple of days but that's settling down now and I anticipate that additional flow to subside over the next week or less.

Canyon Road Reservoir as reported, about 70 percent in Nichols, 13.5 in McClure, combined storage of about 23 percent. This was a few days back. The in-flow flow above McClure was about 680,000 gallons per day. Our total San Juan-Chama storage for October was the most recent update, still around 13,000 acre-feet, and our El Niño summary for November was updated on the 22nd. We are definitely in La Niña conditions presently, and there's about a 50 percent chance of that being sustained through the winter and into spring of 2022.

That's my report and I stand for questions.

CHAIR HANSEN: I want to welcome Member Ives to the meeting also he joined us a moment ago. And I see he has some questions which didn't surprise me. So if there's anybody else that has any questions please raise your hand, but I will call on Mr. Ives first. Thank you.

MR. IVES: Thank you, Madam Chair. It's really a question about the El Vado and the anticipated repair work to be done there. I'm not sure if folks know the schedule for that and what impacts, or if there's been an evaluation of what impacts that might have on any of the diversion water coming to the Buckman. Somebody might have some information.

RICK CARPENTER (BDD Facilities Manager): Madam Chair and Councilor Ives, I'll go ahead and take that one. Yes. That's a big project and there's a lot of coordination going on that addresses your very question. There will be some operational abnormalities, but as far as passing water, storing water and any impacts that would directly affect the BDD we do not anticipate that.

MR. IVES: Good. Glad to hear that. That was the only question I had at this point. Thank you, Madam Chair.

CHAIR HANSEN: Thank you very much. Are there any other questions? I did as Rick to possibly give us a report next month about the water mixing and where all the water gets distributed from, so many Rick will just give a little update about what he will present next month. I believe you're next on the agenda, so welcome, Mr. Carpenter.

7. b. Report from the Facilities Manager

MR. CARPENTER: Thank you, Madam Chair and good evening, Board. With that segue, yes. It turns out your question was a very good one and it's more complex than a lot of people may realize. It's taking a fair amount of analysis. We do have four sources of water within the City. The BDD is a primary source, and how those waters get comingled and what time of the year those percentages may change and why is something that we're evaluating. We do want to bring that back. We're modeling it right now. We are hoping that maybe we can do that in January and Board members, it may actually lapse into February. We're not quite sure but that may happen. Just so that we can give a full and accurate response. And I think it's a larger question, not just for the BDD but a lot of people around the city and the county really would like to know, where does my water come from? How much of it's well water? How much is BDD and so on?

So we will make a detailed presentation and that's probably going to be an ongoing conversation as we move through educating people on how our water is produced and introduced into the system, and so we look forward to making that presentation to the Board.

CHAIR HANSEN: Thank you. Is there anything else, Rick, you would like to bring forward?

MR. CARPENTER: Yes, Madam Chair. On the vacancy/Human Resources front, I think I may have mentioned to you, I do have a sort list – well, not a short list; a list of eligibles on the administrative assistant position. Just had a meeting this morning with some staff to go over those applications and hopefully develop a short list for interviews. We have a very aggressive schedule for that, hopefully, maybe next week, to get those interviews completed and we want to move forward with filling that position just as rapidly as we can with a qualified candidate. And with that, Madam Chair, those are my updates.

CHAIR HANSEN: Okay. And I just wanted to tack onto why I asked Rick for this question. I have constituents telling me that water on the north side of St. Francis was only coming from the reservoir and water on the south side was only coming from Buckman. And I explained to them that the water was mixed. And they said, well, where is it mixed and how is it mixed and where does this all come from and where are the wells? And I couldn't answer every single question that they were asking, so I went to Rick and asked him. And so I felt like this was an opportunity to not only educate the Board but also educate our constituents about their drinking water.

8. ACTION ITEMS: DISCUSSION AND ACTION

a. Citizen Member and Alternate Citizen Member Appointments

NANCY LONG (BDD Legal Counsel): Thank you, Madam Chair and members of the Board. Just wanted to bring this issue to the Board's attention as the current terms for your citizen member, Mr. J.C. Helms, and alternate citizen member, Peter Ives, expire next February. So it's already been two years since we last went through the process that consisted of this last time, advertising for interested parties, conducting interviews by a committee, and then recommending to the Board your current citizen member and alternate citizen member, which the Board approved. There is no required process under the JPA or in any other document for your appointment of these two members. The Board has done a number of things in the past, including reappointing certain members, and so I just wanted to bring this to the Board's attention since the time is drawing near, if we were going to go to a process of advertising. If you choose to reappoint them we can put that on the agenda for February of next year.

CHAIR HANSEN: Thank you. I think that our citizen member and alternate member – Mr. Ives, you still have your hand up. I don't know if you still need to talk. But they are doing a great job and that we could just go forward with them again and reappoint them since it is not a requirement that we need to advertise for additional members. Commissioner Hamilton.

COMMISSIONER HAMILTON: Just a small point. Should we take the opportunity to ask if they're willing to serve again, just to make sure that we're not making that assumption, because that would be great.

CHAIR HANSEN: So I believe that our attorney, Nancy Long, has asked them if they were willing to serve and they both are. But if they would like to say anything I'm happy to have them make comments. Mr. Ives.

MR. IVES: I'm happy to serve.

CHAIR HANSEN: Thank you. J. C.

MR. HELMS: I would love to serve. I enjoy this committee. I think it's one of the best I've ever been on. I love everybody on it and I love the work and do hope to continue. Thank you.

CHAIR HANSEN: Okay. Thank you very much. That sounds fantastic. So with that –

MS: LONG Yes, Madam Chair. I'm hearing that I should probably put this on for an agenda item to specifically appoint the two as an action item for January or February.

CHAIR HANSEN: So I think we could do this in January. That would be more than adequate. So thank you both for your service to the BDD Board.

b. Update on BDD Board LANL MOU

KYLE HARWOOD (BDD Legal Counsel): Good afternoon, everybody. I hope everyone's doing okay. I'm going to go ahead and share my screen, if that's okay, if everybody can see the existing MOU as it is in your packet. So the purpose of this presentation is to first remind you all that we did do a term extension of the existing

MOU from yesterday to the beginning of February, just after our February Board meeting. The hope is that we will be able to reach an amicable consensus agreement with LANL on the new replacement MOU between now and the February Board meeting.

My plan this afternoon is to walk you through the existing MOU and highlight for you several of the areas where we are still working so that you have an update in the open session and also to share with you that we are looking forward to a working meeting with San Ildefonso Pueblo about an important piece of the ENS system, which hasn't yet happened yet. So with your permission, Madam Chair and members of the Board, I'll go ahead and walk you through the MOU in your packet.

The first item I have up here is just noting what I started my comments with, which is we successfully extended the existing MOU. So we are in the fourth year of the third three-year MOU and we've just added an additional three months to that by this letter with the Chairperson's signature and the electronic signature of Mr. Mikolanis, the manager of environmental management at Los Alamos field office. I see Mr. Mikolanis is logged in as a panelist, so if you're there, thank you for joining us today.

We're not proposing to make any changes – obviously there's no changes to the parties, there's no changes to the background. We have – oh, there you are, Hello, Mr. Mikolanis. How are you today? Good. Nice to see you. Thank you for joining us. We – by we I mean myself and Rick Carpenter with our counterparts at LANL have made some changes to the objectives. We're not changing the spirit of the objectives. We are changing some of the wordsmithing of the objectives. These objectives were a little clunky, I think, in the past. Continue the relationship, and then of course the two main pillars of our relationship with LANL are to make sure that the early notification system is as robust as possible to give the BDD project operators notice of when there's stormwater flow in LA Pueblo Canyon, and then the second main pillar of this LANL-Board agreement is to have LANL support water quality sampling in general, which of course is the grant which we'll review here in a moment.

No real changes to the authorities or the main principles. The biggest change, which we have shared with the Board previous to this meeting is that we are hoping to negotiate a new flow gauging station much closer to the confluence of the LA Pueblo Canyon system that drains the lab, and the Rio Grande. And so we are discussing with the lab who will be responsible for the permitting and cost of this new station, as well as who'll be responsible for the long-term maintenance and operation of the system. So a couple of these highlights are just sort of parts in the existing MOU that we are proposing to change with some new language regarding the new station. And really related here to lines 93 and 94 which was contemplated in this latest MOU draft which was were going to see a more robust flow management measurement station lower down on the system to provide the operators with a clear signal of when there was flows of concern in the LA Pueblo Canyon system.

A key to this is a discussion with the Pueblo of San Ildefonso which I mentioned earlier. We are hoping to meet with them as soon as next week to continue to move this forward.

The second pillar of the MOU which is also being actively discussed by Rick and I and our counterparts at LANL is the grant funding that's provided to the Board for water quality sampling, and for those of you who remember the long arc of this relationship, in the first MOUs we had a detailed list of analytes that we wanted sampled,

and even down to the type of method that used to test for each analyte, and we asked LANL to do that testing and to supply the results to us. In the more recent iterations of the MOU this has become a federal government grant to the BDD Board where we draw upon a \$96,000 grant in order to run sampling that we see fit. And there has been some discussion about whether this number is too high. That is we haven't always gone up to \$96,000 each year. I have been advocating that a grant is good because it gives us plenty of headroom, and that any money not expended stays with the federal government. It's not like they're writing us a check; it's that we're submitting costs and getting reimbursed. So we are having a bit of a discussion about whether this number should be lower or whether it's a little simpler, I think, from our perspective to have this grant and access it up to this limit as needed. As many of you know, we're sampling only certain stormwater events, so certain years there'll be more stormwater events than others and so it's nice to have this flexibility based on a grant.

The other main topic of discussion is we thought we were fairly logically proposing that we move to a longer term for the MOU than just three years. Obviously in the last couple years are sort of an exception with COVID. These work efforts take a while. It takes a while to warm up and to have a negotiation and do the drafting and find the time to work through the relevant issues so we would suggest a five-year MOU for this next iteration and we may – that seems to have created some consternation for LANL so we may be sticking with the three-year MOU, but we'll be bringing you, I think, if I didn't say it earlier I will say it now. The plan is to bring you a fill redline of the MOU at the January meeting and hoping to get agreement with LANL in order to have the signing ceremony at the February meeting before this latest extension times out.

So let me keep going. We also have a new section in E. 5 that we're discussing which has to do with document sharing, so this isn't exactly what I've highlighting but this is were the document we're negotiating some new language around document sharing. This was identified by the Board's consultants as sort of a missing piece of the relationship. We've asked to get regular copies of materials that the lab prepares and sends to NMED. We've been asked to be included into that loop of outgoing documents from the lab as it relates to sediment management and LA Pueblo Canyon, and LANL has similarly asked to have a report prepared regarding when the BDD turns off as a result of the ENS system. So we are working through the actual language of that request. And then under data project sharing, I didn't really highlight anything because there's nothing particularly – this is going to be another new section under paragraph F. As I think you all know, NMED runs a sampling station. So again, it's important to remember there's a big difference between flow monitoring or just finding out if there's anything running in the arroyo, and then there is actual water quality sampling, where there are small amounts of water taken out of the stormwater flow that are saved and then sampled to be able to characterize what's in the stormwater. And we have long relied on NMED running a sampling station at E-110, which is just down from E-109.9, obviously from the numbering, and we have asked for LANL to commit to continuing to fund the state's sampling program there. If they stop for any reason that they will continue to do it for us, and this has become a very – fairly hot topic of discussion in our negotiating team, but we are sort of pointing out the importance of that sampling station and asking for some degree of commitment to maintaining it for us, even if they are relieved of that requirement by the Environment Department.

So obviously, a lot of the contacts will change since we've had turnover at both organizations through promotions or lateral promotions, whatever Rick's new role is. So we have a lot of contacts to update, and then as I hinted at earlier, we really need to come to some understanding about whether we're doing another three-year MOU or something longer, and that is really a summary of the negotiations we've had. We've had the best of times; we've had some challenging discussions as well. But we are hopeful that we are getting close and that we will be able to bring you a redline that fully explains exactly where the two parties are not in agreement at the January meeting, which is right after the new year, and with the hope of bringing the Board something that's at least executable on the Board's side at the February meeting and we hope LANL will join us in signing that document. As I hinted at earlier, the most important relationship that we need to build on is the San Ildefonso relationship because the new gauge is down in a part of the canyon where – it's within their pueblo boundary.

So with that, Madam Chair, I will stop my screen share and stand for questions.

CHAIR HANSEN: Thank you very much. Let's seem. Questions from the Board. Commissioner Hamilton.

COMMISSIONER HAMILTON: Just generally, the things you highlighted where there was still some separation on, do you have a prognosis for getting close?

MR. HARWOOD: Well, I won't put Mr. Mikolanis on the spot here. I know that he's still smiling on the video of his feed, but I can say that I've enjoyed getting to know John Evans who was my counterpart from Mr. Mikolanis and he's been a real professional through this process and I am hopeful he will convince his clients to meet our very reasonable requests.

COMMISSIONER HAMILTON: Okay. Thank you.

MICHAEL MIKOLANIS: Thank you, Kyle for that. John has told me that we're driving towards success so that's why I'm smiling on the video.

COMMISSIONER HAMILTON: Oh, excellent.

MR. MIKOLANIS: I won't comment on where we are on the deltas because I know that they're still being worked but I did want to give the Board some sense of I think we are – as Kyle said, we've been collaborating and we've been negotiating and working hard, diligently, and we are driving to the date that the Chair has asked us to try to drive toward.

CHAIR HANSEN: Thank you, Mr. Mikolanis, for joining our meeting and being available. I appreciate that very much. I'm going to go next to Councilor Romero-Wirth.

COUNCILOR ROMERO-WIRTH: Thank you, Madam Chair. Did Councilor Ives have his hand up?

CHAIR HANSEN: Yes, he does.

COUNCILOR ROMERO-WIRTH: Okay. I thought he was ahead of me.

CHAIR HANSEN: I'm sorry. I didn't see who raised their hand first.

COUNCILOR ROMERO-WIRTH: Okay. He's smiling so I guess he must be okay.

CHAIR HANSEN: He is.

COUNCILOR ROMERO-WIRTH: So can you tell us anything further about the nature of where you're still apart, or just that you're apart in these areas?

MR. HARWOOD: I can share with you, Madam Councilor that we're still working through the term, whether it's a three- or five-year agreement. I think that's got some implications for the MOU and how we handle grant funding.

COUNCILOR ROMERO-WIRTH: That is one of the areas I'm curious about and I don't know whether this question is appropriate by I am curious. We want a longer term; they want a shorter term, and what is sticking point? Or is that not something –

MR. HARWOOD: I think it's fair to say that we had hoped to reduce the frequency of this process and I think the fact that it's been a three-year MOU, there are sort of grooves in the table. And so I think we'll be bringing you a recommendation at the January meeting. I don't – I think the relationship and having an MOU is more important than the actual number of years and even we were talking about a much longer MOU, a ten-year or even longer MOU at one point in the discussion. But I think you can probably appreciate there's not a ton of difference between a three-year and a five-year MOU. So I hope we'll have a consensus recommendation for the Board at the January meeting. And of course that's just one of the several issues that I reviewed. I don't know if you'd like me to talk about the other ones.

COUNCILOR ROMERO-WIRTH: Well, I just – I'm not sure how much detail you can get in and whether it's even helpful. I'm just sort of curious. And maybe it's not even really relevant. So let me ask another question. On the water quality sampling, you said NMED might be relieved of having to do that, and so therefore you want LANL to continue it; is that what I heard?

MR. HARWOOD: Yes, ma'am.

COUNCILOR ROMERO-WIRTH: NMED might be relieved of doing that by whom?

MR. HARWOOD: Well, there are a lot of things afoot between the lab and NMED and we're not privy to all of those conversations but we have recognized how reliant we are on the E-110 sampling that NMED does, and so we're requesting essentially a backstop should that change and that is – I think it's fair to say that that is a hard topic for LANL. So we are still working through it.

COUNCILOR ROMERO-WIRTH: So just to make sure I understand, LANL may relieve NMED of its requirement to do the sampling? But who's going to relieve NMED of their sampling activity?

MR. HARWOOD: The way to think about it is a lot of the regulatory agency's obligations on LANL, a lot of LANL's activities are the result of negotiation. And so perhaps being relieved of was too cute by half. If the sampling were to go away for any reason, we the Board would still very much want water quality sampling happening at that location. So if that's clearer language for you I apologize for presenting it in a less clear way initially.

COUNCILOR ROMERO-WIRTH: Yes, I guess it just begs the question of what requires them to do that and why would they stop? Who are the decision makers who decided that that's no longer something they do? It just raises a lot of issues, a lot of questions.

MR. HARWOOD: The way it works now is that DOE provides funding to NMED for this station, and so if that were to be handled in some other way in their relationship, we're just saying it's important to the Board for the water quality sampling

continue at this location. So as I said, they have an incredibly diverse and complex relationship with us. The whole LANL campus. So I don't know exactly what conditions would lead to either the lab not funding NMED to do that sampling or for them to decide they're going to slice the apple in a different way, but we feel like for the Board's interests, that sampling station is very important to our understanding of characterizing stormwater in LA Pueblo Canyon. So we're looking for a way of backstopping, that that thing that happens now will continue and we're still working on that principle with them. Is that –

COUNCILOR ROMERO-WIRTH: Yes. All right. So I would just emphasize that water sampling is very important and if that goes away I would like to know – who to hold responsible and how you address that.

MR. HARWOOD: And one half is working with our partner and neighbor LANL on that water quality station. The other is to be very, very clear with Secretary Kenney and the Environment Department about the importance of that station. And I think we need to do both. And so that everyone knows how important it is to us to have that water quality station. So we're in this discussion with LANL. We obviously need to emphasize that to NMED so it says on the top of their radar and they know how important it is to us. So that's the other half of the communication. I think that's what we need to do.

MR. MIKOLANIS: If I can add to help clarify the response to the question it's my understanding that NMED --

CHAIR HANSEN: Mr. Mikolanis, because this meeting is being recorded, I just want to make sure you are introduced so that the minutes reflect that you are speaking.

MR. MIKOLANIS: Thank you. I'm sorry. This is Michael Mikolanis EM-LA. Just to help clarify the response to the question and I will refer this off line and get back to you Chair, if it's different. But NMED itself determines what sampling is needed or not. We have a grant with them that forms the work that they need to do on behalf of Los Alamos-EM. It would be NMED's choice to either continue the sampling or elect or propose not to do the sampling anymore. Commissioner, if that information helps.

COUNCILOR ROMERO-WIRTH: Yes. I guess the follow-up would be – who at NMED? Is it the cabinet secretary? Is it the Water Quality Board? Is it – who, where does this decision-

MR. HARWOOD: It's the Oversight Bureau.

COUNCILOR ROMERO-WIRTH: Okay.

MR. MIKOLANIS: And obviously we participate and it involves discussions with the laboratory as well, so I'm not trying to put NMED out saying they're your target if you're unhappy with the final result. Obviously, Los Alamos will be working with NMED if they propose any changes. So I'm sure that if there are changes there would be conversations directed, as Kyle said, at both Los Alamos and with Los Alamos and NMED regarding the change, etc. So I think that it would be probably be both of us that would be -- to speak, but the decision and the proposal is with NMED, their Oversight Bureau. I hope that helps a little bit.

CHAIR HANSEN: Thank you, Mr. Mikolanis. And also Councilor Romero-Wirth, originally, this MOU was directed by the legislature for us to have this

MOU and so I would think that the Radioactive and Hazardous Waste Committee would be making sure also, that they would be making sure that we have this sampling being done if for any reason something happened. But Secretary Kenney is a supporter of sampling and believes in everybody being responsible. So I think that we are safe at the moment that we're not going to see anything like this go away. I mean, I can't speak for him, of course, but they are very concerned. In the Oversight Bureau they're very concerned about that also. And I know that Commissioner Hamilton wants to say something.

COMMISSIONER HAMILTON: I think the issue is not just who's concerned about sampling. It's the source of funding for it and how that gets shifted around, and that's part of what will drive a decision. And so it makes a difference if DOE stops paying for it directly to NMED and transfers it to the Buckman MOU burden. I think that's at least a piece of the optimization equation.

COUNCILOR ROMERO-WIRTH: Yes, and I guess – and I appreciate that. What I'm trying to understand is why do they do sampling right there, who requires it? Because you wouldn't do this because of the cost unless some regulator somewhere was saying this is where you need to do this. So all I'm trying to figure out is what's the chain of command, right? Who – and Kyle said somebody may relieve them of their duty to do this. And so I want to know who to hold responsible for that decision to relieve them. Do they decide themselves? Does the federal government decide? Does LANL decide? We clearly don't decide because we want that sampling. And so I'm just – again, I'm fairly new here and I'm just trying to understand how all these complexities work.

MR. HARWOOD: I noticed Mr. Mikolanis raised his hand, but I think he described it pretty well before. The Oversight Bureau identifies the data that they want to make sure is collected and then I believe the second step is the lab agrees to fund them to do that. And so what we've suggested in our MOU is that we want a backstop. If that were to change for any reason by anyone we want to have some kind of a backstop where it continues. And we're proposing to have LANL commit to us that even if they don't fund it or NMED doesn't require it, it will continue. And this is something new. It's not something in the current MOU, just to be perfectly transparent about it, and they've said that's something new and we don't really like it. And so that's what we're discussing.

Hopefully that gives enough color about where it came from and then a sense, Councilor Romero-Wirth, we're not going to get into the details of how, when and where this has happened or might continue to happen. We just know that if it stops, we want to commitment that it will continue. If it stops as part of the program it's part of now, it will continue as part of a program for us, I guess is a better way to say it.

COUNCILOR ROMERO-WIRTH: Yes, and I appreciate that. I guess I just – it's interesting to me that you have a sense it might stop. And so I'm curious where that sense comes from, and it must come from some regulator somewhere. It's not saying it's no longer required or we don't need it or it's unnecessary. And yet it's very critical to our operations, knowing what kind of water we're dealing with.

