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3 **MINUTES OF THE**  
4  
5 **THE CITY OF SANTA FE & SANTA FE COUNTY**  
6  
7 **BUCKMAN DIRECT DIVERSION BOARD MEETING**  
8  
9 **September 6, 2018**

10  
11 This meeting of the Santa Fe County/City Buckman Direct Diversion Board meeting  
12 was called to order by Councilor Peter Ives, Chair, at approximately 4:20 p.m. in the Santa  
13 Fe City Council Chambers, 200 Lincoln Avenue, Santa Fe, New Mexico.

14  
15 Roll was called and the following members were present:

16  
17 **BDD Board Members Present:**

18 Councilor Peter Ives, Chair  
19 Commissioner Anna Hamilton  
20 Councilor Michael Harris  
21 Commissioner Anna Hansen [County alternate]  
22 J.C. Helms [Citizen Alternate for Denise Fort]  
23

**Member(s) Excused:**

Commissioner Roybal  
Denise Fort

24 Tom Egelhoff [non-voting]  
25

26 **BDD Board Alternate Members Present:**

27 Councilor Joanne Vigil Coppler [City alternate]  
28 Ginny Selvin [Las Campanas alternate]  
29

30 **Others Present:**

31 Nick Schiavo, Interim BDD Facilities Manager  
32 Nancy Long, BDD Board Consulting Attorney  
33 Mackie Romero, BDD Finance Manager  
34 Bernardine Padilla, BDD Public Relations Coordinator  
35 Michael Dozier, BDD Operations Supervisor  
36 Shannon Jones, City Public Utilities Department Director  
37 Bruce Frederick, County Attorney Director  
38 Michael Kelley, County Public Works  
39 Rick Carpenter, City Manager Water Resources and Conservation  
40 Jerry Schoeppner, County Hydrologist  
41 Joe Gonzales, County Utilities Department  
42 Ben Underwood, DOE EM-LA  
43 Bill Schneider, City Utilities  
44 Kyle Harwood, BDD Co-counsel  
45 Laura Beltran-Schmitz, CliftonLarsonAllen

1  
2 **3. APPROVAL OF AGENDA**

3 *[Exhibit 1: Agenda]*  
4

5 CHAIR IVES: Are there any changes from staff?

6 NICK SCHIAVO (Interim Facilities Manager) No, sir.

7 CHAIR IVES: Very good. Any changes from the Board?

8 COMMISSIONER HAMILTON: No, Mr. Chair.

9 NANCY LONG (BDD Board Counsel): Mr. Chair, I do have a change  
10 under item 7. For some reason the name of the accountant was put in incorrectly. It's  
11 Laura Beltran – and it's Schmitz.

12 CHAIR IVES: Thank you for that correction of a typo.

13 COMMISSIONER HAMILTON: Mr. Chair, move to approve the agenda  
14 as mildly amended.

15 CHAIR IVES: Very good. Is there a second?

16 COUNCILOR HARRIS: Second.

17 CHAIR IVES: Any further discussion?  
18

19 **The motion passed by unanimous [5-0] voice vote.**  
20

21 **4. APPROVAL OF MINUTES: August 2, 2018**  
22

23 CHAIR IVES: Are there any changes from staff?

24 MR. SCHIAVO: Mr. Chair, I'll defer to Ms. Long.

25 NANCY LONG (BDD Board Counsel): No, I don't believe we have any  
26 changes to the minutes. I think everything was made en route to getting them here.

27 CHAIR IVES: From the Board. Commissioner.

28 COMMISSIONER HANSEN: On page 13, under Ms. Romero, it's about  
29 96,000. Do you think that should have a dollar sign in front of it? Since we're talking  
30 about money. Or are we not talking about money? And also the line above it, where it  
31 says 90,000.

32 COMMISSIONER HAMILTON: Motion to approve.

33 CHAIR IVES: On that point, it does have a dollar sign in front of the  
34 \$110, so I think it would be appropriate to include a dollar sign in front of the other dollar  
35 figures. Very good. Any other changes from the Board to the minutes? What is the  
36 pleasure of the Board?

37 COMMISSIONER HANSEN: I move to approve with changes.

38 COUNCILOR HARRIS: We have a motion and a second. Any further  
39 discussion?  
40

41 **The motion passed by unanimous [5-0] voice vote.**  
42

1     **5.     REPORT ON SEPTEMBER 4, 2018 FISCAL SERVICES AND AUDIT**  
2     **COMMITTEE**

3  
4             MACKIE ROMERO (BDD Financial Manager): Hello. Thank you. Mr.  
5 Chair, members of the Board, a Fiscal Services and Audit Committee meeting was held  
6 on Tuesday, September 4<sup>th</sup>. In attendance was myself, BDD Financial Manager, from  
7 the City, Councilor Harris, Andrew Erdman. From the County we had Commissioner  
8 Hamilton, Erik Aaboe, Bruce Frederick, Joe Gonzales and Stephanie Schardin Clarke.  
9 And from Las Campanas, Ginny Selvin. We discussed the completion of the financial  
10 statement and the findings, which will be presented later to the Board. We went through  
11 the fourth quarter financial report for expenses through June 30, 2018, and I provided an  
12 update on the final billings which have been submitted to the partners for payment.