MR. HARWOOD: I think that's a great question, Councilor Romero-Wirth, and I think what I'll point to, which we've mentioned in earlier briefings is that the new consent order was really rough on our set of assumptions, and that our MOU is sort of built around the larger consent order relationship between NMED and the lab. And so we are trying to make sure we have lessons learned from that fairly rough

experience and being really clear about the things that we assume will continue and sort of articulating that we really desire to continue. So that's a learning curve, so to speak. I don't expect Secretary Kenney, knowing him as I do, that he would – this is not the kind of thing he would stop doing, but we are trying to build a relationship and have principles for future renewals of this relationship based on experiences that we've acquired. So hopefully that gives you some background on why we're not necessarily concerned about Mr. Mikolanis or Mr. Kenney but there is turnover in these roles.

COUNCILOR ROMERO-WIRTH: Thank you, Madam Chair.

CHAIR HANSEN: Thank you, Councilor Romero-Wirth. Those were very good questions. I appreciate that very much. Mr. Ives.

MR. IVES: Thank you, Madam Chair. Yes, a couple of questions, in part following from those that Councilor Romero-Wirth has put forward. How much money are we talking about annually?

MR. HARWOOD: Mr. Mikolanis, do you have the amount for the grant on that station?

MR. MIKOLANIS: This is Michael Mikolanis from the Department of Energy. No, I don't. I know the size of the grant but that grant funds many things. I don't know what the cost of that sampling is on an annual basis is though off the top of my head.

MR. HARWOOD: We can get you that number. I keep wanting to call you Councilor. As Lawyer Ives, Mr. Ives, we'll try to suss that out so you have a better sense of the order of magnitude we're talking about.

MR. IVES: Gottcha. And as far as what I'm called, as mom said call me anything but late for dinner. So my next question is, you stated that sampling – that the BDD is very reliant upon the E-110 sampling. So what does the sampling show and what's the protocol for taking the samples in the first instance?

MR. HARWOOD: That's a great question, Mr. Ives. It is a protocol that's developed by NMED, the outcome of which is the most important for us. So without getting into the details of how the sampler is programmed and what analytes it samples for, the output of this E-110 sampling program run by New Mexico Environment Department Oversight Bureau is giving us characterization of the legacy contaminants coming down LA Pueblo Canyon. So we have a baseline understanding of what the contaminants of concern are and then sort of what concentrations, and so this sampling location lets us monitor for any real change from that baseline. Obviously, we would prefer the stuff coming out of LA Pueblo Canyon was clean, and I know the lab is committed to cleaning it up, but where we stand now there's stuff in the sediment train that gets mobilized with each storm and there is still stuff coming down. And until it is totally clean we feel it's appropriate that it be characterized and that we have the ENS, which of course as you know is our first line defense where we stop diversions and allow that slug of stormwater to pass by our intake. So hopefully that's a solution.

MR. IVES: When are those samples taken?

MR. HARWOOD: Well, they're triggered by stormwater, so those samplers are set up, generally, to take samples every – I think it's every 15 minutes. What they've done is they've done enough studies of how these forms behave, that they sort of know that it's a two or three hour stormwater flow duration. They know how many vials they have in these Terracells and so they are taking timed samples out of the stormwater

so they get a characterization of water quality through a hydrograph. And so without getting into any more detail, it is a sampling program that is tied to our understanding of how this particular watershed behaves during stormwater events.

MR. IVES: I appreciate that and understanding that I might have some more questions offline on some of these points. How quickly are results available from that sampling?

MR. HARWOOD: I think it's something like 120 days.

MR. IVES: So in other words there's no real-time monitoring or sampling of storm events. In terms of producing results you're talking four months later.

MR. HARWOOD: Some of these analytes are very difficult to sample for, and so there's no real-time technology that I'm aware of for some of these analytes. They are tricky little contaminants that need to be done in a very high-tech lab with very specific protocols including what are called blanks. So they'll have a companion sample of the stormwater that goes through the whole process. So you subtract out all the radiation that the blank has collected, just going through its process. So this is some very high tech stuff. It's not something that is done in real time.

MR. IVES: So when you say that we're very reliant upon the E-110 sampling, if the sampling is not delivered until four months after a storm event, talk to me about the nature of the reliance. I could see it, if you will, a post facto justification or truing up or verification of the monitoring system, just looking at flow, but I'm not necessarily understanding that fully.

MR. HARWOOD: It's very, very important so that we know whether our assumptions about characterization of the stormwater are still valid sort of over the seasons and the year. If we saw a big spike of something nasty, that would alert us to something that was changing in the system or in our assumptions. And of course we can't – if we don't have this data we can't tell if there's a big spike of something new or something current that's getting worse. So it's not a real-time response. It's more of a longitudinal monitor. So it's not as fast as our – hopefully – is that sufficient? Is that responsive?

MR. IVES: Certainly responsive to that question. The next is who does this comparison and how often? Does it get written up and is that report available? And if so for what period of time?

MR. HARWOOD: All that data is reported out on the Intellus system and it's something that Rick's group of consultants monitors for us. So we have a very active team that's keeping an eye on all of these assumptions and flagging for when they might be changing and requiring additional scrutiny or a different approach.

MR. IVES: And how long have we been doing that, roughly?

MR. HARWOOD: We have been engaged in this particular process since 2008, with one degree or another of different levels of involvement by different people, but I'm going to date Rick and I, we're getting to be old guys now, but we're the only two I think, that have been around since the initial permitting of the project and this has been a consistent concern, and one that we've addressed with our partner, Los Alamos National Labs, to be able to answer this question that the public asks during our scoping for the main project many years ago.

MR. IVES: And so I assume these comparative analyses are available. Let me just hold that assumption unless I'm wrong in that assumption.

MR. HARWOOD: They're available. They're not for the faint of heart. You'd be better off asking us the question you want answered and letting us get you the answer. Because they are no fun to read.

MR. IVES: Well, part of my problem is I'm not quite sure what question do I need to ask the next question, which is have there been any negative results – results that showed fundamental changes over the course of time from 2008 to the present? And what's your trigger for saying something is happening? Or something bad is happening?

MR. HARWOOD: I would love, Councilor Ives, to bring back one of our technical advisors who's not really logged in or prepared to answer that question. I'd love to bring one of Rick's capable consultants back to help answer that question at a later meeting, with your permission.

MR. IVES: Certainly. Perfectly fine by me. I wouldn't mind seeing some of those reports in the interim, especially any that purportedly show some level of change. I'm never afraid of gnarly information.

MR. CARPENTER: Madam Chair, Councilor Ives, a lot of this, I think could be done offline and maybe through email.

MR. IVES: Great.

MR. CARPENTER: I'm trying to keep my team as tight as I can.

MR. HARWOOD: And we do have Jay Lazarus who's listening in the conversation. I'm sure we'll be talking to him about what he can provide in terms of ready answers.

COUNCILOR ROMERO-WIRTH: I would be interested in the answers to these questions as well. I think these are very good questions. Thank you.

MR. HARWOOD: Thank you, Madam Councilor. And did you promise you're going to call me, earlier, Peter?

MR. IVES: I am happy to do that.

CHAIR HANSEN: Okay. I know that Commissioner Hamilton had her hand raised, but now she's taken it down so I'm not sure –

COMMISSIONER HAMILTON: Thank you, Madam Chair. I'm interested in the answers also, and actually, the discussion about the results for the time series testing that justifies how long and when we shut off because of our knowledge of when contaminants start flowing and when they peak and when they trail off, in association with flows and then the long-term time question. Both of them were great questions. Mr. Ives, Councilor/Lawyer/Mr.

MR. HARWOOD: Esquire. Esquire Ives.

COMMISSIONER HAMILTON: We've had that discussion before and I've been told the data are available, but I've never been provided with the data. It's one thing to get a – just say, oh, there's nothing to worry about; the data are available. It's another thing to actually show it. I've never seen that. I consider myself capable and interested in looking at that sort of thing as I think everybody on the Board is, frankly. So I'd really like to see that stuff also.

CHAIR HANSEN: And I think, if I may, maybe we need a study group. It might be a good idea. I'm just throwing that out as an idea. But I think that we all are very concerned about the runoff. That is why the new station that we are proposing in this MOU is so important, so that we can make sure that we are not consuming water that

might have radionuclides in it or other contaminants that make the water much harder to clean. I think this is a very good discussion. Are there any more questions on this topic?

MR. HARWOOD: We can certainly bring back some answers to these questions. I'd like to suggest maybe after we get through the MOU, it might be an appropriate time to take up some of these more general questions in that course. There's really no substitute for doing a site visit and actually seeing the LA Pueblo Canyon system for yourself. It makes a huge difference rather than just trying to describe it, waving my hands around. So we'll put it on the list, if it's okay, after we get through the MOU process to make sure we're clear about exactly what your questions are and how much detail you want in the answers, and hopefully those answers today are responsive, at least for today.

COUNCILOR ROMERO-WIRTH: Madam Chair, I certainly would be interested in a site visit. Just want to –

CHAIR HANSEN: A site visit is always good.

MR. HARWOOD: Very good, Madam Chair. If there aren't any other questions, I will plan on putting a redline in the Board packet for the January meeting and briefing you all on where things stand with the lab at that time, looking forward to a signing ceremony of some nature at the February meeting. That's what we're shooting for and hoping for and of course if any of you have any questions for me or Rick, we're only a phone call away and we would love to hear from you.

CHAIR HANSEN: Okay. Thank you very much, Kyle. I really appreciate that. I appreciate everybody's questions. It was a really good discussion.

9. MATTERS FROM THE BOARD

CHAIR HANSEN: Are there any Matters from the Board? I have one Matter from the Board. It came to our attention at our BCC meeting on Tuesday that we do not have a person from the Buckman Direct Diversion Board on the Water Policy Advisory Board for the County. I reached out to Mr. Egelhoff and asked if he was interested in serving. He is very interested in serving. It should be a public member, not an elected official to serve on that County board so I am hoping that we can bring back an appointment at the January meeting to appoint Tom Egelhoff to the County Water Policy Advisory Board. Commissioner Hamilton.

COMMISSIONER HAMILTON: I know JoAnne had her hand up. I have no idea what she was going to say but I know this is her last meeting and, yes. I hate these good-byes. I hate losing her off the Board. Very grateful to have had the opportunity to work with you, Councilor Vigil Coppler, and for all you contributed and am sincerely sorry to lose your inputs in this, our ongoing issue and the collegial way we've all been able to work together. It's a very satisfying thing as well and you contribute substantially to that. I just wanted to take that opportunity to wish you the best.

COUNCILOR VIGIL COPPLER: Thank you. Appreciate it.

CHAIR HANSEN: Thank you, Commissioner Hamilton. I was also – my next note was to thank you, extraordinarily, Councilor Vigil Coppler for your great leadership as the Chair of this Board. I really, really appreciate how you went to bat for the Buckman Direct Diversion Board at the City to help them understand that this is a separate, independent Board and making the City aware of our unique position in the

scheme of things at the City, and I really appreciate it, that hard work and your willingness to learn and be committed to the Buckman. It was heartwarming and impressive and I am very sad to lose you as a member of this Board.

COUNCILOR VIGIL COPPLER: Thank you, Commissioner. I appreciate it. So I'll take my turn, Matters from the Board, and just say I want to thank all of you. I've been on this Board since I became a City Councilor, so almost four years. It has been – I knew nothing about what you all do. I had never visited the treatment plant, and so all of that was really eye-opening and I will say that the staff has been absolutely wonderful. Rick, your leadership. Bernardine, Antoinette, I know is always – is going to be a great asset, welcoming her of course because she's fairly new to the Board, and of course Jamie-Rae, helping out just tremendously. And everybody else that was on here and I don't think they're on here anymore. But I've learned a great deal. I'd like to thank Attorney Long because she has been very helpful, not only to the Board, but when I was Chair, just providing the guidance that was really important. And all of you all – and Kyle Harwood. I still will see you around because you're still involved in teaching water classes for the Real Estate Association. So that's pretty good.

Anyway, I've just enjoyed working with all of you and it's been a real pleasure. I'll miss a lot of what goes on here and I'll also miss the executive session after this because even if I learn anything there I can't talk to anybody about it, so what's the point? And also I get to go on my merry way. But I think it's really important. I thank you, Commissioner Hansen, for touching on it, but I think one of the successes of this Board and I know you continually have to work on it, and that is to maintain your independence, and the way you do that is to continue to educate people that work in both organizations, the County and the City, that this Board has autonomy. And I think where it gets a little fuzzy is when you get to the staff level on the City side because the City handles the financial processes. And so sometimes you continually have to educate that the Board really has the decision-making authority over what we do. So when that gets muddied up it gets very complicated as you know and gets hard for staff members to follow what they know to be true and do their responsibility to the Board and not to the City staff where they happen to have some of their desks or likewise just work with. So I would say it's important to the success of the Board to keep those lines of differentiation, work together but keep the lines straight.

But again, thank you very much. I've appreciated all of you. I can say that I'm very happy in my life, but I know I'll see you all everywhere because you guys are everywhere. And so it'll be a pleasure seeing you outside the organization as well. So thanks again for your kind comments.

CHAIR HANSEN: We'll definitely miss you, JoAnne, and I'll go to Mr. Ives next.

MR. IVES: Thank you, Madam Chair. I'll be brief. I just wanted to echo the thanks to Councilor Vigil Coppler. It has been a pleasure serving with you on this Board and in other capacities over the course of the past four years and I only note as to the future I will miss your voice.

COUNCILOR VIGIL COPPLER: Thank you.

MR. HELMS: Madam Chair.

CHAIR HANSEN: Yes, J.C.

MR. HELMS: I'll just be brief. I thought it was a wonderful experience to be on the Board with JoAnne and I'm very sorry to see her go. Obviously, we'll see each other in the community but her presence on the Board was very wonderful and I think her heart and her head were always on the important places. She brought serious attention to serious topics in a very good way and I appreciated it. And thank you for being on the Board.

COUNCILOR VIGIL COPPLER: Thank you very much.

CHAIR HANSEN: Okay, any other comments? Any other Matters from the Board? Councilor Romero-Wirth.

COUNCILOR ROMERO-WIRTH: Thank you, Madam Chair. I just want to echo the compliments that have been directed as Councilor Vigil Coppler. Just thank you for the four years you've served and for the one year that you served as Chair, and I certainly wish you well and will see you out and about as we in this small community often run into each other. I ran into Commissioner Hamilton at the grocery store right before Thanksgiving. So I know we will see each other as we move around town. So thank you for your service.

COUNCILOR VIGIL COPPLER: Thank you, Councilor.

CHAIR HANSEN: Okay. Any other items?

11. **NEXT MEETING: Thursday, January 6, 2022 at 4:00 p.m.**

12. **ADJOURN**

13. **EXECUTIVE SESSION**

- a. **In accordance with the New Mexico Open Meetings Act NMSA 1978, §10-15-1(H)(7), discussion regarding pending litigation in which the BDDB is a participant, including, without limitation: *Buckman Direct Diversion Board v. CDM Smith, et al.*, First Judicial District Court Case No. D-101-CV-2018-0610**

CHAIR HANSEN: I'm going to go over to Ms. Long and see if there is anything that we need to notice from our previous meeting?

MS: LONG Madam Chair, no, there is not, because you did not have an executive session last month I believe. So thank you for asking about that though. So at this point you can ask for a motion to adjourn and go into executive session in accordance with the New Mexico Open Meetings Act, NMSA 1978, 10-15-1H(7), for a discussion regarding pending litigation in which the BDD is a participant, including *Buckman Direct Diversion Board v. CDM Smith*, as described in the caption on your agenda.

CHAIR HANSEN: Okay, do I have a motion to go into executive session?

MR. HELMS: So moved.

COMMISSIONER HAMILTON: Second.

CHAIR ROYBAL: We have a motion by J. C. Helms to go into executive session, second by Commissioner Hamilton. Can I have a roll call vote, please?

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

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

[The Board adjourned and met in executive session at 5:16 pm.]

ADJOURNMENT

Chair Hansen declared this meeting adjourned at approximately 5:16 p.m.

Approved by:

Anna Hansen, Board Chair

Respectfully submitted:

Karen Farrell, Wordswork

ATTEST TO

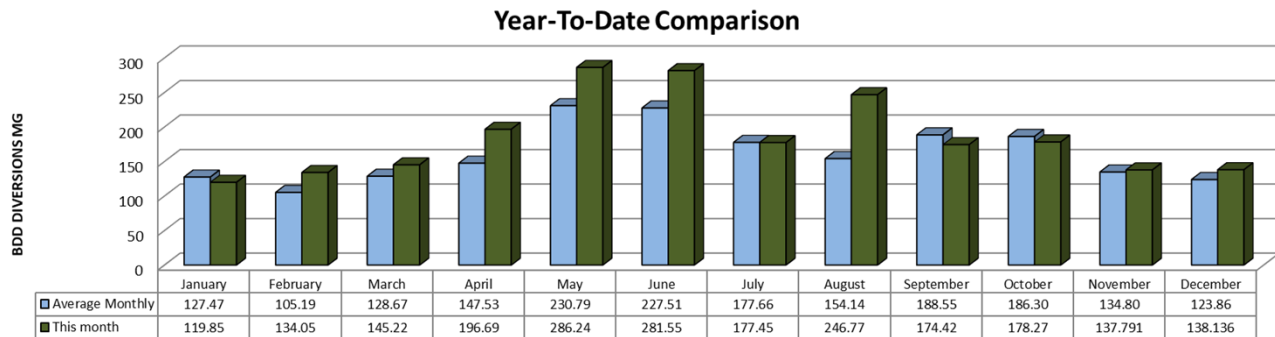
KATHARINE E. CLARK
SANTA FE COUNTY CLERK



Date: January 6, 2022
To: Buckman Direct Diversion Board
From: Randy Sugrue, BDD Operations Superintendent
Subject: Update on BDD Operations for the Month of December 2021

ITEM:

1. This memorandum is to update the Buckman Direct Diversion Board (BDDDB) on BDD operations during the month of December 2021. The BDD diversions and deliveries have averaged, in Million Gallons Per Day (MGD) as follows:
 - a. Raw water diversions: 4.46 MGD.
 - b. Drinking water deliveries through Booster Station 4A/5A: 4.27 MGD.
 - c. Raw water delivery to Las Campanas at BS2A: 0.00 MG
 - d. Onsite treated and non-treated water storage: 0.19 MGD Average.
2. The BDD is providing approximately 71% percent of the water supply to the City and County for the month.
3. The BDD year-to-date diversions are depicted below:



4. Regional Demand/Drought Summary and Storage-see page 2.



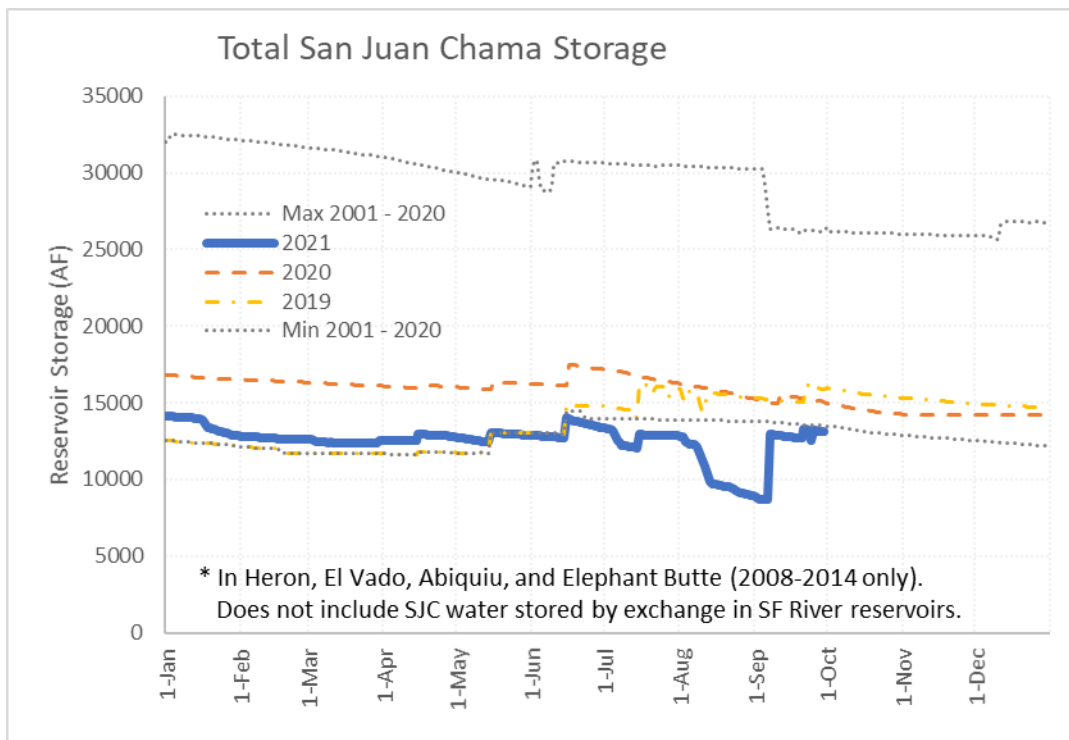
Regional Water Overview

Daily metered regional water demand for the month of December 2021 is approximately 6.0 MGD.

Rio Grande flows for December 2021 averaged approximately 525 CFS (cubic feet per second.)

CRWTP reservoir storage: Nichols: 70.6%/McClure: 10.6% (20.7% combined) Watershed Inflow: 1.42 MGD

City/County/LC Storage- as updated by partners.



ENSO Summary

December 20, 2021

ENSO Alert System Status: La Niña Advisory

La Niña is present.*

Equatorial sea surface temperatures (SSTs) are below average across the central and east-central Pacific Ocean.

The tropical Pacific atmosphere is consistent with La Niña.