13             With the completion of the billings we are scheduled to have an entrance  
14 conference next week with our auditors to begin our fiscal year 17/18 audit. We  
15 discussed amendment #8 to the PMFSA agreement where the County presented a  
16 discussion draft with additional changes to the amendment that is in your packet, which  
17 will be discussed further during the presentation of this item.

18             We also discussed the renewal grant offer that was received from the Bureau of  
19 Land Management on the renewal of our right-of-way for our fiber optic line. All of the  
20 items discussed will be presented as part of this agenda so are there any questions at this  
21 time?

22             CHAIR IVES: Questions from the Board? Very good. Thank you for your  
23 report and we'll move right on into the other items.

24  
25     **INFORMATIONAL ITEMS**

26  
27     **6.     Monthly Update on BDD Operations**

28  
29             CHAIR IVES: Michael, welcome.

30             MICHAEL DOZIER (Operations Superintendent): Hello. Mr. Chair,  
31 members of the Board, today the operations report will consist of two items. First I'll  
32 convey the monthly operational values and answer any questions pertaining to BDD  
33 operations. For the second part I will hand the podium over to Mr. William Schneider for  
34 a verbal update on the 2018 San Juan Chama water rights pertaining to questions at the  
35 previous meeting.

36             So for the month of August, well water diversions were 7.08 million gallons a  
37 day. Drinking water deliveries through booster station 4A/5A, 6.33 million gallons a day.  
38 Well water delivery to Las Campanas averaged .66 million gallons a day and onsite  
39 treated and non-treated water storage was about .09 million gallons.

40             The BDD is providing 65 percent of the City's water supply at this current time  
41 and I stand for any questions.

42             CHAIR IVES: Questions for Mr. Dozier? Very good. Thank you for that  
43 report. That brings us to the second half of item #6.  
44

1       • **San Juan Chama Project 2018 Status** [*Exhibit 2: City of Santa Fe Annual*  
2       *Production*]  
3

4               BILL SCHNEIDER (City Utilities): Thank you, Mr. Chair, members of  
5 the Board. I reviewed the meeting minutes and I believe I sort of established where there  
6 may be three points that may require a slight bit of clarification, so I developed very brief  
7 visual aids to support that discussion, so I'd like to share that with you please.

8               The focus on my brief discussion will be to touch on some inquiries regarding the  
9 management operation of the 2018 San Juan Chama water with focus and emphasis on  
10 deliveries and storage. The second part would be really the role of meeting the total  
11 demand of both the city and the county. Then third was the inquiry regarding turning the  
12 river off.

13              So the first thing I'd like to touch on and it's really in terms of the packet is on  
14 page 1 is the 22-year history of production regarding to meet demand from the four  
15 primary sources of supply. And the key take away that I think hopefully becomes very  
16 evident with this visual is that since the BDD has come on line is that the City and the  
17 County proper have transitioned to basically being more dependent on a sustainable  
18 surface water supply. So for example, all you have to do is look at 2002 where you can  
19 see that we were relying on 93 percent groundwater.

20              Since the BDD's come on line we've exceeded 80 percent use of surface water.  
21 So that's kind of the key take-away. There's a lot of information on this figure but that  
22 was pretty much what I wanted to bring to your attention. On the second slide there was a  
23 question regarding how much water was produced to meet demand from the BDD. So  
24 since 2011, and I should clarify this is for the City's quantities only in this case, that  
25 we've basically in almost every case exceeded 4,000 acre-feet per year, which is  
26 approximately 50 percent of our total demand. It's a little bit less. And then there's a lot  
27 of sort of nuances to this information that could bring value in terms of how we operate  
28 and move forward in terms of optimizing our production.

29              We should remind ourselves of the Cerro Grande fire, in terms of water quality  
30 issues, the sedimentation that the BDD has had to deal with, and where we had  
31 emphasized dewatering the reservoirs at Nichols and McClure when we were doing  
32 repairs and improvements on the dams, and so the real main take-away is the BDD could  
33 have even produced more than what we're seeing here and I think will in the future.

34              COMMISSIONER HANSEN: But this graph only shows the City.

35              MR. SCHNEIDER: Fair point.

36              COMMISSIONER HANSEN: [away from the microphone]

37              MR. SCHNEIDER: I concur. Thank you. There were two questions  
38 pertaining to the management of San Juan Chama water with specifically 2018 and I  
39 thought I could just spend three minutes walking you through how the water is distributed  
40 and stored and called for, just so there's no misunderstanding and may be helpful in your  
41 role on the Board. On the third page is what I show – this again is for the City, but I  
42 certainly could speak to the County if needed, where how we manage our water on a  
43 monthly time step.