La Niña is favored to continue through the Northern Hemisphere winter 2021-22 (~95% chance) and transition to ENSO-neutral during the spring 2022 (~60% chance during April-June).*



Buckman Direct Diversion Monthly SJC and Native Diversions

Dec-21							
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	378.548	42.119	0.000	336.429	336.429	0.000	3.456
FEB	408.601	191.550	0.000	217.051	217.051	0.000	2.229
MAR	442.832	442.832	0.000	0.000	0.000	0.000	0.000
APR	624.282	506.349	0.000	117.933	117.933	0.000	1.195
MAY	868.184	483.518	0.000	384.666	384.666	0.000	2.477
JUN	879.493	302.801	0.000	576.692	576.692	0.000	3.555
JUL	562.156	-17.518	0.000	579.674	579.674	0.000	2.767
AUG	758.665	-0.154	0.000	758.819	758.819	0.000	3.757
SEP	542.059	-49.305	0.000	591.364	591.364	0.000	2.930
OCT	553.705	-22.895	0.000	576.600	576.600	0.000	5.614
NOV	423.977	368.177	0.000	55.800	55.800	0.000	0.543
DEC	423.345	-0.732	0.000	424.077	424.077	0.000	2.367
TOTAL	6,865.847	2,246.741	0.000	4,619.106	4,619.106	0.000	30.890

In Million Gallons

Month	Native COUNTY	Native Las Campanas	SJC TOTAL	SJC CITY	SJC Las Campanas	All Partners Diversions
JAN	13.720	0.000	108.306	108.306	0.000	122.026
FEB	62.394	0.000	69.875	69.875	0.000	132.269
MAR	144.245	0.000	0.000	0.000	0.000	144.245
APR	164.934	0.000	37.971	37.971	0.000	202.906
MAY	157.498	0.000	123.871	123.871	0.000	281.369
JUN	98.632	0.000	185.788	185.788	0.000	284.420
JUL	-5.706	0.000	186.765	186.765	0.000	181.059
AUG	-0.050	0.000	244.396	244.396	0.000	244.346
SEP	-16.060	0.000	190.470	190.470	0.000	174.409
OCT	-7.458	0.000	185.724	185.724	0.000	178.266
NOV	119.927	0.000	17.973	17.973	0.000	137.901
DEC	-0.238	0.000	138.136	138.136	0.000	137.898
TOTAL	731.837	0.000	1,489.275	1,489.275	0.000	2,221.113



Buckman Direct Diversion Monthly SJC and Native Diversions

Dec-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	396.508	218.194	0.000	178.314	178.314	0.000	1.679
MAR	357.764	185.598	0.000	172.165	172.165	0.000	1.621
APR	372.408	187.945	0.000	184.463	122.188	62.275	1.737
MAY	641.374	529.897	0.000	111.477	111.477	0.000	0.889
JUN	637.220	509.818	0.000	127.402	1.618	125.784	1.017
JUL	784.520	0.000	0.000	784.520	784.520	0.000	3.663
AUG	886.856	12.503	0.000	874.354	839.919	34.435	4.214
SEP	762.357	0.000	0.000	762.357	682.674	79.683	3.556
OCT	593.109	0.000	0.000	593.109	539.638	53.472	5.845
NOV	390.743	353.481	0.000	37.261	37.261	0.000	0.345
DEC	392.394	355.317	0.000	37.077	37.077	0.000	0.377
TOTAL	6,654.050	2,487.186	0.000	4,166.864	3,805.100	361.764	27.701

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	71.073	0.000	57.454	57.454	0.000	128.527
MAR	60.456	0.000	55.473	55.473	0.000	115.928
APR	61.220	0.000	59.435	39.440	20.101	120.655
MAY	172.605	0.000	35.812	35.812	0.000	208.417
JUN	166.065	0.000	40.927	0.520	40.407	206.992
JUL	0.000	0.000	252.754	252.754	0.000	252.754
AUG	4.073	0.000	281.681	271.072	11.113	285.754
SEP	0.000	0.000	245.686	219.960	25.726	245.686
OCT	0.000	0.000	191.019	174.109	17.252	191.019
NOV	115.140	0.000	12.008	12.008	0.000	127.148
DEC	115.738	0.000	11.937	11.937	0.000	127.676
TOTAL	810.158	0.000	1,342.289	1,226.843	116.574	2,152.447



Date: December 27, 2021

To: Buckman Direct Diversion Board

From: Antoinette Armijo-Rougemont, BDD Accounting Supervisor *ANTOINETTE ARMILJO*

Via: Rick Carpenter, BDD Facilities Manager 
Rick Carpenter (Dec 27, 2021 19:59 MST)

Re: Termination Notice of PNM Service Agreements #1025009 and #1025010

ITEM AND ISSUE:

Termination Notice of PNM Electric Facilities and Services Agreements for service site Booster Station 2A and BDD Service Entrance 4, City/County Water Treatment Plant.

BACKGROUND AND SUMMARY:

In 2008, the Buckman Direct Diversion Board entered into an Electric Facilities and Service Agreement with Public Service Company of New Mexico (PNM), for each of four (4) service entrance locations. These agreements were established with a 10 year term and included an Annual On-Peak energy requirement. This requirement is measured annually from July 1st to June 30th, and if the energy usage falls below the requirement, the BDDDB is billed an Unused Facility charge based on the terms set in the agreement.

PNM has submitted two letters of termination for the PNM agreements 1025009 and 1025010, stating the unused facilities requirement for the last year of the initial term has been met and there are no further remaining obligations under the agreement. PNM therefore terminated the agreements effective October 9, 2021. After this date, BDD will continue to receive electric service from PNM under Rate 11B. The first two agreements, (1025007 and 1025008) were terminated on June 30, 2020.



APPROVED/DATE

DENIED/DATE

PNM
Corporate Headquarters
Albuquerque, NM 87158-0605



August 10, 2021

Rick Carpenter
BDD Project Manager
c/o Sangre de Cristo Water Division
P.O. Box 909
Santa Fe, NM 87504-0909

Copy to: Nancy R. Long
Long, Komer and Associates
P.O. Box 5098
Santa Fe, NM 87502-5098

Re: 60-Day Termination Notice for PNM Electric Facilities and Service Agreement Under Rate 11B; PNM Agreement 1025009

Dear Mr. Carpenter:

Public Service Company of New Mexico ("PNM") and the Buckman Direct Diversion Board ("BDD") are parties to PNM Agreement 1025009, Electric Facilities and Services Agreement Under Rate 11B ("Agreement"). The Agreement is related to the Point of Delivery at BDD Service Entrance 3: Booster Station 2A. The initial term of the Agreement ended on July 1, 2021. This letter serves as the required sixty (60) days written notice that PNM will terminate the Agreement on October 9, 2021.

Per Section 6 of the Agreement, the In-Service Date was July 1, 2011. Section 6 of the Agreement provides that the Agreement terminates ten years from the In-Service Date. The ten-year period is defined as the Initial Term. The Agreement can continue after the Initial Term from year to year, but allows either party to terminate the Agreement on sixty (60) days written notice.

Pursuant to the Agreement's terms, the Initial Term ended on July 1, 2021. BDD has met its Unused Facilities Charge for the last year of the Initial Term, so there are no remaining obligations under the Agreement. PNM would therefore like to terminate the Agreement on October 9, 2021 and is thus providing the required sixty (60) days written notice with this letter.

After October 9, 2021, BDD will continue to receive electric service from PNM under Rate 11B (Water and Sewage Pumping Service – Time-of-Use Rate). A copy of the current Rate No. 11B Rate Schedule is attached for your convenience.

Please let me know if you have any questions about this letter.

Sincerely,

Jason S. Norris
Strategic Senior Account Manager

cc: Leslie Padilla, Esq.
PNM Law Department



August 16, 2021

Rick Carpenter
BDD Project Manager
c/o Sangre de Cristo Water Division
P.O. Box 909
Santa Fe, NM 87504-0909

Copy to: Nancy R. Long
Long, Komer and Associates
P.O. Box 5098
Santa Fe, NM 87502-5098

Re: 60-Day Termination Notice for PNM Electric Facilities and Service Agreement Under Rate 11B; PNM Agreement 1025010

Dear Mr. Carpenter:

Public Service Company of New Mexico (“PNM”) and the Buckman Direct Diversion Board (“BDD”) are parties to PNM Agreement 1025010, Electric Facilities and Services Agreement Under Rate 11B (“Agreement”). The Agreement is related to the Point of Delivery at BDD Service Entrance 4: City/County Water Treatment Plant. The initial term of the Agreement ended on July 1, 2021. This letter serves as the required sixty (60) days written notice that PNM will terminate the Agreement on October 9, 2021.

Per Section 6 of the Agreement, the In-Service Date was July 1, 2011. Section 6 of the Agreement provides that the Agreement terminates ten years from the In-Service Date. The ten-year period is defined as the Initial Term. The Agreement can continue after the Initial Term from year to year, but allows either party to terminate the Agreement on sixty (60) days written notice.

Pursuant to the Agreement’s terms, the Initial Term ended on July 1, 2021. BDD has met its Unused Facilities Charge for the last year of the Initial Term, so there are no remaining obligations under the Agreement. PNM would therefore like to terminate the Agreement on October 15, 2021 and is thus providing the required sixty (60) days written notice with this letter.

After October 15, 2021, BDD will continue to receive electric service from PNM under Rate 11B (Water and Sewage Pumping Service – Time-of-Use Rate). A copy of the current Rate No. 11B Rate Schedule is attached for your convenience.

Please let me know if you have any questions about this letter.

Sincerely,

Jason S. Norris
Strategic Senior Account Manager

cc: Leslie Padilla, Esq.
PNM Law Department



PUBLIC SERVICE COMPANY OF NEW MEXICO (PNM)

ELECTRIC FACILITIES AND SERVICE AGREEMENT UNDER RATE 11B

PNM AGREEMENT 1025009

Under the terms and conditions of this Electric Facilities and Service Agreement ("Agreement"), PNM agrees to install the facilities described herein and provide electric service pursuant to the attached rate schedule and PNM's Rules and Regulations as approved by the New Mexico Public Regulation Commission ("NMPRC").

1. **Customer Name:** Buckman Direct Diversion Board
2. **Point of Delivery:** BDD Service Entrance 3: Booster Station 2A
Santa Fe County, NM
3. **PNM Account No.** 11025009
4. **Billing Address:** City of Santa Fe Water Division
PO Box 909
Santa Fe, NM 87504-0909

5. **Metering, Service Voltage:** Metering will be at PNM's primary service voltage of 12,470.
6. **Term of the Agreement:** The effective date ("Effective Date") of this Agreement is the date this Agreement is accepted by PNM as noted in the signature block below. The date the Customer initially takes service under Rate 11B shall be July 1, 2011, hereinafter, the "In-Service Date." PNM, however, will endeavor to energize Service Entrance 3 by May 1, 2010, if Customer has completed all work and obtained all approvals and permits in a timely manner. This Agreement shall remain in effect beginning on the Effective Date and ending ten (10) years from the In-Service Date (the "Initial Term") and shall continue thereafter from year to year. Following the Initial Term, either party may terminate this Agreement on sixty (60) days written notice to the other party.
7. **Rate:** Upon the In-Service Date of this Agreement, electric service shall be provided to Customer and will continue under the terms and conditions of PNM Rate 11B (Exhibit "A") and this Agreement.
8. **Facilities Annual On-Peak Energy Requirement:** The Rate 11B annual on-peak energy requirement shall run for ten (10) consecutive years measured from July 1 to June 30 beginning on the In-Service Date and consists of the following two components. The substation annual on-peak energy requirement is 639,480 kWh ("Substation Annual On-Peak Energy Requirement") based upon the unit cost of equipment of \$.019556 per kWh per year, for which the Customer received an investment credit of \$88,534 towards installation of the equipment described in Exhibit "B". The distribution annual on-peak energy requirement is 639,480 kWh ("Distribution Annual On-Peak Energy Requirement"), based upon the unit cost of equipment of \$.011116 per kWh per year, for which the Customer received an investment credit of \$51,805 towards installation of the equipment described in Exhibit "B". The cost to provide the Customer with electric service at Service Entrance 3 from the equipment described in Exhibit B is \$394,243. This will result in preconstruction costs to Customer of \$253,904, which shall be due and payable upon the execution of this Agreement.
9. **Unused Facilities Charge:** If during any of the ten (10) consecutive years measured from July 1 to June 30 beginning on the In-Service Date, Customer's actual annual on-peak energy usage ("Actual On-Peak Energy Usage") falls below the Distribution Annual On-Peak Energy Requirement, then Customer shall pay on an annual basis an unused facilities charge ("Annual Unused Facilities Charge") calculated as follows:
 - A) Subtract from the Substation Annual On-Peak Energy Requirement the Actual On-Peak Energy Usage and multiply either (i) the difference (if the difference is greater than zero), or (ii) zero (if the difference is less than zero), by .019556 per kWh per year; PLUS
 - B) Subtract from the Distribution Annual On-Peak Energy Requirement the Actual Annual On-Peak Energy Usage and multiply the difference by .011116 per kWh per year.



The Annual Unused Facility Charge will be in addition to the normal annual energy and other base tariff charges.

- 10. Liquidated Damages:** In the event that Customer cancels its request for service at the above described service address before the In-Service Date, and PNM has commenced its facility investment (which may include, without limitation, such activities as ordering and otherwise procuring material for the facilities), Customer shall hold PNM harmless for any loss PNM may incur as a result of such cancellation, including without limitation, parts, materials, labor, restocking charges, demolition costs, salvage costs, and the like, and PNM shall bill Customer for all such amounts and such amounts shall become immediately due and payable to PNM by Customer.

If this Agreement or service under this Agreement is terminated by the Customer after the In-Service Date, the Customer shall pay PNM, as fixed and liquidated damages and not as a penalty, the following: the remaining net book value of PNM's equipment investment to serve the customer as reflected in Exhibit "C", attached hereto. The parties agree actual damages would be difficult to ascertain and that the foregoing is a reasonable basis for the calculation of such liquidated damages.

The parties further agree that payment of the foregoing liquidated damages are solely for the purpose of mitigating the installed cost of PNM's equipment investment and shall not release the Customer from any other liabilities or obligations under this Agreement.

- 11. Description of Facilities:** PNM shall provide, own, operate, and maintain all PNM facilities, including the distribution equipment described in Exhibit B, necessary to meet the terms of this Agreement within reasonable normal tolerances (hereinafter "Facilities"), but reserves the right, at PNM's own cost and expense, to vary the size and location of the Facilities to meet PNM's own needs in the area; provided, however, that PNM shall not thereby interfere with Customer use of Customer's facilities. Under the Transformer Lease Charge Option, at the Customer's option the Company will provide one distribution transformer not to exceed 1500 kVA in size and one pad mounted switchgear, if required, placed on a pad provided by the customer.

- 12. Hold Harmless and Limited Release:** Customer assumes all responsibility for the electric power and energy delivered hereunder after it leaves PNM's lines, as well as for the wires, apparatus and appurtenances used in connection therewith, at and beyond the Point of Delivery (the "Point of Delivery") of power and energy hereunder, and hereby agrees to protect and save PNM harmless for injury or damage to persons or property occasioned by such power and energy, or by such wires, apparatus, and appurtenances at and beyond said Point of Delivery, except where said injury or damage shall be shown to have been occasioned by the negligence of PNM.

PNM and Customer agree that neither Party shall be liable to the other for incidental or consequential damages. PNM and Customer each hereby releases the other, its officers, directors, employees, and agents from any and all liability or responsibility for any loss, damage or injury caused by fire or other casualty for which insurance is carried by the injured party at the time of such loss, damage or injury.

- 13. Customer Operations:** The parties recognize that Customer's operations at the site served under this Agreement may necessitate the use of generating equipment. Any generating equipment shall be operated by Customer in a manner such that there will be no resultant back-feed or flow of power and energy into PNM's lines and equipment. Should Customer install facilities at the site served under this Agreement, such that generating equipment will be interconnected and capable of being operated in parallel with the PNM system, Customer will be required to enter into a separate interconnection agreement and PNM's service to Customer shall thenceforth be governed by the then-applicable NMPRC, Federal Energy Regulatory Commission rules and tariffs and PNM rules and interconnection and safety standards governing the interconnection of customer-owned generating facilities.

- 14. Franchises, Rights-of-Way, Permits, Etc.:** The agreements of PNM herein contained are conditioned upon securing and retaining any necessary franchises, rights-of-way, and permits. Customer agrees to provide to PNM, free of cost: a) the easements and rights-of-way necessary for the construction of the facilities; b) rights of ingress and egress; and c) and the right of excavation as required for installation, maintenance, repair or replacement of any of the facilities services hereunder. PNM will assist the Customer in securing rights-of-way, if requested, provided Customer pays PNM for such assistance. All easements shall be of public record and, in the case of plats, clearly shown on such plats prior to final recording. Customer agrees to provide grades plus or minus three (3) inches in accordance with the "final grade and drainage plan" of record on all Customer-provided utility easements and locate lot lines as required by PNM. All costs associated with acquiring or verifying



easements and rights-of-way and any relocations due to changes in location of easements, lot lines, or grades, will be at the expense of Customer and will be non-refundable.

- 15. **General:** Customer agrees to install and maintain in a thoroughly safe and efficient manner, and in accordance with good electrical practices and all applicable regulations, all of its lines, wiring, apparatus, machinery and appliances connected to PNM's lines. Neither party assumes the duty of inspecting the other party's lines, wiring, apparatus, machinery or appliances, or any part thereof, and shall not be responsible to the other party therefor.

Title to and ownership of all equipment furnished by PNM in order to provide the service hereunder shall remain in the name of PNM at all times regardless of any transfer or encumbrance of the premises and shall at no time become a fixture of the premises.

- 16. **Regulation:** This Agreement and any amendment hereto, including all tariffs made a part hereof, shall at all times be subject to such change or modification as shall be ordered from time to time by the NMPRC or other legally constituted regulatory agency having jurisdiction and authority to require such changes or modifications.

PNM reserves the right to modify the rates, terms and conditions set forth in Rate 11B at any time, and from time to time, by filing new tariffs with any legally constituted regulatory body, and the rates, terms and conditions of service hereunder shall be deemed modified at such time as such tariff becomes effective. Nothing herein contained shall be construed to prevent or prohibit Customer from asserting or claiming any right before any legally constituted regulatory body to which it may be entitled.

- 17. **Nonwaiver:** The failure of either party to insist upon the other party's compliance with its obligations under this Agreement in any one or more instances shall not operate to relieve such other party from its duty to comply with such obligations in all other instances.

- 18. **Laws of New Mexico:** This Agreement is made under and shall be governed by New Mexico law.

- 19. **Successors And Assigns:** This Agreement shall bind and inure to the benefit of the parties and their successors and assigns, but Customer shall not assign any rights under this Agreement without first obtaining the written consent of PNM, which consent shall not be unreasonably withheld.

- 20. **Notice:** Any notice, request, approval, consent, instruction, direction or other communication required or permitted under this Agreement shall be in writing and shall be deemed given if personally delivered, delivered by reputable overnight courier or sent by First Class Mail, postage prepaid, or by facsimile transmission to the facsimile number to the person specified below and shall be deemed received, if personally delivered, or delivered by courier, upon delivery, and if mailed, on the third day following deposit in the U. S. mail, and if sent by facsimile, upon transmission to the intended recipient at the address and to the attention of the person or position specified below.

Customer: Nancy R. Long, Long, Pound & Komer, P.O. Box 5098, Santa Fe, NM 87502

PNM:

Large Customer Support

AND

BDD Project Manager, c/o Sangre de Cristo Water Division, P.O. Box 909, Santa Fe, NM 87504-0909
Attention:

Alvarado Square

Albuquerque, NM 87158-0510

Attention: Tom Bishop

- 21. **Entire Agreement:** This Agreement shall take effect as of the Date of Acceptance by PNM. This Agreement contains the entire Agreement of the parties concerning the subject matter hereof and supercedes all prior or contemporaneous oral or written agreements, statements and understandings. It is understood and agreed that all representations and agreements between the parties covering the subject matter hereof are expressed herein and that no other representation of any kind or nature, whether made by the officers or agents of either of the parties, shall be binding. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement. This Agreement may not be modified or amended except by written instrument executed on behalf of each party by an officer or other duly authorized representative.



BUCKMAN DIRECT DIVERSION BOARD

Signature: _____

Printed Name: Rebecca Wurzburger

Title: Chair

PUBLIC SERVICE COMPANY OF NEW MEXICO

Signature: _____

Printed Name: JOEL IVY

Title: VP, NM OPERATIONS

Date Accepted: SEP 2, 08

APPROVED AS TO FORM:

Nann M. Winter

Attorney for Board
Sheehan, Sheehan & Stelzner, P.A.
Post Office Box 271
Albuquerque, NM 87103
phone (505) 247-0411

**PUBLIC SERVICE COMPANY OF NEW MEXICO
ELECTRIC SERVICES**

**14TH REVISED RATE NO. 11B
CANCELING 13TH REVISED RATE NO. 11B**

**WATER AND SEWAGE PUMPING SERVICE--
TIME-OF-USE RATE**

PAGE 1 OF 4

APPLICABILITY: The rates on this Schedule are available to all municipal and private corporations for municipal water and sewage pumping purposes where the combined load is in excess of 2,500 kW.

Service will be furnished subject to the Company's Rules and Regulations and any subsequent revisions. These Rules and Regulations are available at the Company's office and are on file with the New Mexico Public Regulation Commission. These Rules and Regulations are a part of this Schedule as if fully written herein.

TERRITORY: All territory served by the Company in New Mexico.

NET RATE PER MONTH OR PART THEREOF FOR EACH SERVICE LOCATION: The rate for electric service provided shall be the sum of A, B, and C. On-Peak period is from 8:00 am to 8:00 pm Monday through Friday (60 hours per week). Off-Peak period is all times other than On-Peak period (108 hours per week).

<u>IN THE BILLING MONTHS OF:</u>	<u>June, July, and August</u>	<u>All Other Months</u>	
(A) <u>CUSTOMER CHARGE:</u> (Per Metered Account)	\$450.00/Bill	\$450.00/Bill	X
(B) <u>ENERGY CHARGE:</u>			
On-Peak Period:	\$0.116120/kWh	\$0.075501/kWh	X
Off-Peak Period:	\$0.033632/kWh	0.033632/kWh	X

**PUBLIC SERVICE COMPANY OF NEW MEXICO
ELECTRIC SERVICES**

**14TH REVISED RATE NO. 11B
CANCELING 13TH REVISED RATE NO. 11B**

**WATER AND SEWAGE PUMPING SERVICE--
TIME-OF-USE RATE**

PAGE 2 OF 4

(C) SPECIAL TAX AND ASSESSMENT ADJUSTMENT: Billings under this schedule may be increased by an amount equal to the sum of the taxes payable under the Gross Receipts and Compensating Tax Act and of all other taxes, fees, or charges (exclusive of ad valorem, state and federal income taxes) payable by the utility and levied or assessed by any governmental authority on the public utility service rendered, or on the right or privilege of rendering the service, or on any object or event incidental to the rendition of the service.

MONTHLY MINIMUM CHARGE: The monthly minimum charge under this Schedule is the customer charge.

METERING VOLTAGE: The above rates are based upon metering at a normal primary voltage of 2,400 volts or higher. The Company reserves the right to meter customer's requirements at the normal available secondary voltage, in which event the billing kWh shall be the metered kWh multiplied by 1.02 to allow for transformer losses.

SERVICE VOLTAGE: The Company will continue to serve existing installations, as of the effective date of this Schedule, at the voltages now furnished. For motor loads to be installed at new locations or additional motor loads to be installed at existing locations, the service voltage to be furnished by Company will be nominally:

For individual loads rated 50 kW or less, 240 volts, three-phase

For individual loads rated above 50 kW, at the primary voltage available in the area.

For lighting and incidental use at voltages other than above, Company will continue to furnish such special voltages up to the capacity of its existing facilities. For additional requirements at existing locations and for new service locations, customer shall provide the necessary transformers for lighting and other incidental use.

POWER FACTOR: The above rates are based upon the customer's maintaining, at the time of its maximum demand, a power factor as determined by accepted metering standards of not less than 90 percent leading or lagging, and such minimum power factor shall be maintained by customer at each point of service.

INTERRUPTION OF SERVICE: The Company will use reasonable diligence to furnish a regular and uninterrupted supply of energy. However interruptions or partial interruptions may

Advice Notice No. 318

**PUBLIC SERVICE COMPANY OF NEW MEXICO
ELECTRIC SERVICES**

**14TH REVISED RATE NO. 11B
CANCELING 13TH REVISED RATE NO. 11B**

**WATER AND SEWAGE PUMPING SERVICE--
TIME-OF-USE RATE**

PAGE 3 OF 4

occur or service may be curtailed, become irregular, or fail as a result of circumstances beyond the control of the Company, public enemies, accidents, strikes, legal processes, governmental restrictions, fuel shortages, breakdown or damages to generation, transmission, or distribution facilities of the Company, repairs or changes in the Company's generation, transmission, or distribution facilities, and in any such case the Company will not be liable in damages. Customers whose reliability requirements exceed those normally provided should advise the Company and contract for additional facilities and increased reliability as may be required. The Company will not, under any circumstances, contract to provide 100 percent reliability.

ACCESSIBILITY: Equipment used to provide electric service must be physically accessible. The meter socket must be installed on each service location at a point accessible from a public right-of-way or PNM easement without any intervening wall, fence, or other obstruction.

SUBSTATION AND PROTECTIVE EQUIPMENT: For all existing installations as of April 24, 1972, the Company will continue to furnish the existing substation equipment as now installed. The Company may require the customer to advance a part or all of the cost of facilities required to provide service for new load additions at existing locations or for service at new locations when the load is 50 kW or less and the estimated revenue does not justify the necessary investment.

For service at new locations when the load is greater than 50 kW, all transformers, the necessary distribution structures, voltage regulating devices, lightning arrestors, and accessory equipment required by the customer in order to utilize the Company's service shall be installed, paid for, owned, operated, and maintained by the customer.

The customer shall also provide at his expense suitable protective equipment and devices so as to protect Company's system and its service, to other electric users, from disturbances or faults that may occur on customer's system or equipment. This must include a gang-operated switch capable of interrupting the customer's entire load.

**PUBLIC SERVICE COMPANY OF NEW MEXICO
ELECTRIC SERVICES**

**14TH REVISED RATE NO. 11B
CANCELING 13TH REVISED RATE NO. 11B**

**WATER AND SEWAGE PUMPING SERVICE--
TIME-OF-USE RATE**

PAGE 4 OF 4

All such substation and protective equipment is to be installed by the customer and shall be of an approved design and shall conform to the Company's standards and Rules and Regulations. The customer shall at all times keep each of the three phases balanced as far as practicable so as not to affect service and voltage to other customers served by the Company. The customer shall not operate any equipment in a manner which will cause voltage disturbances elsewhere on the Company's system.

TERMS OF PAYMENT: All bills are net and payable within twenty (20) days, and are delinquent thirty (30) days, from the date the bill is rendered. If payment for any or all electric service rendered is not made within thirty (30) days from the date the bill is rendered, the Company shall apply an additional charge of 1½ percent per month to the total balance in arrears, excluding gross receipts tax. Partial payment of amount due by Customer is applied first to oldest bill, including any other fees or charges assessed, if any, before any amount is applied to current bill.

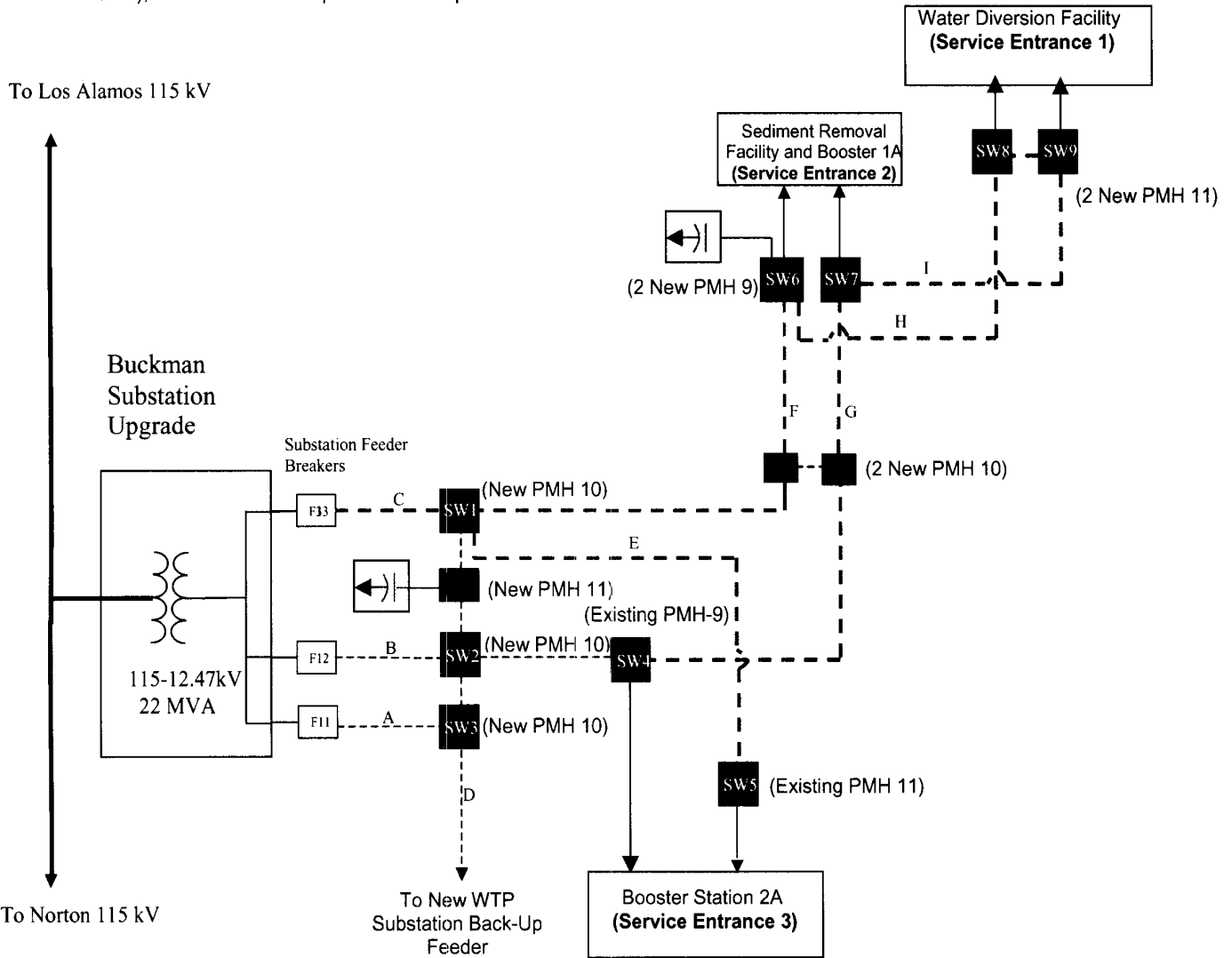
TERMS OF CONTRACT: Company reserves the right to require a suitable contract where additional facilities or extensions are required to be furnished by Company to provide additional or enlargement of service at existing or new service locations.

LIMITATION OF RATE: Electric service under this Schedule is not available for standby service and shall not be resold or shared with others.

EXHIBIT B

FACILITIES TO BE INSTALLED

Approximately 300 ft. of 12.47 kV. UG primary distribution (Cables C and E), 3 PMH switchgears (SW1, SW2, and SW3), and one 1800 kVar padmounted capacitor bank.



	New Line Extension PMH Switchgear
	New System Improvement PMH Switchgear
	Existing PMH Switchgear
	New Line Extension 750 MCM 12.47 kV UG Primary Dist'n
	New System Improvement 750 MCM 12.47 kV UG Primary Dist'n
	Existing 350 MCM 12.47 kV UG Primary Dist'n
	Existing 115 kV OH Primary Transmission
	New 1800 kVar Line Extension Padmount Capacitor

NOTE: Exhibit B is in color.

EXHIBIT C
LIQUIDATED DAMAGES

Total Cost \$384,749
Less Up-Front Costs \$253,794
Initial Investment Credit \$130,956
Book Life 37 Years

Month	Month Start Investment Value	Monthly Depreciation	Month End Investment Value (Liquidated Damages)
1	\$130,956	(\$295)	\$130,661
2	\$130,661	(\$295)	\$130,366
3	\$130,366	(\$295)	\$130,071
4	\$130,071	(\$295)	\$129,776
5	\$129,776	(\$295)	\$129,481
6	\$129,481	(\$295)	\$129,186
7	\$129,186	(\$295)	\$128,891
8	\$128,891	(\$295)	\$128,596
9	\$128,596	(\$295)	\$128,301
10	\$128,301	(\$295)	\$128,006
11	\$128,006	(\$295)	\$127,711
12	\$127,711	(\$295)	\$127,416
13	\$127,416	(\$295)	\$127,121
14	\$127,121	(\$295)	\$126,826
15	\$126,826	(\$295)	\$126,531
16	\$126,531	(\$295)	\$126,237
17	\$126,237	(\$295)	\$125,942
18	\$125,942	(\$295)	\$125,647
19	\$125,647	(\$295)	\$125,352
20	\$125,352	(\$295)	\$125,057
21	\$125,057	(\$295)	\$124,762
22	\$124,762	(\$295)	\$124,467
23	\$124,467	(\$295)	\$124,172
24	\$124,172	(\$295)	\$123,877
25	\$123,877	(\$295)	\$123,582
26	\$123,582	(\$295)	\$123,287
27	\$123,287	(\$295)	\$122,992
28	\$122,992	(\$295)	\$122,697
29	\$122,697	(\$295)	\$122,402
30	\$122,402	(\$295)	\$122,107
31	\$122,107	(\$295)	\$121,812
32	\$121,812	(\$295)	\$121,517
33	\$121,517	(\$295)	\$121,222
34	\$121,222	(\$295)	\$120,928
35	\$120,928	(\$295)	\$120,633
36	\$120,633	(\$295)	\$120,338
37	\$120,338	(\$295)	\$120,043
38	\$120,043	(\$295)	\$119,748
39	\$119,748	(\$295)	\$119,453
40	\$119,453	(\$295)	\$119,158
41	\$119,158	(\$295)	\$118,863
42	\$118,863	(\$295)	\$118,568
43	\$118,568	(\$295)	\$118,273
44	\$118,273	(\$295)	\$117,978
45	\$117,978	(\$295)	\$117,683
46	\$117,683	(\$295)	\$117,388
47	\$117,388	(\$295)	\$117,093
48	\$117,093	(\$295)	\$116,798
49	\$116,798	(\$295)	\$116,503
50	\$116,503	(\$295)	\$116,208
51	\$116,208	(\$295)	\$115,913
52	\$115,913	(\$295)	\$115,619
53	\$115,619	(\$295)	\$115,324
54	\$115,324	(\$295)	\$115,029
55	\$115,029	(\$295)	\$114,734
56	\$114,734	(\$295)	\$114,439
57	\$114,439	(\$295)	\$114,144
58	\$114,144	(\$295)	\$113,849
59	\$113,849	(\$295)	\$113,554
60	\$113,554	(\$295)	\$113,259

Month	Month Start Investment Value	Monthly Depreciation	Month End Investment Value (Liquidated Damages)
61	\$113,259	(\$295)	\$112,964
62	\$112,964	(\$295)	\$112,669
63	\$112,669	(\$295)	\$112,374
64	\$112,374	(\$295)	\$112,079
65	\$112,079	(\$295)	\$111,784
66	\$111,784	(\$295)	\$111,489
67	\$111,489	(\$295)	\$111,194
68	\$111,194	(\$295)	\$110,899
69	\$110,899	(\$295)	\$110,604
70	\$110,604	(\$295)	\$110,309
71	\$110,309	(\$295)	\$110,015
72	\$110,015	(\$295)	\$109,720
73	\$109,720	(\$295)	\$109,425
74	\$109,425	(\$295)	\$109,130
75	\$109,130	(\$295)	\$108,835
76	\$108,835	(\$295)	\$108,540
77	\$108,540	(\$295)	\$108,245
78	\$108,245	(\$295)	\$107,950
79	\$107,950	(\$295)	\$107,655
80	\$107,655	(\$295)	\$107,360
81	\$107,360	(\$295)	\$107,065
82	\$107,065	(\$295)	\$106,770
83	\$106,770	(\$295)	\$106,475
84	\$106,475	(\$295)	\$106,180
85	\$106,180	(\$295)	\$105,885
86	\$105,885	(\$295)	\$105,590
87	\$105,590	(\$295)	\$105,295
88	\$105,295	(\$295)	\$105,000
89	\$105,000	(\$295)	\$104,706
90	\$104,706	(\$295)	\$104,411
91	\$104,411	(\$295)	\$104,116
92	\$104,116	(\$295)	\$103,821
93	\$103,821	(\$295)	\$103,526
94	\$103,526	(\$295)	\$103,231
95	\$103,231	(\$295)	\$102,936
96	\$102,936	(\$295)	\$102,641
97	\$102,641	(\$295)	\$102,346
98	\$102,346	(\$295)	\$102,051
99	\$102,051	(\$295)	\$101,756
100	\$101,756	(\$295)	\$101,461
101	\$101,461	(\$295)	\$101,166
102	\$101,166	(\$295)	\$100,871
103	\$100,871	(\$295)	\$100,576
104	\$100,576	(\$295)	\$100,281
105	\$100,281	(\$295)	\$99,986
106	\$99,986	(\$295)	\$99,691
107	\$99,691	(\$295)	\$99,397
108	\$99,397	(\$295)	\$99,102
109	\$99,102	(\$295)	\$98,807
110	\$98,807	(\$295)	\$98,512
111	\$98,512	(\$295)	\$98,217
112	\$98,217	(\$295)	\$97,922
113	\$97,922	(\$295)	\$97,627
114	\$97,627	(\$295)	\$97,332
115	\$97,332	(\$295)	\$97,037
116	\$97,037	(\$295)	\$96,742
117	\$96,742	(\$295)	\$96,447
118	\$96,447	(\$295)	\$96,152
119	\$96,152	(\$295)	\$95,857
120	\$95,857	(\$295)	\$95,562



PUBLIC SERVICE COMPANY OF NEW MEXICO (PNM)

ELECTRIC FACILITIES AND SERVICE AGREEMENT UNDER RATE 11B

PNM AGREEMENT 1025010

Under the terms and conditions of this Electric Facilities and Service Agreement ("Agreement"), PNM agrees to install the facilities described herein and provide electric service pursuant to the attached rate schedule and PNM's Rules and Regulations as approved by the New Mexico Public Regulation Commission ("NMPRC").

1. **Customer Name:** Buckman Direct Diversion Board
2. **Point of Delivery:** BDD Service Entrance 4: City/County Water Treatment Plant
Santa Fe County, NM
3. **PNM Account No.** 1025010
4. **Billing Address:** City of Santa Fe Water Division
PO Box 909
Santa Fe, NM 87504-0909

5. **Metering, Service Voltage:** Metering will be at PNM's primary service voltage of 12,470.
6. **Term of the Agreement:** The effective date ("Effective Date") of this Agreement is the date this Agreement is accepted by PNM as noted in the signature block below. The date the Customer initially takes service under Rate 11B shall be July 1, 2011, hereinafter, the "In-Service Date." PNM, however, will endeavor to energize Service Entrance 4 by March 1, 2010, if Customer has completed all work and obtained all approvals and permits in a timely manner. This Agreement shall remain in effect beginning on the Effective Date and ending ten (10) years from the In-Service Date (the "Initial Term") and shall continue thereafter from year to year. Following the Initial Term, either party may terminate this Agreement on sixty (60) days written notice to the other party.
7. **Rate:** Upon the In-Service Date of this Agreement, electric service shall be provided to Customer and will continue under the terms and conditions of PNM Rate 11B (Exhibit "A") and this Agreement.
8. **Facilities Annual On-Peak Energy Requirement:** The Rate 11B annual on-peak energy requirement shall run for ten (10) consecutive years measured from July 1 to June 30 beginning on the In-Service Date and consists of the following two components. The substation annual on-peak energy requirement is 963,984 kWh ("Substation Annual On-Peak Energy Requirement") based upon the unit cost of equipment of \$.019556 per kWh per year, for which the Customer received an investment credit of \$128,902 towards installation of the equipment described in Exhibit "B". The distribution annual on-peak energy requirement is 2,444,040 kWh ("Distribution Annual On-Peak Energy Requirement"), based upon the unit cost of equipment of \$.011116 per kWh per year, for which the Customer received an investment credit of \$208,261 towards installation of the equipment described in Exhibit "B". The cost to provide the Customer with electric service at Service Entrance 4 from the equipment described in Exhibit B is \$1,270,094. This will result in preconstruction costs to Customer of \$932,932, which shall be due and payable upon the execution of this Agreement.
9. **Unused Facilities Charge:** If during any of the ten (10) consecutive years measured from July 1 to June 30 beginning on the In-Service Date, Customer's actual annual on-peak energy usage ("Actual On-Peak Energy Usage") falls below the Distribution Annual On-Peak Energy Requirement, then Customer shall pay on an annual basis an unused facilities charge ("Annual Unused Facilities Charge") calculated as follows:
 - A) Subtract from the Substation Annual On-Peak Energy Requirement the Actual On-Peak Energy Usage and multiply either (i) the difference (if the difference is greater than zero), or (ii) zero (if the difference is less than zero), by .019556 per kWh per year; PLUS



- B) Subtract from the Distribution Annual On-Peak Energy Requirement the Actual Annual On-Peak Energy Usage and multiply the difference by .011116 per KWh per year.

The Annual Unused Facility Charge will be in addition to the normal annual energy and other base tariff charges.

10. **Liquidated Damages:** In the event that Customer cancels its request for service at the above described service address before the In-Service Date, and PNM has commenced its facility investment (which may include, without limitation, such activities as ordering and otherwise procuring material for the facilities), Customer shall hold PNM harmless for any loss PNM may incur as a result of such cancellation, including without limitation, parts, materials, labor, restocking charges, demolition costs, salvage costs, and the like, and PNM shall bill Customer for all such amounts and such amounts shall become immediately due and payable to PNM by Customer.

If this Agreement or service under this Agreement is terminated by the Customer after the In-Service Date, the Customer shall pay PNM, as fixed and liquidated damages and not as a penalty, the following: the remaining net book value of PNM's equipment investment to serve the customer as reflected in Exhibit "C", attached hereto. The parties agree actual damages would be difficult to ascertain and that the foregoing is a reasonable basis for the calculation of such liquidated damages.

The parties further agree that payment of the foregoing liquidated damages are solely for the purpose of mitigating the installed cost of PNM's equipment investment and shall not release the Customer from any other liabilities or obligations under this Agreement.

11. **Description of Facilities:** PNM shall provide, own, operate, and maintain all PNM facilities, including the distribution equipment described in Exhibit B, necessary to meet the terms of this Agreement within reasonable normal tolerances (hereinafter "Facilities"), but reserves the right, at PNM's own cost and expense, to vary the size and location of the Facilities to meet PNM's own needs in the area; provided, however, that PNM shall not thereby interfere with Customer use of Customer's facilities. Under the Transformer Lease Charge Option, at the Customer's option the Company will provide one distribution transformer not to exceed 1500 kVA in size and one pad mounted switchgear, if required, placed on a pad provided by the customer.
12. **Hold Harmless and Limited Release:** Customer assumes all responsibility for the electric power and energy delivered hereunder after it leaves PNM's lines, as well as for the wires, apparatus and appurtenances used in connection therewith, at and beyond the Point of Delivery (the "Point of Delivery") of power and energy hereunder, and hereby agrees to protect and save PNM harmless for injury or damage to persons or property occasioned by such power and energy, or by such wires, apparatus, and appurtenances at and beyond said Point of Delivery, except where said injury or damage shall be shown to have been occasioned by the negligence of PNM.

PNM and Customer agree that neither Party shall be liable to the other for incidental or consequential damages. PNM and Customer each hereby releases the other, its officers, directors, employees, and agents from any and all liability or responsibility for any loss, damage or injury caused by fire or other casualty for which insurance is carried by the injured party at the time of such loss, damage or injury.

13. **Customer Operations:** The parties recognize that Customer's operations at the site served under this Agreement may necessitate the use of generating equipment. Any generating equipment shall be operated by Customer in a manner such that there will be no resultant back-feed or flow of power and energy into PNM's lines and equipment. Should Customer install facilities at the site served under this Agreement, such that generating equipment will be interconnected and capable of being operated in parallel with the PNM system, Customer will be required to enter into a separate interconnection agreement and PNM's service to Customer shall thenceforth be governed by the then-applicable NMPRC, Federal Energy Regulatory Commission rules and tariffs and PNM rules and interconnection and safety standards governing the interconnection of customer-owned generating facilities.
14. **Franchises, Rights-of-Way, Permits, Etc.:** The agreements of PNM herein contained are conditioned upon securing and retaining any necessary franchises, rights-of-way, and permits. Customer agrees to provide to PNM, free of cost: a) the easements and rights-of-way necessary for the construction of the facilities; b) rights of ingress and egress; and c) and the right of excavation as required for installation, maintenance, repair or replacement of any of the facilities services hereunder. PNM will assist the Customer in securing rights-of-way, if requested, provided Customer pays PNM for such assistance. All easements shall be of public record and, in the case of plats, clearly shown on such plats prior to final recording. Customer agrees to provide grades plus or minus three (3) inches in accordance with the "final grade and drainage plan" of record on all Customer-provided



utility easements and locate lot lines as required by PNM. All costs associated with acquiring or verifying easements and rights-of-way and any relocations due to changes in location of easements, lot lines, or grades, will be at the expense of Customer and will be non-refundable.

- 15. **General:** Customer agrees to install and maintain in a thoroughly safe and efficient manner, and in accordance with good electrical practices and all applicable regulations, all of its lines, wiring, apparatus, machinery and appliances connected to PNM's lines. Neither party assumes the duty of inspecting the other party's lines, wiring, apparatus, machinery or appliances, or any part thereof, and shall not be responsible to the other party therefor.

Title to and ownership of all equipment furnished by PNM in order to provide the service hereunder shall remain in the name of PNM at all times regardless of any transfer or encumbrance of the premises and shall at no time become a fixture of the premises.

- 16. **Regulation:** This Agreement and any amendment hereto, including all tariffs made a part hereof, shall at all times be subject to such change or modification as shall be ordered from time to time by the NMPRC or other legally constituted regulatory agency having jurisdiction and authority to require such changes or modifications.

PNM reserves the right to modify the rates, terms and conditions set forth in Rate 11B at any time, and from time to time, by filing new tariffs with any legally constituted regulatory body, and the rates, terms and conditions of service hereunder shall be deemed modified at such time as such tariff becomes effective. Nothing herein contained shall be construed to prevent or prohibit Customer from asserting or claiming any right before any legally constituted regulatory body to which it may be entitled.

- 17. **Nonwaiver:** The failure of either party to insist upon the other party's compliance with its obligations under this Agreement in any one or more instances shall not operate to relieve such other party from its duty to comply with such obligations in all other instances.

- 18. **Laws of New Mexico:** This Agreement is made under and shall be governed by New Mexico law.

- 19. **Successors And Assigns:** This Agreement shall bind and inure to the benefit of the parties and their successors and assigns, but Customer shall not assign any rights under this Agreement without first obtaining the written consent of PNM, which consent shall not be unreasonably withheld.

- 20. **Notice:** Any notice, request, approval, consent, instruction, direction or other communication required or permitted under this Agreement shall be in writing and shall be deemed given if personally delivered, delivered by reputable overnight courier or sent by First Class Mail, postage prepaid, or by facsimile transmission to the facsimile number to the person specified below and shall be deemed received, if personally delivered, or delivered by courier, upon delivery, and if mailed, on the third day following deposit in the U. S. mail, and if sent by facsimile, upon transmission to the intended recipient at the address and to the attention of the person or position specified below.

Customer: Nancy R. Long, Long, Pound & Komer, P.O. Box 5098, Santa Fe, NM 87502

AND

BDD Project Manager, c/o Sangre de Cristo Water Division, P.O. Box 909, Santa Fe, NM 87504-0909
Attention: _____

PNM:

Large Customer Support

Alvarado Square

Albuquerque, NM 87158-0510

Attention: Tom Bishop

- 21. **Entire Agreement:** This Agreement shall take effect as of the Date of Acceptance by PNM. This Agreement contains the entire Agreement of the parties concerning the subject matter hereof and supercedes all prior or contemporaneous oral or written agreements, statements and understandings. It is understood and agreed that all representations and agreements between the parties covering the subject matter hereof are expressed herein and that no other representation of any kind or nature, whether made by the officers or agents of either of the parties, shall be binding. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement. This Agreement may not be modified or amended except by written instrument executed on behalf of each party by an officer or other duly authorized representative.



BUCKMAN DIRECT DIVERSION BOARD

Signature: *Rebecca Wurzburger*

Printed Name: Rebecca Wurzburger

Title: Chair

PUBLIC SERVICE COMPANY OF NEW MEXICO

Signature: *Joel Ivy*

Printed Name: JOEL IVY

Title: VP, NM OPERATIONS

Date Accepted: 9-2-08

APPROVED AS TO FORM:

M. Winter

Nann M. Winter
Attorney for Board
Sheehan, Sheehan & Stelzner, P.A.
Post Office Box 271
Albuquerque, NM 87103
phone (505) 247-0411

**PUBLIC SERVICE COMPANY OF NEW MEXICO
ELECTRIC SERVICES**

**14TH REVISED RATE NO. 11B
CANCELING 13TH REVISED RATE NO. 11B**

**WATER AND SEWAGE PUMPING SERVICE--
TIME-OF-USE RATE**

PAGE 1 OF 4

APPLICABILITY: The rates on this Schedule are available to all municipal and private corporations for municipal water and sewage pumping purposes where the combined load is in excess of 2,500 kW.

Service will be furnished subject to the Company's Rules and Regulations and any subsequent revisions. These Rules and Regulations are available at the Company's office and are on file with the New Mexico Public Regulation Commission. These Rules and Regulations are a part of this Schedule as if fully written herein.

TERRITORY: All territory served by the Company in New Mexico.

NET RATE PER MONTH OR PART THEREOF FOR EACH SERVICE LOCATION: The rate for electric service provided shall be the sum of A, B, and C. On-Peak period is from 8:00 am to 8:00 pm Monday through Friday (60 hours per week). Off-Peak period is all times other than On-Peak period (108 hours per week).

<u>IN THE BILLING MONTHS OF:</u>	<u>June, July, and August</u>	<u>All Other Months</u>	
(A) <u>CUSTOMER CHARGE:</u> (Per Metered Account)	\$450.00/Bill	\$450.00/Bill	X
(B) <u>ENERGY CHARGE:</u>			
On-Peak Period:	\$0.116120/kWh	\$0.075501/kWh	X
Off-Peak Period:	\$0.033632/kWh	0.033632/kWh	X

**PUBLIC SERVICE COMPANY OF NEW MEXICO
ELECTRIC SERVICES**

**14TH REVISED RATE NO. 11B
CANCELING 13TH REVISED RATE NO. 11B**

**WATER AND SEWAGE PUMPING SERVICE--
TIME-OF-USE RATE**

PAGE 2 OF 4

(C) SPECIAL TAX AND ASSESSMENT ADJUSTMENT: Billings under this schedule may be increased by an amount equal to the sum of the taxes payable under the Gross Receipts and Compensating Tax Act and of all other taxes, fees, or charges (exclusive of ad valorem, state and federal income taxes) payable by the utility and levied or assessed by any governmental authority on the public utility service rendered, or on the right or privilege of rendering the service, or on any object or event incidental to the rendition of the service.

MONTHLY MINIMUM CHARGE: The monthly minimum charge under this Schedule is the customer charge.

METERING VOLTAGE: The above rates are based upon metering at a normal primary voltage of 2,400 volts or higher. The Company reserves the right to meter customer's requirements at the normal available secondary voltage, in which event the billing kWh shall be the metered kWh multiplied by 1.02 to allow for transformer losses.

SERVICE VOLTAGE: The Company will continue to serve existing installations, as of the effective date of this Schedule, at the voltages now furnished. For motor loads to be installed at new locations or additional motor loads to be installed at existing locations, the service voltage to be furnished by Company will be nominally:

For individual loads rated 50 kW or less, 240 volts, three-phase

For individual loads rated above 50 kW, at the primary voltage available in the area.

For lighting and incidental use at voltages other than above, Company will continue to furnish such special voltages up to the capacity of its existing facilities. For additional requirements at existing locations and for new service locations, customer shall provide the necessary transformers for lighting and other incidental use.

POWER FACTOR: The above rates are based upon the customer's maintaining, at the time of its maximum demand, a power factor as determined by accepted metering standards of not less than 90 percent leading or lagging, and such minimum power factor shall be maintained by customer at each point of service.

INTERRUPTION OF SERVICE: The Company will use reasonable diligence to furnish a regular and uninterrupted supply of energy. However interruptions or partial interruptions may

Advice Notice No. 318

**PUBLIC SERVICE COMPANY OF NEW MEXICO
ELECTRIC SERVICES**

**14TH REVISED RATE NO. 11B
CANCELING 13TH REVISED RATE NO. 11B**

**WATER AND SEWAGE PUMPING SERVICE--
TIME-OF-USE RATE**

PAGE 3 OF 4

occur or service may be curtailed, become irregular, or fail as a result of circumstances beyond the control of the Company, public enemies, accidents, strikes, legal processes, governmental restrictions, fuel shortages, breakdown or damages to generation, transmission, or distribution facilities of the Company, repairs or changes in the Company's generation, transmission, or distribution facilities, and in any such case the Company will not be liable in damages. Customers whose reliability requirements exceed those normally provided should advise the Company and contract for additional facilities and increased reliability as may be required. The Company will not, under any circumstances, contract to provide 100 percent reliability.

ACCESSIBILITY: Equipment used to provide electric service must be physically accessible. The meter socket must be installed on each service location at a point accessible from a public right-of-way or PNM easement without any intervening wall, fence, or other obstruction.

SUBSTATION AND PROTECTIVE EQUIPMENT: For all existing installations as of April 24, 1972, the Company will continue to furnish the existing substation equipment as now installed. The Company may require the customer to advance a part or all of the cost of facilities required to provide service for new load additions at existing locations or for service at new locations when the load is 50 kW or less and the estimated revenue does not justify the necessary investment.

For service at new locations when the load is greater than 50 kW, all transformers, the necessary distribution structures, voltage regulating devices, lightning arrestors, and accessory equipment required by the customer in order to utilize the Company's service shall be installed, paid for, owned, operated, and maintained by the customer.

The customer shall also provide at his expense suitable protective equipment and devices so as to protect Company's system and its service, to other electric users, from disturbances or faults that may occur on customer's system or equipment. This must include a gang-operated switch capable of interrupting the customer's entire load.

**PUBLIC SERVICE COMPANY OF NEW MEXICO
ELECTRIC SERVICES**

**14TH REVISED RATE NO. 11B
CANCELING 13TH REVISED RATE NO. 11B**

**WATER AND SEWAGE PUMPING SERVICE--
TIME-OF-USE RATE**

PAGE 4 OF 4

All such substation and protective equipment is to be installed by the customer and shall be of an approved design and shall conform to the Company's standards and Rules and Regulations. The customer shall at all times keep each of the three phases balanced as far as practicable so as not to affect service and voltage to other customers served by the Company. The customer shall not operate any equipment in a manner which will cause voltage disturbances elsewhere on the Company's system.

TERMS OF PAYMENT: All bills are net and payable within twenty (20) days, and are delinquent thirty (30) days, from the date the bill is rendered. If payment for any or all electric service rendered is not made within thirty (30) days from the date the bill is rendered, the Company shall apply an additional charge of 1½ percent per month to the total balance in arrears, excluding gross receipts tax. Partial payment of amount due by Customer is applied first to oldest bill, including any other fees or charges assessed, if any, before any amount is applied to current bill.

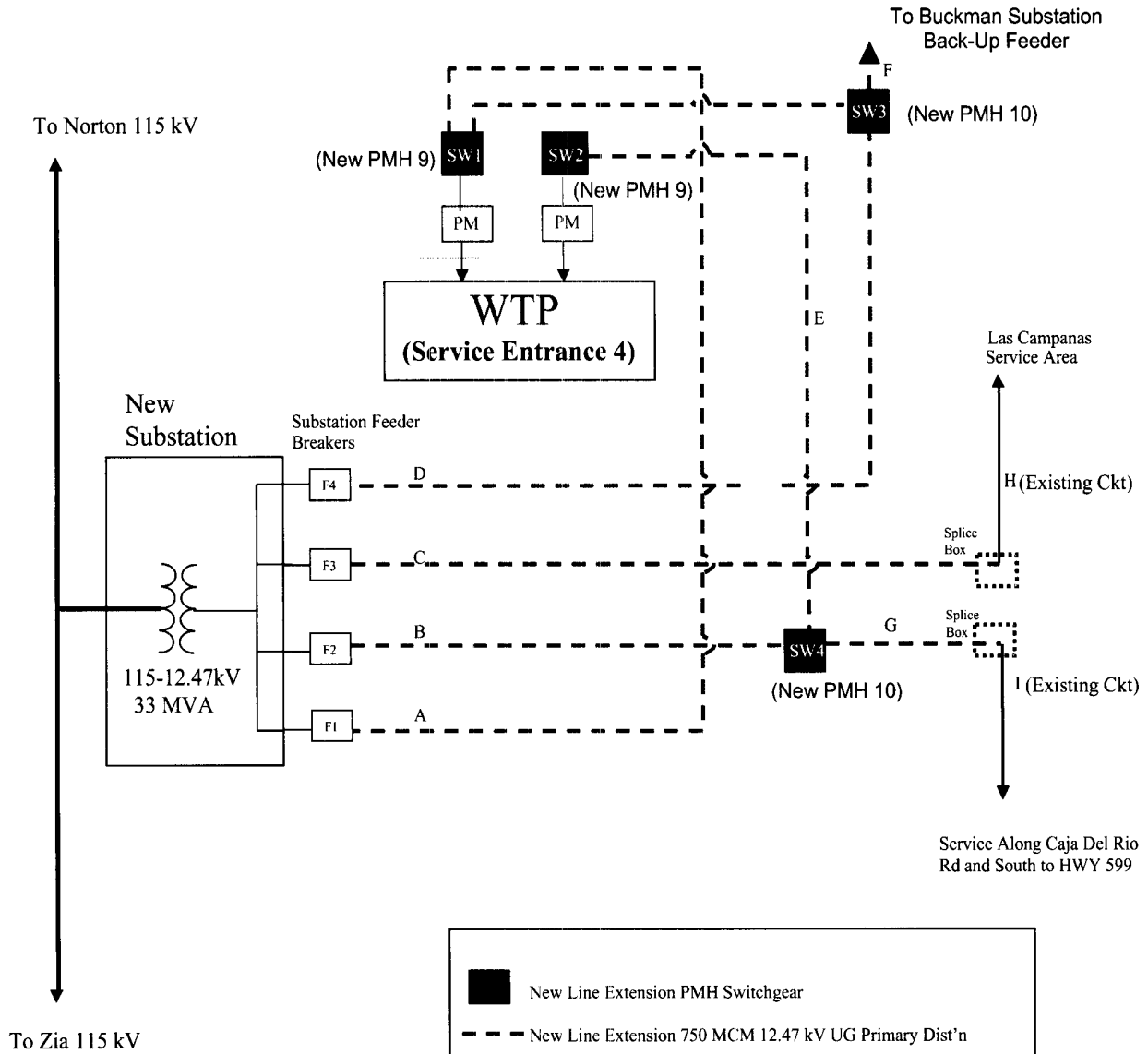
TERMS OF CONTRACT: Company reserves the right to require a suitable contract where additional facilities or extensions are required to be furnished by Company to provide additional or enlargement of service at existing or new service locations.







LIMITATION OF RATE: Electric service under this Schedule is not available for standby service and shall not be resold or shared with others.

EXHIBIT B

FACILITIES TO BE INSTALLED

Approximately 4 miles (22,000 ft.) of 12.47 kV. UG primary distribution (Cable A, B, D, E, and F), four PMH switchgears (SW1, SW2, SW3, and SW 4), and two PM metering points.



	New Line Extension PMH Switchgear
	New Line Extension 750 MCM 12.47 kV UG Primary Dist'n
	New System Improvement 750 MCM 12.47 kV UG Primary Dist'n
	Existing 12.47 kV OH Primary Dist'n
	New Line Extension 115 kV OH Primary Transmission
	Existing 115 kV OH Primary Transmission

NOTE: Exhibit B is in color.

EXHIBIT C

LIQUIDATED DAMAGES

Total Cost \$1,270,094
 Less Up-Front Costs \$932,932
 Initial Investment Credit \$337,163
 Book Life 37 Years

Month	Month Start Investment Value	Monthly Depreciation	Month End Investment Value (Liquidated Damages)
1	\$337,163	(\$759)	\$336,403
2	\$336,403	(\$759)	\$335,644
3	\$335,644	(\$759)	\$334,885
4	\$334,885	(\$759)	\$334,125
5	\$334,125	(\$759)	\$333,366
6	\$333,366	(\$759)	\$332,606
7	\$332,606	(\$759)	\$331,847
8	\$331,847	(\$759)	\$331,088
9	\$331,088	(\$759)	\$330,328
10	\$330,328	(\$759)	\$329,569
11	\$329,569	(\$759)	\$328,810
12	\$328,810	(\$759)	\$328,050
13	\$328,050	(\$759)	\$327,291
14	\$327,291	(\$759)	\$326,531
15	\$326,531	(\$759)	\$325,772
16	\$325,772	(\$759)	\$325,013
17	\$325,013	(\$759)	\$324,253
18	\$324,253	(\$759)	\$323,494
19	\$323,494	(\$759)	\$322,735
20	\$322,735	(\$759)	\$321,975
21	\$321,975	(\$759)	\$321,216
22	\$321,216	(\$759)	\$320,456
23	\$320,456	(\$759)	\$319,697
24	\$319,697	(\$759)	\$318,938
25	\$318,938	(\$759)	\$318,178
26	\$318,178	(\$759)	\$317,419
27	\$317,419	(\$759)	\$316,660
28	\$316,660	(\$759)	\$315,900
29	\$315,900	(\$759)	\$315,141
30	\$315,141	(\$759)	\$314,381
31	\$314,381	(\$759)	\$313,622
32	\$313,622	(\$759)	\$312,863
33	\$312,863	(\$759)	\$312,103
34	\$312,103	(\$759)	\$311,344
35	\$311,344	(\$759)	\$310,585
36	\$310,585	(\$759)	\$309,825
37	\$309,825	(\$759)	\$309,066
38	\$309,066	(\$759)	\$308,306
39	\$308,306	(\$759)	\$307,547
40	\$307,547	(\$759)	\$306,788
41	\$306,788	(\$759)	\$306,028
42	\$306,028	(\$759)	\$305,269
43	\$305,269	(\$759)	\$304,510
44	\$304,510	(\$759)	\$303,750
45	\$303,750	(\$759)	\$302,991
46	\$302,991	(\$759)	\$302,231
47	\$302,231	(\$759)	\$301,472
48	\$301,472	(\$759)	\$300,713
49	\$300,713	(\$759)	\$299,953
50	\$299,953	(\$759)	\$299,194
51	\$299,194	(\$759)	\$298,435
52	\$298,435	(\$759)	\$297,675
53	\$297,675	(\$759)	\$296,916
54	\$296,916	(\$759)	\$296,156
55	\$296,156	(\$759)	\$295,397
56	\$295,397	(\$759)	\$294,638
57	\$294,638	(\$759)	\$293,878
58	\$293,878	(\$759)	\$293,119
59	\$293,119	(\$759)	\$292,360
60	\$292,360	(\$759)	\$291,600

Month	Month Start Investment Value	Monthly Depreciation	Month End Investment Value (Liquidated Damages)
61	\$291,600	(\$759)	\$290,841
62	\$290,841	(\$759)	\$290,081
63	\$290,081	(\$759)	\$289,322
64	\$289,322	(\$759)	\$288,563
65	\$288,563	(\$759)	\$287,803
66	\$287,803	(\$759)	\$287,044
67	\$287,044	(\$759)	\$286,285
68	\$286,285	(\$759)	\$285,525
69	\$285,525	(\$759)	\$284,766
70	\$284,766	(\$759)	\$284,006
71	\$284,006	(\$759)	\$283,247
72	\$283,247	(\$759)	\$282,488
73	\$282,488	(\$759)	\$281,728
74	\$281,728	(\$759)	\$280,969
75	\$280,969	(\$759)	\$280,210
76	\$280,210	(\$759)	\$279,450
77	\$279,450	(\$759)	\$278,691
78	\$278,691	(\$759)	\$277,931
79	\$277,931	(\$759)	\$277,172
80	\$277,172	(\$759)	\$276,413
81	\$276,413	(\$759)	\$275,653
82	\$275,653	(\$759)	\$274,894
83	\$274,894	(\$759)	\$274,135
84	\$274,135	(\$759)	\$273,375
85	\$273,375	(\$759)	\$272,616
86	\$272,616	(\$759)	\$271,856
87	\$271,856	(\$759)	\$271,097
88	\$271,097	(\$759)	\$270,338
89	\$270,338	(\$759)	\$269,578
90	\$269,578	(\$759)	\$268,819
91	\$268,819	(\$759)	\$268,060
92	\$268,060	(\$759)	\$267,300
93	\$267,300	(\$759)	\$266,541
94	\$266,541	(\$759)	\$265,781
95	\$265,781	(\$759)	\$265,022
96	\$265,022	(\$759)	\$264,263
97	\$264,263	(\$759)	\$263,503
98	\$263,503	(\$759)	\$262,744
99	\$262,744	(\$759)	\$261,985
100	\$261,985	(\$759)	\$261,225
101	\$261,225	(\$759)	\$260,466
102	\$260,466	(\$759)	\$259,706
103	\$259,706	(\$759)	\$258,947
104	\$258,947	(\$759)	\$258,188
105	\$258,188	(\$759)	\$257,428
106	\$257,428	(\$759)	\$256,669
107	\$256,669	(\$759)	\$255,910
108	\$255,910	(\$759)	\$255,150
109	\$255,150	(\$759)	\$254,391
110	\$254,391	(\$759)	\$253,631
111	\$253,631	(\$759)	\$252,872
112	\$252,872	(\$759)	\$252,113
113	\$252,113	(\$759)	\$251,353
114	\$251,353	(\$759)	\$250,594
115	\$250,594	(\$759)	\$249,835
116	\$249,835	(\$759)	\$249,075
117	\$249,075	(\$759)	\$248,316
118	\$248,316	(\$759)	\$247,556
119	\$247,556	(\$759)	\$246,797
120	\$246,797	(\$759)	\$246,038

Memorandum



Buckman Direct Diversion

Date: December 27, 2021

To: Buckman Direct Diversion Board

From: Antoinette Armijo-Rougemont, BDD Accounting Supervisor

Via: Rick Carpenter, BDD Facilities Manager

Rick Carpenter (Dec 27, 2021 10:30 MST)

Re: Payment to the Bureau of Land Management

ITEM AND ISSUE:

Request approval of annual payment to the Bureau of Land Management in the amount of \$68,034.50 for BDDDB Right-of-Way lease fees.

BACKGROUND AND SUMMARY:

The Buckman Direct Diversion Board currently has several right-of-way (ROW) grant agreements with the Bureau of Land Management. These lease agreements include an annual lease payment as follows:

NMNM 107524 Payment period (01/01/2022-12/31/2022) Buckman Water Treatment Plant & Solar Site (22.60 acres)	Annual Fee - \$63,000.00
NMNM 103816-03 Payment period (01/01/2022-12/31/2022) Booster Station 2A Solar Site (4.80 acres) (Includes Photovoltaic capacity fee)	Annual Fee - \$4,618.88
NMNM 120617 Payment period (01/01/2022-12/31/2022) Fiber optic line (12.30 acres)	Annual Fee - \$415.62

The rental fees for these agreements were included in the FY 2021/2022 BDD operating budget and will continue to be part of the annual budget request.

ACTION REQUESTED:

Staff recommends approval of payment to the Bureau of Land Management in the amount of \$68,034.50 for payment period 01/01/2022-12/31/2022.

Approved by BDDDB January 6, 2022



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



APPROVED/DATE

DENIED/DATE

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
RIGHT-OF-WAY GRANT/TEMPORARY USE PERMIT

SERIAL NUMBER NMNM 107524

1. A right-of-way is hereby granted pursuant to Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761).

2. Nature of Interest:

a. By this instrument, the holder:

Buckman Direct Diversion Board
PO Box 909
Santa Fe, NM 87504

receives a right to construct, operate, maintain, and terminate a(n) water treatment plant located in:

T. 17 N., R. 8 E., NMPM
Sec. 22: within NW¹NE⁴.

b. The right-of-way or permit area granted herein is N/A feet wide by N/A feet long, and contains N/A acres, more or less. If a site type facility, the facility contains 22.6 acres.

c. This instrument shall terminate on December 31, 2037, 30 years from its effective date unless; prior thereto, it is relinquished, abandoned, terminated, or modified pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.

d. This instrument may be renewed. If renewed, the right-of-way or permit shall be subject to the regulations existing at the time of renewal and any other terms and conditions that the authorized officer deems necessary to protect the public interest.

e. Notwithstanding the expiration of this instrument or any renewal thereof, early relinquishment, abandonment, or termination, the provisions of this instrument, to the extent applicable, shall continue in effect and shall be binding on the holder, its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein before or on account of the expiration, or prior termination, of the grant.

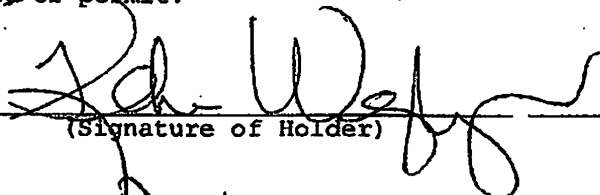
3. Rental:

For and in consideration of the rights granted, the holder agrees to pay the Bureau of Land Management fair market value rental as determined by the authorized officer unless specifically exempted from such payment by regulation. Provided, however, that the rental may be adjusted by the authorized officer, whenever necessary, to reflect changes in the fair market rental value as determined by the application of sound business management principles, and so far as practicable and feasible, in accordance with comparable commercial practices.

4. Terms and Conditions:

- a. This grant or permit is issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulations part 2800.
- b. Upon grant termination by the authorized officer, all improvements shall be removed from the public lands within 180 days, or otherwise disposed of as provided in paragraph (4) (d) or as directed by the authorized officer.
- c. Each grant issued for a term of 20 years or more shall, at a minimum, be reviewed by the authorized officer at the end of the 20th year and at regular intervals thereafter not to exceed 10 years. Provided, however, that a right-of-way or permit granted herein may be reviewed at any time deemed necessary by the authorized officer.
- d. The stipulations, plans, maps, or designs set forth in Exhibit(s) A, dated 8/19/2008 attached hereto, are incorporated into and made a part of this grant instrument as fully and effectively as if they were set forth herein in their entirety.
- e. Failure of the holder to comply with applicable law or any provision of this right-of-way grant or permit shall constitute grounds for suspension or termination thereof.
- f. The holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.
- g.

IN WITNESS WHEREOF, The undersigned agrees to the terms and conditions of this right-of-way grant or permit.



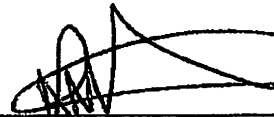
(Signature of Holder)

Board Chair

(Title)

6/5/08

(Date)



(Signature of Authorized Officer)

Project Manager

(Title)

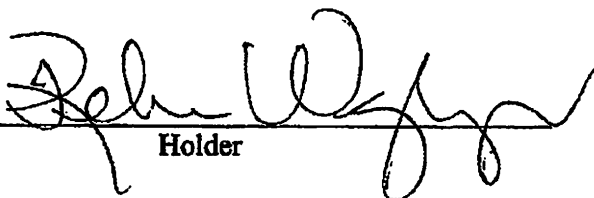
8/22/08

(Effective Date of Grant)

**EXHIBIT A
SPECIAL STIPULATIONS
NM-107524**

1. No construction activities are permitted until the Buckman Direct Diversion Plan of Development has been reviewed and approved and the holder has been issued a Notice to Proceed. Holder will follow the Buckman Direct Diversion Plan of Development in completing their project.
2. Additional stipulations will be issued with Notice to Proceed.

The authorized officer for this project is Francina Martinez, Realty Specialist.


Holder


Date

CITY OF SANTA FE:

ATTEST:

David Coss

DAVID COSS, MAYOR

DATE: 8/19/08

Yolanda Y. Vigil
YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

Frank D. Katz
FRANK D. KATZ, CITY ATTORNEY

APPROVED:

Kathryn Raveling
KATHRYN RAVELING, FINANCE DIRECTOR
David N. Millican

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
RIGHT-OF-WAY GRANT/TEMPORARY USE PERMIT
SERIAL NUMBER NMNM 103816

1. A right-of-way is hereby granted pursuant to Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761).

2. Nature of Interest:

a. By this instrument, the holder:

Buckman Direct Diversion Board
PO Box 909
Santa Fe, NM 87504

receives a right to construct, operate, maintain, and terminate a(n) raw water pipeline located in:

- T. 17 N., R. 8 E., NMPM
 - Sec. 4: within NW $\frac{1}{4}$ and E $\frac{1}{2}$;
 - Sec. 9: within E $\frac{1}{2}$;
 - Sec. 15: within NW $\frac{1}{4}$ and S $\frac{1}{2}$;
 - Sec. 16: within NE $\frac{1}{4}$;
 - Sec. 22: within NW $\frac{1}{4}$.
- T. 18 N., R. 7 E., NMPM
 - Sec. 1: within NE $\frac{1}{4}$.
- T. 18 N., R. 8 E., NMPM
 - Sec. 6: within W $\frac{1}{2}$;
 - Sec. 7: within NW $\frac{1}{4}$ and E $\frac{1}{2}$;
 - Sec. 17: within W $\frac{1}{2}$;
 - Sec. 18: within NE $\frac{1}{4}$;
 - Sec. 20: within NW $\frac{1}{4}$ and E $\frac{1}{2}$;
 - Sec. 28: within SW $\frac{1}{4}$;
 - Sec. 29: within E $\frac{1}{2}$;
 - Sec. 33: within W $\frac{1}{2}$.

And Water Treatment Plant access road and potable water line located in:
T. 17 N., R. 8 E., NMPM
Sec. 22: within NE $\frac{1}{4}$ NE $\frac{1}{4}$.

And a potable water line located in:

- T. 17 N., R. 8 E., NMPM
 - Sec. 3: within E $\frac{1}{2}$;
 - Sec. 22: within NE $\frac{1}{4}$;
 - Sec. 35: within S $\frac{1}{2}$.

And booster station 2A located in:

- T. 18 N., R. 8 E., NMPM
 - Sec. 20: N $\frac{1}{2}$ N $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$.

b. The right-of-way or permit area granted herein is 20 feet wide by 63,902.0 feet long, and contains 29.34 acres for pipelines, 32 feet wide by 2,100 feet long, and contains 1.54 acres for WTP access road, more or less. If a site type facility, the facility contains 1.13 acres for booster station 2A.

c. This instrument shall terminate on December 31, 2037

30 years from its effective date unless; prior thereto, it is relinquished, abandoned, terminated, or modified pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.

- d. This instrument may be renewed. If renewed, the right-of-way or permit shall be subject to the regulations existing at the time of renewal and any other terms and conditions that the authorized officer deems necessary to protect the public interest.
- e. Notwithstanding the expiration of this instrument or any renewal thereof, early relinquishment, abandonment, or termination, the provisions of this instrument, to the extent applicable, shall continue in effect and shall be binding on the holder, its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein before or on account of the expiration, or prior termination, of the grant.

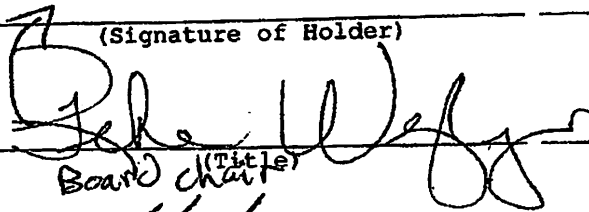
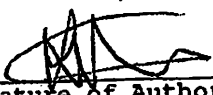
3. Rental:

For and in consideration of the rights granted, the holder agrees to pay the Bureau of Land Management fair market value rental as determined by the authorized officer unless specifically exempted from such payment by regulation. Provided, however, that the rental may be adjusted by the authorized officer, whenever necessary, to reflect changes in the fair market rental value as determined by the application of sound business management principles, and so far as practicable and feasible, in accordance with comparable commercial practices.

4. Terms and Conditions:

- a. This grant or permit is issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulations part 2800.
- b. Upon grant termination by the authorized officer, all improvements shall be removed from the public lands within 180 days, or otherwise disposed of as provided in paragraph (4) (d) or as directed by the authorized officer.
- c. Each grant issued for a term of 20 years or more shall, at a minimum, be reviewed by the authorized officer at the end of the 20th year and at regular intervals thereafter not to exceed 10 years. Provided, however, that a right-of-way or permit granted herein may be reviewed at any time deemed necessary by the authorized officer.
- d. The stipulations, plans, maps, or designs set forth in Exhibit(s) A, dated 8/19/03 attached hereto, are incorporated into and made a part of this grant instrument as fully and effectively as if they were set forth herein in their entirety.
- e. Failure of the holder to comply with applicable law or any provision of this right-of-way grant or permit shall constitute grounds for suspension or termination thereof.
- f. The holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.
- g.

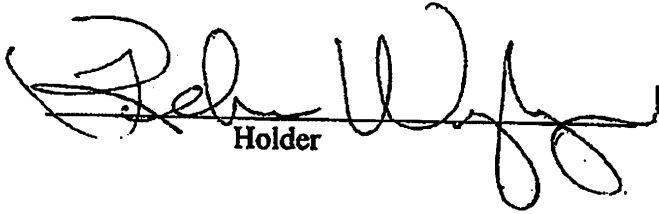
IN WITNESS WHEREOF, The undersigned agrees to the terms and conditions of this right-of-way grant or permit.

	
(Signature of Holder)	(Signature of Authorized Officer)
Board chair	Project Manager
(Title)	(Title)
6/5/08	8/22/08
(Date)	(Effective Date of Grant)

**EXHIBIT A
SPECIAL STIPULATIONS
NM-103816**

1. No construction activities are permitted until the Buckman Direct Diversion Plan of Development has been reviewed and approved and the holder has been issued a Notice to Proceed. Holder will follow the Buckman Direct Diversion Plan of Development in completing their project.
2. Additional stipulations will be issued with Notice to Proceed.

The authorized officer for this project is Francina Martinez, Realty Specialist.


Holder


Date

CITY OF SANTA FE:

David Coss
DAVID COSS, MAYOR

DATE: 8/19/08

ATTEST:

Yolanda Y. Vigil
YOLANDA Y. VIGIL, CITY CLERK
YV

APPROVED AS TO FORM:

Frank D. Katz
FRANK D. KATZ, CITY ATTORNEY

APPROVED:

Kathryn Raveling
KATHRYN RAVELING, FINANCE DIRECTOR
David N. Millican,

ITL # 08-0794

FORM 2800-14
(August 1985)

Issuing Office
Taos Field Office

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
RIGHT-OF-WAY GRANT/TEMPORARY USE PERMIT

SERIAL NUMBER NMNM 10381601

1. A right-of-way is hereby granted pursuant to Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761).

2. Nature of Interest:

a. By this instrument, the holder:

Buckman Direct Diversion Board
PO Box 909
Santa Fe, NM 87504

receives a right to construct, operate, maintain, and terminate a(n) temporary use area for the raw water pipeline located in:

T. 17 N., R. 8 E., NMPM
Sec. 4: within NW $\frac{1}{4}$ and E $\frac{1}{2}$;
Sec. 9: within E $\frac{1}{2}$;
Sec. 15: within NW $\frac{1}{4}$ and S $\frac{1}{2}$;
Sec. 16: within NE $\frac{1}{4}$;
Sec. 22: within NW $\frac{1}{4}$.

And Water Treatment Plant and access road temporary use area located in:
T. 17 N., R. 8 E., NMPM
Sec. 22: within NE $\frac{1}{4}$ NE $\frac{1}{4}$.

T. 18 N., R. 7 E., NMPM
Sec. 1: within NE $\frac{1}{4}$.
T. 18 N., R. 8 E., NMPM
Sec. 6: within W $\frac{1}{2}$;
Sec. 7: within NW $\frac{1}{4}$ and E $\frac{1}{2}$;
Sec. 17: within W $\frac{1}{2}$;
Sec. 18: within NE $\frac{1}{4}$;
Sec. 20: within NW $\frac{1}{4}$ and E $\frac{1}{2}$;
Sec. 28: within SW $\frac{1}{4}$;
Sec. 29: within E $\frac{1}{2}$;
Sec. 33: within W $\frac{1}{2}$.

And 26 contractor's storage areas as shown on project plat of survey.

And temporary use areas for the potable water line located in:

T. 17 N., R. 8 E., NMPM
Sec. 3: within E $\frac{1}{2}$;
Sec. 22: within NE $\frac{1}{4}$;
Sec. 35: within S $\frac{1}{2}$.

And a temporary use areas for booster station 2A located in:

T. 18 N., R. 8 E., NMPM
Sec. 20: N $\frac{1}{2}$ N $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$.

b. The right-of-way or permit area granted herein is 20 feet wide by 66,002.0 feet long for pipelines and WTP access road, and contains 30.30 acres, more or less. If a site type facility, the facility booster station 2A contains 0.55 acres and contractor's storage areas contains 5.24 acres.

c. This instrument shall terminate on _____

3 years from its effective date unless; prior thereto, it is relinquished, abandoned, terminated, or modified pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.

- d. This instrument may be renewed. If renewed, the right-of-way or permit shall be subject to the regulations existing at the time of renewal and any other terms and conditions that the authorized officer deems necessary to protect the public interest.
- e. Notwithstanding the expiration of this instrument or any renewal thereof, early relinquishment, abandonment, or termination, the provisions of this instrument, to the extent applicable, shall continue in effect and shall be binding on the holder, its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein before or on account of the expiration, or prior termination, of the grant.

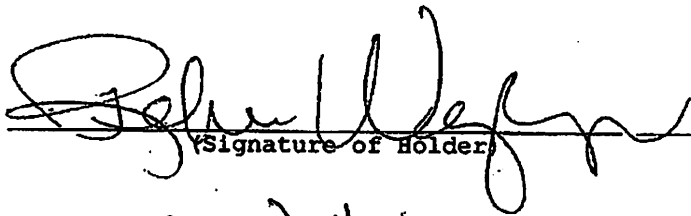
3. Rental:

For and in consideration of the rights granted, the holder agrees to pay the Bureau of Land Management fair market value rental as determined by the authorized officer unless specifically exempted from such payment by regulation. Provided, however, that the rental may be adjusted by the authorized officer, whenever necessary, to reflect changes in the fair market rental value as determined by the application of sound business management principles, and so far as practicable and feasible, in accordance with comparable commercial practices.

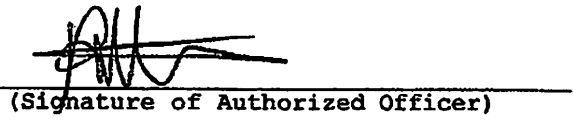
4. Terms and Conditions:

- a. This grant or permit is issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulations part 2800.
- b. Upon grant termination by the authorized officer, all improvements shall be removed from the public lands within 180 days, or otherwise disposed of as provided in paragraph (4) (d) or as directed by the authorized officer.
- c. Each grant issued for a term of 20 years or more shall, at a minimum, be reviewed by the authorized officer at the end of the 20th year and at regular intervals thereafter not to exceed 10 years. Provided, however, that a right-of-way or permit granted herein may be reviewed at any time deemed necessary by the authorized officer.
- d. The stipulations, plans, maps, or designs set forth in Exhibit(s) A, dated 8/19/08 attached hereto, are incorporated into and made a part of this grant instrument as fully and effectively as if they were set forth herein in their entirety.
- e. Failure of the holder to comply with applicable law or any provision of this right-of-way grant or permit shall constitute grounds for suspension or termination thereof.
- f. The holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.
- g.

IN WITNESS WHEREOF, The undersigned agrees to the terms and conditions of this right-of-way grant or permit.



(Signature of Holder)



(Signature of Authorized Officer)

Board Chair

(Title)

Project Manager

(Title)

6/5/08

(Date)

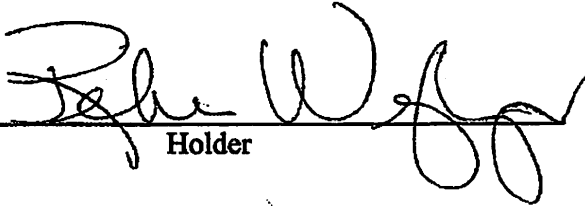
8/22/08

(Effective Date of Grant)

**EXHIBIT A
SPECIAL STIPULATIONS
NM-10381601**

1. No construction activities are permitted until the Buckman Direct Diversion Plan of Development has been reviewed and approved and the holder has been issued a Notice to Proceed. Holder will follow the Buckman Direct Diversion Plan of Development in completing their project.
2. Additional stipulations will be issued with Notice to Proceed.

The authorized officer for this project is Francina Martinez, Realty Specialist.


Holder


Date

CITY OF SANTA FE:

ATTEST:

David Coss
DAVID COSS, MAYOR

DATE: 8/19/08

Yolanda Y. Vigil
YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

Frank D. Katz
FRANK D. KATZ, CITY ATTORNEY

APPROVED:

Kathryn Raveling
KATHRYN RAVELING, FINANCE DIRECTOR
David U. Millican

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
RIGHT-OF-WAY GRANT

SERIAL NUMBER NMNM 120617

1. A right-of-way is hereby granted pursuant to Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761).

2. Nature of Interest:

a. By this instrument, the holder:

Buckman Direct Diversion Board
P.O. Box 909
Santa Fe, NM 87504

Receives a right to construct, operate, maintain, and terminate a Fiber Optics Line on public lands in Santa Fe County and described as follows:

New Mexico Principal Meridian, New Mexico

T. 18 N., R. 7 E.,

sec. 1, lots 1 and 2, SW1/4NE1/4NE1/4, and SE1/4NE1/4.

T. 17 N., R. 8 E.,

sec. 4, lots 3 thru 6, and SW1/4SW1/4NE1/4;

sec. 9, lots 1 thru 4;

sec. 15, lots 1 and 2, and SW1/4SW1/4;

sec. 22, SW1/4SW1/4NE1/4, SW1/4NE1/4NW1/4, E1/2NW1/4NW1/4, N1/2SE1/4NW1/4, and SE1/4SE1/4NW1/4.

T. 18 N., R. 8 E.,

sec. 6, lots 5 and 6, SW1/4NE1/4SW1/4, and SE1/4SW1/4;

sec. 7, lots 4 and 5, W1/2SW1/4NE1/4, NE1/4NW1/4, and E1/2SE1/4NW1/4;

sec. 17, lot 1, SW1/4NW1/4NW1/4, SW1/4NW1/4, SW1/4NE1/4SW1/4, and E1/2SE1/4SW1/4;

sec. 18, lot 1;

sec. 20, lots 1 thru 4, and E1/2SW1/4NE1/4;

sec. 28, lot 1 and SW1/4NW1/4SW1/4;

sec. 29, lots 1 thru 3;

sec. 33, lots 1 thru 5.

As shown on the attached map (Exhibit A).

b. The right-of-way or permit area granted herein is 10 feet wide 53,281 feet long, and contains 12.23 acres.

c. This instrument shall terminate December 31, 2047, 30 years from its effective date unless, prior thereto, it is relinquished, abandoned, terminated, or modified pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.

- d. This instrument may be renewed. If renewed, the right-of-way or permit shall be subject to the regulations existing at the time of renewal and any other terms and conditions that the authorized officer deems necessary to protect the public interest. The renewal application, in accordance with Federal regulations found at 43 CFR 2807.22(a), must be submitted at least 120 calendar days before your grant expires.
- e. Notwithstanding the expiration of this instrument, early relinquishment, abandonment, or termination, the provisions of this instrument, to the extent applicable, shall continue in effect and shall be binding on the holder, its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein before or on account of the expiration, or prior termination, of the grant.

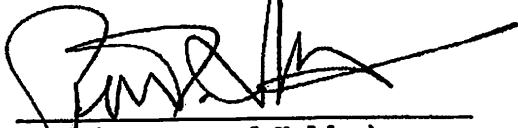
3. Rental:

For and in consideration of the rights granted, the holder agrees to pay the Bureau of Land Management fair market value rental as determined by the authorized officer unless specifically exempted from such payment by regulation. Provided, however, that the rental may be adjusted by the authorized officer, whenever necessary, to reflect changes in the fair market rental value as determined by the application of sound business management principles, and so far as practicable and feasible, in accordance with comparable commercial practices.

4. Terms and Conditions:

- a. This grant or permit is issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulations part 2800.
- b. Upon grant termination by the authorized officer, all improvements shall be removed from the public lands within 90 days, or otherwise disposed of as provided in paragraph (4)(c) or as directed by the authorized officer.
- c. The stipulations, plans, maps, or designs set forth in Exhibit(s) A and B attached hereto, are incorporated into and made a part of this grant instrument as fully and effectively as if they were set forth herein in their entirety.
- d. Failure of the holder to comply with applicable law or any provision of this right-of-way grant or permit shall constitute grounds for suspension or termination thereof.
- e. The holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.

IN WITNESS WHEREOF, The undersigned agrees to the terms and conditions of this right-of-way grant or permit.



(Signature of Holder)

BOO Board Chair
(Title)

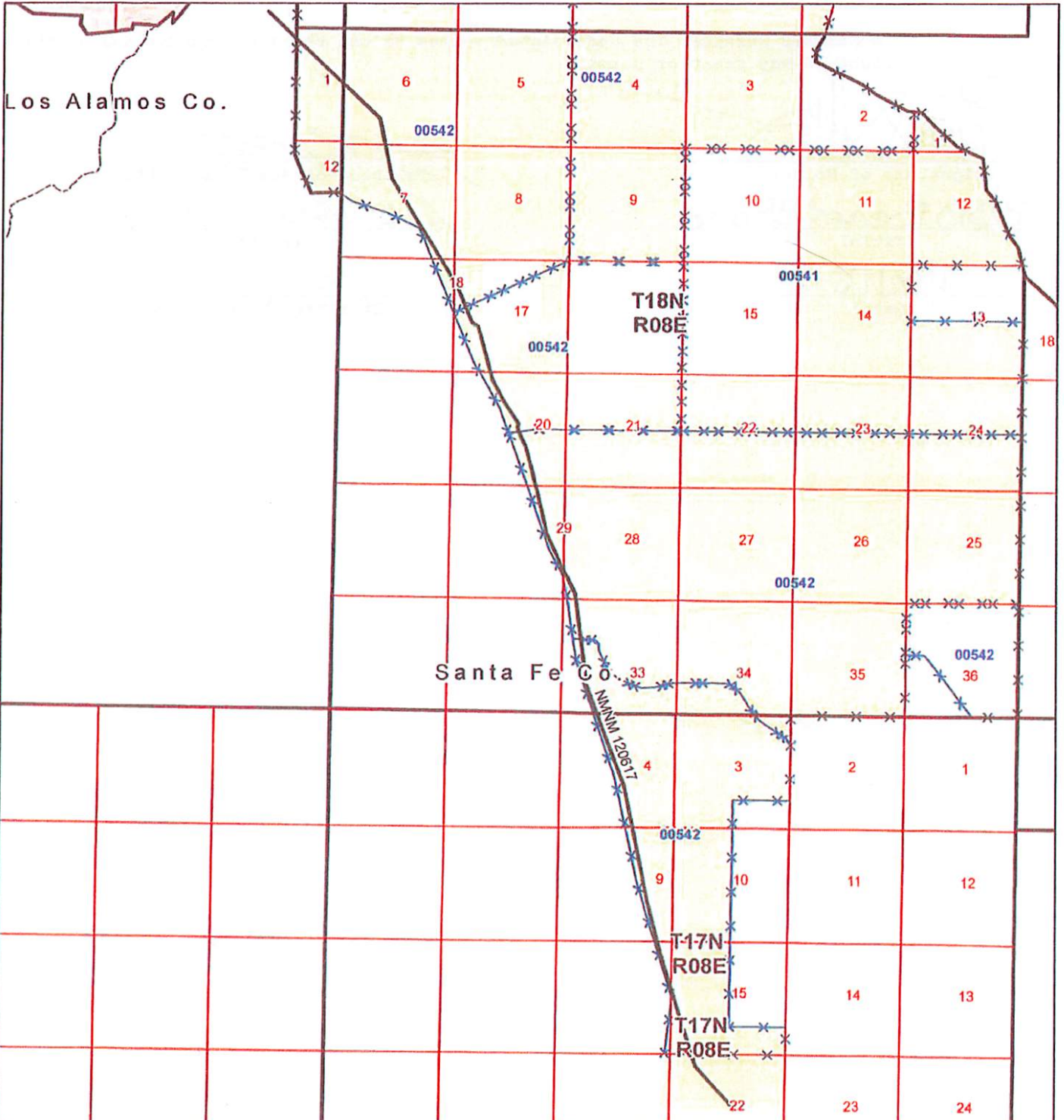
9/16/18
(Date)



(Signature of Authorized Officer)

Field Manager Acting
(Title)

10/22/18
(Effective Date of Grant)

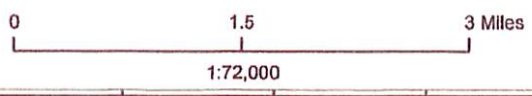


NMNM 120617
EXHIBIT A

- Right-of-Way Type**
- ROW - lines
 - ▭ Counties
 - ▭ Townships
 - ▭ Sections
 - ⊗ Grazing Pasture Polygons

- Surface Ownership**
- ▭ BLM
 - ▭ Forest Service
 - ▭ Tribal
 - ▭ Private
 - ▭ State

No warranty is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of these data for individual use or aggregate use with other data, or for purposes not intended by BLM. Spatial information may not meet National Map Accuracy Standards. This information may be updated without notification.



1 **NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE BUCKMAN DIRECT**
2 **DIVERSION BOARD, AS FOLLOWS:**

3 1. **Regular Meetings.** Unless otherwise specified, regular meetings of the Board shall
4 be held each month on the first Thursday of the month in the Santa Fe City Council Chambers or
5 at the Santa Fe County Commission Chambers. Notice of any regular meeting shall be provided
6 a minimum of seventy-two (72) hours prior to the meeting to the public and to those broadcast
7 stations licensed by the Federal Communications Commission and newspapers of general
8 circulation that have made written request for such notice. The notice shall include the date, time
9 and place of the meeting. The agenda for regular meetings will be available at least seventy-two
10 (72) hours prior to the meeting and shall be posted in a conspicuous and appropriate place at the
11 Santa Fe County Administrative Building, at Santa Fe City Hall, and on the Board's, Santa Fe
12 County's and the City's internet web sites (www.bddproject.org, www.santafecounty.org and
13 www.santafenm.gov).

14 2. **Special Meetings.** A special meeting of the Board may be called by the Chair or
15 by any three members of the Board upon at least seventy-two (72) hours notice at such time and
16 place as the Chair or the three members deem appropriate. Notice of special meetings shall be
17 provided to the public by posting notice of the date, time and place in a conspicuous and
18 appropriate place at the Santa Fe County Administrative building, at Santa Fe City Hall and on the
19 Board's, Santa Fe County's and the City's internet websites (www.bddproject.org,
20 www.santafecounty.org and www.santafenm.gov) at least seventy-two (72) hours prior to a special
21 meeting. Notice of a special regular meeting shall also be provided to those broadcast stations
22 licensed by the Federal Communications Commission and newspapers of general circulation that
23 have made written request for such notice.

1 3. **Emergency Meetings.** An emergency meeting of the Board may be called by the
2 Chair or by any three members of the Board to consider unforeseen circumstances that, if not
3 addressed immediately, will likely result in injury or damage to persons or property or substantial
4 financial loss. An emergency meeting may be conducted at a time and place as the Chair or the
5 three members deem appropriate. If possible, given the emergency circumstances, notice of an
6 emergency meeting shall be posted in a conspicuous and appropriate place at the Santa Fe County
7 Administrative Building and at Santa Fe City Hall at least twenty-four (24) hours prior to the
8 meeting. If twenty-four (24) hours advance notice cannot be given, notice shall be posted as soon
9 as possible under the emergency circumstances in existence. Notice of an emergency meeting
10 shall also be provided to broadcast stations licensed by the Federal Communications Commission
11 and newspapers of general circulation that have made written request for such notice. Unless there
12 is a state or national emergency that has been declared for the same reasons as the emergency
13 meeting, within ten (10) days of taking action on an emergency matter, the Board shall report to
14 the Attorney General's Office that an emergency meeting took place.

15 4. **Agendas.** Any notice for meetings of the Board shall include an agenda containing
16 a list of specific items of business to be discussed or transacted at the meeting, or information on
17 how the public may obtain a copy of an agenda. At least seventy-two (72) hours prior to a regular
18 or special meeting, the final agenda shall be posted in a conspicuous and appropriate place at the
19 Santa Fe County Administrative Building, at Santa Fe City Hall, and on the Board's, Santa Fe
20 County's and the City's internet web sites (www.bddproject.org, www.santafecounty.org and
21 www.santafenm.gov).

22 5. **Recessed Meetings.** The Board may recess and reconvene a meeting to a later day,
23 if, prior to recessing, the Board specifies the date, time and place for continuation of the meeting,

1 and, immediately following the recessed meeting, posts notice of the date, time and place for the
2 reconvened meeting on or near the door of the place where the original meeting was held. Only
3 matters appearing on the agenda of the original meeting may be discussed at the
4 reconvened meeting unless notice of the reconvened meeting is provided as otherwise set forth
5 herein.

6 **6. Participation by Conference Telephone.** Voting members of the Board may
7 participate in a meeting of the Board by means of conference telephone or other similar
8 communications equipment when it is difficult or impossible for the voting member to attend the
9 meeting in person and only when necessary to meet the quorum requirements for the meeting. At
10 least one voting member of the Board must be physically present at the noticed location for the
11 meeting.

12 **7. Closed Meetings.** A meeting may be closed in the following manner:

13 a. If the Board is in an open meeting when a closed meeting is desired and
14 authorized by the Open Meetings Act, then the closed meeting shall be approved on motion by a
15 majority of a quorum of the Board and the authority for the closure shall be stated in the motion.
16 The votes of the voting members of the Board shall be recorded in the minutes.

17 b. If the Board is not in a public meeting and a closed meeting is desired and
18 authorized, public notice of the closed meeting, appropriate under the circumstances, shall be given
19 stating the authority for the closure.

20 c. Following completion of any closed meeting, the minutes of the open
21 meeting that was closed, or the minutes of the next open meeting if the closed meeting was
22 separately scheduled, or held after adjournment, shall state that the matters discussed in the closed
23 meeting were limited only to those specified in the motion or notice for closure.

1 8. **Public Health Emergency Provisions.** Notwithstanding any other provision of
2 this Resolution, meeting locations, in-person meetings, posting requirements and any other
3 deviation deemed necessary or advisable due to any public health emergency or conditions,
4 including any emergency as may be declared by the WHO and/or the New Mexico Department of
5 Health or other public health authority, may be made, while taking into account any guidance
6 provided by the New Mexico Attorney General’s Office for public meetings during public health
7 emergencies. Specifically, board members may participate remotely in meetings by conference
8 telephone, video platforms or other similar communications equipment provided that means are
9 provided to allow for the public to hear and/or view the Board meeting. Additionally, the Board
10 Chair has the authority to take the following actions: (i) exclude or limit the public from in-person
11 attendance at meetings, provided that the public may witness the meeting either by telephone or
12 video means; or (ii) cancel any meeting prior to commencement of such meeting to preserve the
13 public health, safety and welfare.

14 9. **Definitions: "Meeting" and "Member."** For purposes of this Resolution, the
15 term “meeting” shall be defined as a meeting of a quorum of the Board held for the purpose of
16 formulating public policy, rules, regulations or ordinances, discussing public business, or taking
17 any action within the authority of or the delegated authority of the Board. For purposes of this
18 Resolution, the term "Member," when not
19 otherwise qualified within this Resolution, shall mean both the voting and non-voting members of
20 the Board.

21 9. Resolution No. 2021-2 is hereby rescinded.

22
23 **PASSED, APPROVED AND ADOPTED this 6th day of January 2022.**
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BUCKMAN DIRECT DIVERSION BOARD:

Anna Hansen , BDDDB Chair

APPROVED AS TO FORM:

Nancy R. Long, Board Counsel

ATTEST:

Kristine Mihelcic, City Clerk

Memorandum



Buckman Direct Diversion

Date: January 6, 2022
To: Buckman Direct Diversion Board
From: Nancy R. Long
Subject: **Open Meetings Act Resolution 2022-1**

Item and Issue:

Adoption and approval of the Annual (2022) Open Meetings Act Resolution.

Background and Summary:

As the Board is aware, public bodies are required by the New Mexico Open Meetings Act (Act) to annually address the issue of what determines reasonable notice for its public meetings in compliance with the Act.

In 2013, and carried forward in the 2014 - 2021 Resolutions, the Board imposed an additional requirement not required by the Act that in order for a Board member to attend a board meeting by telephone, that board member must be needed to meet Board quorum requirements. This provision is only applicable should the Board return to in-person meetings at some point this year.

In May of 2020, due to the current and ongoing COVID-19 global pandemic; the State's Declaration of Public Health Emergencies; and guidance from the New Mexico Attorney General's Office, Resolution 2020-2 allows for remote participation of the Board, allows limiting public attendance at in-person meetings, provided there is adequate means for remote attendance, and allows the Board Chair to cancel any BDDDB meeting to preserve the public health, safety and welfare.

Action Requested

Independent counsel recommends adoption by the Board of the Resolution Determining Reasonable Notice for Public Meetings of the Buckman Direct Diversion Board Resolution No. 2022-1; Rescinding Resolution No. 2021-2.



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





Date: January 6, 2022
To: Buckman Direct Diversion Board
From: Nancy R. Long
Subject: Appointment of Citizen Member and Alternate Citizen Member

Item and Issue:

Appointment of the citizen member and alternate citizen member to the Buckman Direct Diversion Board (Board).

Background and Summary:

The Joint Powers Agreement, as amended, establishing the Board, provides for the appointment of a citizen member and alternate citizen member to the Board by a majority vote of the four other voting members of the Board. The term of the citizen member and alternate citizen member is two years and the current terms for both the citizen member and alternate citizen member expire on February 6, 2022.

At the December 2, 2021, Board meeting, the Board provided direction that it wished to re-appoint the current citizen member, J.C. Helms, and the current alternate citizen member, Peter Ives, to their respective positions for another two-year term. Both Mr. Helms and Mr. Ives have agreed to serve another term.

Action Requested:

It is recommended that the Board re-appoint J.C. Helms as the citizen member and Peter Ives as the alternate citizen member to the Buckman Direct Diversion Board to be effective as of February 3, 2022.





Date: December 28, 2021

To: Buckman Direct Diversion Board

From: Rick Carpenter, BDD Facility Manager

Kyle Harwood, BDD Legal Counsel

Re: Update on BDD Board - LANL MOU

“2022 MOU between the US DOE, Office of Environmental Management, Los Alamos Field Office and the Buckman Direct Diversion Board Regarding Notification of Streamflow and Water Quality Monitoring in Los Alamos and Pueblo Canyons”

Item and Issue:

The current BDD Board LANL MOU was extended to an expiration date of February 9, 2022.

Attached to this cover memo is the current negotiation draft and a copy of the 2017 MOU for comparison.

Background:

BDD Board staff, consultants and counsel have been discussing changes to the current MOU with LANL Field Office counterparts. We will present the agreed upon edits and the changes that do not have consensus at the Board meeting.

Recommendations:

To be determined by the BDD Board.



MEMORANDUM OF UNDERSTANDING BETWEEN THE U.S. DEPARTMENT OF ENERGY, OFFICE OF ENVIRONMENTAL MANAGEMENT, LOS ALAMOS FIELD OFFICE AND THE BUCKMAN DIRECT DIVERSION BOARD REGARDING NOTIFICATION OF STREAMFLOW AND WATER QUALITY MONITORING IN LOS ALAMOS AND PUEBLO CANYONS

A. Parties

This Memorandum of Understanding (MOU) is between the Buckman Direct Diversion Board (BDD Board) and the U.S. Department of Energy, Office of Environmental Management, Los Alamos Field Office (EM-LA).

B. Background

The Buckman Direct Diversion (BDD) is designed to divert water from the Rio Grande for use by the City and County of Santa Fe water utilities in the Santa Fe area, and to provide a source for the water supply systems of Santa Fe County, the City of Santa Fe, and the Club at Las Campanas. The diverted water is San Juan-Chama Project water (a U.S. Bureau of Reclamation interbasin water transfer project) and native New Mexico state waters regulated by the State of New Mexico.

The point of diversion for the BDD is on the east bank of the Rio Grande in northern New Mexico, near the historic Buckman townsite. The point of diversion is approximately 15 miles northwest of the City of Santa Fe and about three miles downstream from the confluence of the Rio Grande and Los Alamos Canyon (where Route 502 crosses the Rio Grande at Otowi Bridge).

The Los Alamos National Laboratory (LANL) is owned and operated by the U.S. Department of Energy (DOE). LANL is located on the Pajarito Plateau above the Los Alamos/Pueblo Canyon watershed. The Los Alamos/Pueblo Canyon stream system infrequently flows to the Rio Grande just below the Otowi Bridge and upstream of the BDD point of diversion. The Los Alamos/Pueblo Canyon watershed contains sediment with contamination from historic releases from LANL, which may be transported downcanyon due to rain events. This sediment may be transported to the Rio Grande upgradient of the BDD intake. EM-LA has implemented measures (including infrastructure installation) to reduce the transport of contaminated sediment.

The New Mexico legislature encouraged the BDD Board and DOE to memorialize their agreement to certain activities relating to the mitigation and monitoring of LANL-origin water quality contaminants. On May 13, 2010, the BDD Board and DOE executed a Memorandum of Understanding acknowledging that water quality management and monitoring are mutual priorities. On January 12, 2015, the BDD Board and DOE executed a second Memorandum of Understanding to further govern operations of the BDD. On November 20, 2017, the BDD Board and DOE executed a third Memorandum of Understanding, which the BDD Board and DOE extended until December 1, 2021. The BDD Board and DOE extended the 2017 Memorandum of Understanding a second time until February 9, 2022. Upon execution of this MOU, the 2017 Memorandum of Understanding will be terminated in accordance with Section J of the 2017 Memorandum of Understanding, and this MOU will constitute the consent of the BDD Board and DOE to the termination.

C. Objectives

This MOU establishes roles and responsibilities for notification between EM-LA (by EM-LA or

through its contractor) and the BDD regarding streamflow in Los Alamos and Pueblos Canyons and water quality sampling by the BDD at the BDD intake for operation of the BDD. The primary objectives of this MOU are as follows:

1. Enable BDD staff to make decisions regarding facility operations based on notifications from the Early Notification System (ENS);
2. Support water quality monitoring at the BDD intake regarding BDD operations; and
3. Share certain data and documents detailed below in Sections E.5 and F regarding BDD operations.

D. Authorities

The Parties represent that they have the authority to enter into this MOU pursuant to the following authorities.

1. EM-LA is authorized to enter into this MOU pursuant to the Atomic Energy Act, as amended (Title 42 U.S.C. 2011, et seq.).
2. The BDD Board is authorized to enter into this MOU pursuant to the March 7, 2005, Joint Powers Agreement between Santa Fe County and the City of Santa Fe and associated state, county, and municipal laws.

E. Agreement Principles

E.1 Agreements with the Pueblo de San Ildefonso

The Parties recognize that EM-LA must comply with the requirements of the 2014 Memorandum of Agreement between EM-LA, the U.S. Department of Energy, National Nuclear Security Administration, Los Alamos Field Office, and the Pueblo de San Ildefonso (Pueblo), as amended in 2015, and associated Protocols. EM-LA will consult with the Pueblo, as necessary, regarding the use of information gathered pursuant to this MOU.

The Parties further recognize that the BDD Board must comply with the requirements of the 2014 Memorandum of Agreement between the BDD Board and the Pueblo. The BDD Board and BDD staff will consult with the Pueblo, as necessary, regarding access to and use of information gathered pursuant to this MOU.

E.2 Los Alamos / Pueblo Canyons Early Notification System

The ENS will provide real-time streamflow data or visual verification of streamflow to BDD at the following gaging station locations to enable BDD staff to make decisions regarding facility operations, including temporarily ceasing diversion of water from the Rio Grande. The ENS consists of the following:

1. Gaging Station E050.1 in Los Alamos Canyon above the Pueblo Canyon confluence;
2. Gaging Station E060.1 in Pueblo Canyon above the Los Alamos Canyon confluence;
3. Gaging Station E062 in the narrow canyon below the confluence of Los Alamos and Pueblo Canyons (visual verification of flow only); and
4. Gaging Station E099 in Guaje Canyon on Pueblo property above the confluence of Los Alamos Canyon (transducer streamflow verification only). Data transmission to BDD

is dependent upon BDD obtaining an access permit from the Pueblo to receive the data.

ENS Gaging Stations E050.1 and E060.1 will provide primary and secondary streamflow measurement capabilities. They will be equipped with gaging capabilities (streamflow measurement), real-time conveyance of streamflow data (telemetry), and camera capability to act as a visual verification. Streamflow at Gaging Stations E050.1 and E060.1 is measured within a concrete trapezoidal supercritical-flow flume design. The system is capable of a low-flow discharge measurement of 5 cfs.

Secondary streamflow indication at Gaging Stations E050.1 and E060.1 consist of a visual (camera) to confirm streamflows. Gaging Station E099 provides primary streamflow measurement only. EM-LA is responsible for operating and maintaining the streamflow indication equipment at these stations.

Should force majeure destroy or render inoperable some or all of the identified ENS stations, or if operational costs become excessive for some or all of the identified stations, EM-LA may utilize alternative cost-effective techniques to provide BDD with equivalent streamflow data to meet the objective of the ENS.

The Parties will continue discussing installation of a real-time streamflow gaging station near the confluence of Los Alamos Canyon and the Rio Grande. The Parties intend: (1) to work in an expeditious manner to obtain the requisite approvals and install this gaging station; (2) for EM-LA to design and install this station; and (3) for EM-LA to operate and maintain this station after the installation for the duration of this MOU. The new station will be installed within six months of its approval by the Pueblo de San Ildefonso. When the new gaging station has been operational for at least one full calendar year, removal of Gaging Station E062 will be a subject for the Annual Review (Section H). Removal of Gaging Station E062 from the ENS will require amendment of this MOU.

The Parties will engage with the Pueblo and seek the requisite approvals for this new station, and permission for data transmittals from the new station and Gaging Station E099.

E.3 Rio Grande at BDD Intake Sampling Program

The purpose of the BDD Intake Sampling Program is to provide both base-flow and event-based sampling of the Rio Grande at the BDD Intake when triggered by notification of streamflow in Los Alamos and/or Pueblo Canyons (or as determined by the BDD Board for the purpose of water quality sampling of the Rio Grande) to decide whether to cease diversion from the Rio Grande.

EM-LA will pay up to \$96,600 via grant in sampling and analytical costs per year for each year under this MOU toward the BDD Intake Sampling Program. The BDD Board is responsible for: (1) any additional sampling and analytical costs; and (2) all maintenance, inspection, and repair of the sampling station located at the BDD intake. To obtain this grant, the BDD Board will submit the requisite grant application each year.

E.4 Analysis

The BDD staff will evaluate the BDD Intake Sampling Program results and determine the operational parameters or criteria on whether or when to cease diverting waters from the Rio Grande.

E.5 Document Sharing

EM-LA will copy the BDD Board on EM-LA's submission to the New Mexico Environment Department (NMED) of the following documents: (1) the annual Monitoring Plan for Los Alamos/Pueblo Watershed Sediment Transport Mitigation Project; and (2) the annual Monitoring Report for Los Alamos/Pueblo Watershed Sediment Transport Mitigation Project. EM-LA will also copy the BDD Board on correspondence from EM-LA to NMED regarding this plan and report.

The BDD Board will provide EM-LA with: (1) the results of all sampling and analysis conducted as part of the BDD Intake Sampling Program at the BDD Intake; (2) an annual report of all instances in which BDD received notification from the ENS, including which notifications resulted in cessation of diversions from the Rio Grande over the previous year due to notifications from the ENS, with such report to be provided to EM-LA at the Annual Review under Section H of this MOU of the following calendar year; and (3) all records required to be made available consistent with requirements specified in the grant.

F. BDD Project Data Sharing

EM-LA and its contractors will provide real-time streamflow data and visual verification data from the ENS gaging stations to BDD, as specified in Section E.2. Analytical results from the BDD intake will be made available to both the BDD Board and EM-LA via the Intellus database.

The BDD Board will make records available to EM-LA consistent with requirements specified in the grant.

Stormwater quality data obtained at Gaging Stations E050.1 and E060.1 will be made available to the BDD Board via the Intellus database and will be included in the annual report specified in Section E.5.

If lieu of DOE conducting stormwater sampling in lower Los Alamos Canyon, the BDD will rely upon NMED's stormwater sampling station at E110 for purposes of evaluating water quality in lower Los Alamos Canyon.

G. Coordination

EM-LA and the BDD Board will coordinate and consult, as necessary, with the Pueblo on issues related to this MOU in which the Pueblo has an interest.

Coordination between the Parties will be to the mutual benefit of both Parties and will include data sharing (as above), technical assistance, and data and analysis reviews. Both Parties should allow at least one week for response when requesting technical assistance or data and for analysis reviews.

H. Annual Review

BDD staff (and BDD's contractors) and EM-LA staff (and EM-LA's contractor) will meet annually to review ENS, BDD operations and sampling programs, funding levels under Section E.3 of this MOU, and EM-LA's Los Alamos/Pueblo Watershed Sediment Transport Mitigation Project.

I. Contacts

Notices, correspondence, and communications arising under this MOU will be provided to the representatives listed below. Any such notice, correspondence, or communication is deemed to have been given if mailed (return receipt requested), hand-delivered, or emailed as follows:

- **EM-LA**
Michael Mikolanis
Manager
U.S. Department of Energy, Office of Environmental Management, Los Alamos Field Office
1200 Trinity Drive, Suite 400
Los Alamos, NM 87544
Email: michael.mikolanis@em.doe.gov

With copy to:
John Evans
EM-LA Counsel
U.S. Department of Energy, Office of Environmental Management, Los Alamos Field Office
1200 Trinity Drive, Suite 400
Los Alamos, NM 87544
Email: john.h.evans@em.doe.gov

- **BDD Board**
Rick Carpenter
BDD Facility Manager
Buckman Direct Diversion
341 Caja De Rio Road
Santa Fe, NM 87506
Phone: 505-955-4507
Email: rrcarpenter@santafenm.gov

With copy to:
BDD Board Counsel
Nancy Long
Long, Komer & Associates
2200 Brothers Road
P.O. Box 5098
Santa Fe, NM 87502
Cell: 505-470-2158
Email nancy@longkomer.com

J. Period of Agreement, Modification, or Termination

This MOU is effective upon the signature of both Parties and expires on December 10, 2025. The Parties may modify this MOU by written amendment. Either Party may unilaterally terminate this MOU before the expiration date, provided the Party seeking termination provides written notice to the other Party's representative at least 90 days before the termination date.

K. Dispute Resolution

If the Parties disagree over any issue related to this MOU, representatives of the Parties will present their position in writing to the Points of Contact for the other Party. If the Parties fail to resolve their differences within 30 days, the BDD Project Facility Manager and the EM-LA Manager will

prepare a written description of the dispute. The BDD Board Chair and the EM-LA Manager, along with appropriate staff, will then meet in an effort to resolve the dispute.

L. Other Provisions

1. Nothing in this MOU is intended to conflict with requirements of the Parties or applicable laws. Any such conflicting terms is invalid, but the remainder of this MOU remains in effect. If a term is deemed invalid, the Parties will take appropriate action, including amendment or termination. The activities described in this MOU are consistent with, and will be carried out subject to, all known policies, regulations, and applicable laws that pertain to the Parties.
2. This MOU in no way restricts the Parties from participating in any activity with other public or private agencies, organizations, or individuals.
3. Activities described in this MOU are subject to the availability of appropriated funds.
4. This MOU is not: (a) a financial obligation that serves as a basis for expenditures; and (b) a fiscal nor a funds obligation document. Nothing in this MOU authorizes or is intended to obligate the Parties to expend, exchange, or reimburse funds, services, or supplies, or transfer or receive anything of value. No provision in this MOU will be interpreted to require obligation or payment of funds in violation of the Anti-Deficiency Act, 31 U.S.C. §1341.
5. This MOU is not legally enforceable and will not be construed to create any legal obligation on the part of either Party. This MOU will not be construed to provide a private right, or cause of action, for or by any person or entity.

M. Signatures

Each of the BDD Board and EM-LA has caused this MOU to be executed and delivered by its duly authorized representatives as of the date below.

BDD Board

Anna Hansen, BDD Board Chair

Date

EM-LA

Michael Mikolanis, Manager
Environmental Management, Los Alamos Field Office

Date

1 *MEMORANDUM OF UNDERSTANDING BETWEEN THE*
2 *U.S. DEPARTMENT OF ENERGY AND THE BUCKMAN DIRECT DIVERSION BOARD*
3 *REGARDING NOTIFICATION AND WATER QUALITY MONITORING*

4 **A. Parties**

5 The Parties to this MOU are the Buckman Direct Diversion Board (BDD Board) and the U.S. Department
6 of Energy (DOE).

7 **B. Background**

8 The Buckman Direct Diversion (BDD) is designed to divert water from the Rio Grande for use by the City
9 and County of Santa Fe water utilities in the Santa Fe area and to provide a source for the water supply
10 systems of Santa Fe County, the City of Santa Fe and the Club at Las Campanas. The diverted water is
11 San Juan-Chama Project water (a U.S. Bureau of Reclamation interbasin water transfer project) and
12 native New Mexico state waters regulated by the State of New Mexico.

13 The point of diversion for the BDD is on the east bank of the Rio Grande in northern New Mexico, near
14 the historic Buckman townsite. The point of diversion is approximately 15 miles northwest of the City of
15 Santa Fe and is located about three miles downstream from the confluence of the Rio Grande and Los
16 Alamos Canyon (where Route 502 crosses the Rio Grande at Otowi Bridge).

17 The Los Alamos National Laboratory (LANL) is owned and operated by DOE and is located on the Pajarito
18 Plateau above the Los Alamos/Pueblo Canyon watershed. The Los Alamos/Pueblo Canyon system
19 intermittently and infrequently flows to the Rio Grande just below the Otowi Bridge and upstream of
20 the BDD Project point of diversion. The Los Alamos/Pueblo Canyon watershed contains sediments with
21 LANL-origin contamination from historic releases from LANL. Rain events may cause the transport of
22 sediments, and these sediments have in the past and may in the future be transported to the Rio
23 Grande and then to the BDD intake. The Los Alamos/Pueblo system has been investigated under the
24 2005 Compliance Order on Consent between DOE and the State of New Mexico Environment
25 Department and which has been superseded by the 2016 Compliance Order on Consent. Measures
26 have been implemented (including infrastructure installation) to reduce the transport of contaminated
27 sediment.

28 The New Mexico legislature encouraged the BDD Board and DOE to memorialize their agreement to
29 certain activities relating to the mitigation and monitoring of LANL-origin water quality contaminants.
30 The BDD Board requested a written agreement with LANL and DOE in 2007 and the New Mexico
31 legislature passed resolutions in 2009 and 2010 that ultimately resulted in the Memorandum of
32 Understanding that was executed on May 13, 2010 (the 2010 MOU). The 2010 MOU represented an
33 agreement between the Parties that water quality management and monitoring are mutual priorities
34 and that the activities described were consistent with, and would be carried out subject to, the policies,
35 regulations, and applicable laws that pertain to the Parties. On January 12, 2015, the parties executed a
36 second and renegotiated MOU to further govern operations of the BDD Project. Upon the execution of

37 this MOU, the 2015 MOU will be terminated in accordance with Section J of that 2015 MOU and this
38 MOU shall evidence the consent of the Parties to the termination.

39 **C. Objective**

40 This MOU establishes roles and responsibilities with regard to coordination of notification activities by
41 the DOE and their contractor in Los Alamos and Pueblo Canyons and with regard to water quality
42 sampling by the BDD at the BDD intake in relation to operation of the BDD Project. The primary
43 objectives of this MOU include the following:

- 44 1. To continue the relationship developed between DOE and the BDD, and
- 45 2. To maintain the Early Notification System (ENS) to enable BDD staff to make decisions regarding
46 facility operations, and
- 47 3. To support water quality surveillance monitoring at the BDD Project location as part of its
48 sampling program.

49 **D. Authorities**

50 The Parties represent that they have the authority to enter into this MOU and are able to meet the
51 respective commitments herein to the extent permitted by law.

- 52 1. DOE. DOE is authorized to enter into this MOU pursuant to the Atomic Energy Act, as amended
53 (Title 42 U.S.C. 2011, et seq.).
- 54 2. BDD Board. The BDD Board is authorized to enter into this MOU pursuant to the March 7, 2005,
55 Joint Powers Agreement between Santa Fe County and the City of Santa Fe and associated state,
56 county, and municipal laws.

57 **E. Agreement Principles**

58 **E.1 Memorandum of Agreement and Protocols between DOE and the Pueblo** 59 **de San Ildefonso**

60 The Parties recognize that DOE must comply with the requirements of the 2014 Memorandum
61 of Agreement between DOE and the Pueblo de San Ildefonso (Pueblo), as amended in 2015, and the
62 associated *Protocols for Access to Pueblo Lands and for Protecting Confidential Pueblo Information*
63 pertaining to activities on, and information gathered by, DOE on Pueblo property. DOE will consult with
64 the Pueblo as necessary regarding the use of information gathered pursuant to this MOU, and provide
65 an update to BDD Project Staff.

66 **E.2 Los Alamos / Pueblo Canyons Early Notification System**

67 The ENS will continue to provide real time stream flow data or visual verification of flow to the BDD at
68 the following gage station locations to enable the BDD staff to make decisions regarding facility

69 operations, including temporarily ceasing diversion of water from the Rio Grande. The ENS includes the
70 following parts:

- 71 • LANL Gage Station E050.1 in Los Alamos Canyon above the Pueblo Canyon confluence,
- 72 • LANL Gage Station E060.1 in Pueblo Canyon above the Los Alamos Canyon confluence,
- 73 • Station E062 in the narrow canyon below the confluence of Los Alamos and Pueblo Canyons
74 (visual verification of flow only), and
- 75 • Station E099 in Guaje Canyon on Pueblo property above the confluence of Los Alamos canyon
76 (transducer flow verification only). Date transmission to BDD is dependent upon BDD obtaining
77 a permit from the Pueblo to receive the data.

78 LANL ENS stations E050.1 and E060.1 will be equipped with gaging (flow measurement) capabilities,
79 real-time conveyance of stream-flow data (telemetry), and camera capability to act as a visual
80 verification and backup (or secondary flow indication) for the gaging capabilities. Flows at the LANL
81 gage stations E050.1 and E060.1 are measured within a trapezoidal supercritical-flow flume design as
82 reported in "Techniques of Water-resources Investigations of the United States Geological Survey,
83 Chapter A14, Use of Flumes in Measuring Discharge" (F.A. Kilpatrick and V.R. Snyder, 1983), and
84 between approximately 1 and 350 cubic feet per second (cfs). The system shall be capable of a low flow
85 trigger stage of 5 cfs (adjustable).

86 Secondary flow indication at stations will consist of either a visual (camera) or transducer signal as
87 confirmation of storm water flows. Note that stations E062 and E099 provide primary flow verification
88 only. Maintenance of the flow indication equipment shall be the responsibility of DOE.

89 Should force majeure destroy or render inoperable some or all of the identified ENS stations, or if
90 operational costs become excessive for some or all of the identified stations, DOE shall have the
91 prerogative to utilize the most cost effective and technologically advanced techniques to provide BDD
92 with equivalent flow data to meet the objective of the ENS.

93 The BDD Board will, at its discretion, consult with the Pueblo regarding the installation of a real-time
94 flow indicator(s) at the lower Los Alamos Canyon and the Rio Grande and to obtain permission for data
95 transmittals from ENS station E099.

96 **E.3 Rio Grande at BDD Project Location Sampling Program**

97 The purpose is to provide both base-flow and event-based sampling of the Rio Grande when triggered
98 by notification of flows in Los Alamos and/or Pueblo Canyons or as determined by the BDD Board for the
99 purpose of water quality sampling of the Rio Grande at BDD in the search for operational criteria for
100 ceasing diversion (BDD Project Location Sampling Program).

101 DOE shall pay up to \$96,000 in sampling and analytical costs per year for each of the three (3) years
102 under this MOU (2018, 2019, and 2020) toward the BDD Project Location Sampling Program at the BDD
103 intake. The BDD Board shall be responsible for any additional sampling and analytical costs, and the
104 BDD Board is responsible for all maintenance, inspection and repair of the sampling station located at

105 the BDD intake. DOE will seek funding via a grant to the BDD Board for the sampling and analytical costs,
106 and provide an update to the BDD Project Staff.

107 **E.4 TREAT Study**

108 BDD Board will fund a continuation of the Contaminant Fate Analysis that was started under the 2010
109 MOU under "The Removal Efficiency and Assessment of Treatments" (TREAT) Study. The TREAT Study
110 will continue to examine the treatment efficiency of the conventional and advanced treatments at the
111 BDD with respect to contaminants in order to help determine the BDD operational criteria for diversion
112 from the Rio Grande. The TREAT Study will focus on the capabilities of the BDD with respect to removal
113 of contaminants as they are found to occur in the Rio Grande at the BDD intake.

114 **E.5 Analysis**

115 The BDD Board will evaluate the BDD Project Sampling Program results and TREAT data and make a
116 determination on operational parameters or criteria on whether or when to cease diverting waters from
117 the Rio Grande.

118 **F. BDD Project Data Sharing**

119 Real-time flow data and visual verification data from the ENS stations shall be provided by DOE and their
120 contractors to BDD Project as specified in Section E.2. Analytical results from the BDD intake will be
121 made available to both the BDD Board and DOE via the Intellus database as soon as they are available.

122 The BDD Board will make records available to the DOE consistent with requirements specified in the
123 grant.

124 **G. Coordination**

125 DOE and the BDD Board will coordinate as necessary with the Pueblo on any issues related to the
126 implementation of this MOU, and will engage in any consultation required to accomplish the purposes
127 of this MOU.

128 Coordination between the Parties shall be to the mutual benefit of both Parties and shall include data
129 sharing (as above), technical assistance, and data and analysis reviews. Both Parties should allow at
130 least one week for response when requesting technical assistance or data and for analysis reviews.
131 Additional coordination will occur on an as needed basis.

132 **H. Contacts**

133 All notices, correspondence, and communications arising under this MOU shall be provided to the
134 representatives listed below and any notice, demand, request, or information authorized of related to
135 this MOU shall be deemed to have been given if mailed (return receipt requested), hand-delivered, or
136 faxed (with confirmation of transmission) as follows:

- 137 • **DOE**
138 Douglas E. Hintze
139 Manager
140 DOE, Environmental Management
141 Los Alamos Field Office
142 1900 Diamond Drive, MSM984
143 Los Alamos, NM 87544
144 Phone: 505-665-5658
145 Cell: 505-695-5103
146 Email: douglas.hintze@em.doe.gov
147
148 With copy to:
149 DOE Counsel
150 Ben Underwood
151 Phone: 505-667-4995
152 Email: ben.underwood@em.doe.gov
153
154 • **BDD Board**
155 Charles Vokes
156 BDD Facility Manager
157 Buckman Direct Diversion
158 341 Caja De Rio Road
159 Santa Fe, NM 87506
160 Phone: 505-955-4507
161 Email: cmvokes@ci.santa-fe.nm.us
162
163 With copy to:
164 BDD Board Counsel
165 Nancy Long
166 Long, Komer & Associates
167 2200 Brothers Road
168 P.O. Box 5098
169 Santa Fe, NM 87502
170 Cell: 505-470-2158
171 Email nancy@longkomer.com
172

173 **I. Period of Agreement, Modification or Termination**

174 This MOU is effective upon the signature of the BDD Board and DOE as shown below. This agreement is
175 intended to address 2018, 2019 and 2020 and shall expire on December 1, 2020, UNLESS both Parties

176 agree to extend this MOU for an optional three (3) year period. This optional extension may be
177 executed by a re-signed copy of the signature page by the respective authorized parties to this MOU.

178 The Parties may modify this MOU by written amendment and in the same manner as this MOU was
179 executed. Either Party may unilaterally terminate this MOU before the date of expiration, provided the
180 Party seeking termination provides written notice to the other Party's representative 90 days before the
181 intended termination date.

182 **J. Dispute Resolution**

183 If the Parties disagree over any issue related to this MOU, representatives of the Parties shall present
184 their differences in writing to the Points of Contact for the other Party. If the Parties fail to resolve their
185 differences within 30 days, the BDD Project Facility Manager and the DOE, Environmental Management,
186 Los Alamos Field Office (EM-LA) Manager shall prepare a written description of the dispute and the BDD
187 Board Chair and the DOE EM-LA Manager, along with appropriate staff, shall meet to reconcile the
188 dispute. These representatives shall use alternative dispute resolution methods such as negotiation,
189 facilitation, and mediation to resolve the dispute.

190 **K. Other Provisions**

191 Nothing in this MOU is intended to conflict with requirements of the Parties or applicable laws. Any
192 such conflicting terms shall be invalid, but the remainder of this MOU shall remain in effect. If a term is
193 deemed invalid, the Parties shall take appropriate action, including amendment or termination. The
194 activities described in this MOU are consistent with, and will be carried out subject to, all known
195 policies, regulations, and applicable laws that pertain to the Parties.

196 This MOU in no way restricts the Parties from participating in any activity with other public or private
197 agencies, organizations, or individuals.

198 Activities described in this MOU are subject to the availability of appropriated funds. Both the BDD
199 Board and DOE EM-LA Manager shall make the appropriations of funds for the activities described in this
200 MOU a priority when seeking regular or project specific funding requests.

201 This MOU describes the basis on which the Parties will cooperate on the topics described herein. This
202 MOU is NOT a financial obligation that serves as a basis for expenditures, and any financial obligations
203 necessary to carry out the activities described herein shall be addressed in other documents internal to
204 each Party. Expenditure of funds, human resources, equipment, supplies, facilities, training, public
205 information, and technical expertise will be provided by each Party as necessary to fulfill its obligations
206 under this MOU.

207 This MOU is neither a fiscal nor a funds obligation document. Nothing in this MOU authorizes or is
208 intended to obligate the parties to expend, exchange, or reimburse funds, services, or supplies, or
209 transfer or receive anything of value. Any requirement for the payment or obligation of funds by DOE

210 established by the terms of this MOU shall be subject to availability of funds and Secretarial discretion,
211 and no provision herein shall be interpreted to require obligation or payment of funds in violation of the
212 Anti-Deficiency Act, 31 U.S.C. §1341.

213 This MOU is not legally enforceable and shall not be construed to create any legal obligation on the part
214 of either Party. This MOU shall not be construed to provide a private right, or cause of action, for or by
215 any person or entity.

216 L. Signatures

217 NOW, each of the BDD Board and DOE has caused this MOU to be executed and delivered by its duly
218 authorized representatives as of the last date shown below,

219

220 BDD Board

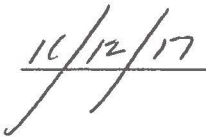
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224  _____
Henry Roybal, BDD Board Chair

Date



225

226


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228 DOE

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232  _____
Douglas E. Hintze, Manager

Date



233 Environmental Management, Los Alamos Field Office

234 This Memorandum of Understanding expires on December 1, 2020.

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