44              So from a very high level, I just want to kind of bring it in from the standpoint of  
45 both the City and the County receives their water at the Heron Reservoir, managed by  
46 Reclamation. That reservoir was dedicated for the sole purpose of the San Juan Chama

1 Project. The City has a waiver that allows us to carry the water over. Normally, under  
2 congressional authorization, that water would have to be evacuated by December 31<sup>st</sup> of  
3 every water year where it reverts back to the communal pool. By having this waiver,  
4 what that allows us to do is get an additional nine months of storage in Heron where  
5 there's essentially no evaporation from a quantitative standpoint, and the benefit that that  
6 brings the Rio Grande, as well as the operations parts for the City and the County is the  
7 fact that the waters move in such a way that we're trying to sustain flows when the river  
8 is really, really low below Heron in the wild and scenic stretch of the Rio Chama, where  
9 there's basically a very prolific trout population and other ecological benefits.

10 So what happens is through this agreement, the water is called for from Heron,  
11 runs down the Rio Chama and goes down and gets parked in El Vado, where then it gets  
12 released through that wild and scenic stretch and then gets put in Abiquiu. So it's a three-  
13 step process. At the point at which it reaches Abiquiu it's fully the City's water, and then  
14 we call for it at the BDD to be delivered and then consumed. So that really is sort of – we  
15 have contracts with the federal government for Heron, and we have a contract with the  
16 Water Authority for Abiquiu. And that's really, really in its most simplistic sense. So  
17 maybe I'll stand for questions and see if there's any questions.

18 CHAIR IVES: Questions from anyone?

19 COMMISSIONER HANSEN: Do we have the same agreement about  
20 being able to store water at Heron with the County also? Is it a County-City agreement or  
21 is this just the City?

22 MR. SCHNEIDER: Yes. So because of the separate partnerships, it is a  
23 City-Department of Interior agreement. Jerry, do you know if the County had one this  
24 year?

25 JERRY SHOEPPNER (County Utilities): [away from the microphone] We  
26 don't. We had one with ABCWUA for storage in Abiquiu Dam.

27 CHAIR IVES: You see as of yesterday I noticed that we had in excess of  
28 our yearly allocation that was stored in Heron, and I understand that runs through either  
29 September 15<sup>th</sup> or September 30<sup>th</sup> when we'll have to move that water if we don't enter  
30 into any type of new agreement with BOR. Is that correct?

31 MR. SCHNEIDER: Thank you for that clarification. If you go back to that  
32 third slide, to really exhibit that very scenario, the blue line represents the volume of  
33 water in Heron that the City owns. So basically in August of 2017 it was in excess of  
34 10,000 acre-feet. And then you'll see a sharp decline of water and what you're  
35 visualizing there is the actual release as part of evacuating the water out per the waiver  
36 requirements. It temporarily passed through El Vado and then ended up as you see the  
37 green line spike in Abiquiu. So we do have a waiver.

38 So what you're going to see when we come back next month is a very similar  
39 decline that will drop to the City's 5230, which is our annual allotment and so that's  
40 pretty much how it's managed. And I guess, Councilor Ives to that point which I think is  
41 really valuable to note is that the City – if you see here in Abiquiu right now we have  
42 roughly 7,600 acre-feet of water in reserve. The real goal of this is to try to basically keep  
43 two to three years of storage in Abiquiu for a rainy day.

44 CHAIR IVES: I will say my recollection of the amount from last month  
45 was that it was more in Abiquiu than Heron. So my thinking was – whether it was  
46 because of anticipating the release of the stored water in Heron I wasn't totally sure. And

1 we have rights to store up to 15,000 acre-feet in Abiquiu in the pool there?

2 MR. SCHNEIDER: That's absolutely correct.

3 CHAIR IVES: And my recollection on the figures we saw yesterday at  
4 PUC was that it was actually about 5,600 acre-feet in Abiquiu as opposed to the 7,600  
5 reflected here. Maybe I'm –

6 MR. SCHNEIDER: Yes, that would differ from my understanding.

7 CHAIR IVES: I'm sure you're right. Commissioner.

8 COMMISSIONER HANSEN: So my next question might be for Jerry and  
9 he might want to come down here also. One of the complaints that I know from the  
10 people who live around Heron Lake is that they want the water stored there. So do we at  
11 the County store our water at Heron for the whole time? Because this is just a City report.  
12 I would like to know what's happening at the County also, what we're doing.

13 MR. SCHOEPPNER: So over the last several years we've actually been  
14 leasing our San Juan Chama water to BOR. And this is the first year that we haven't done  
15 that. So our full allotment per year is 375 acre-feet. We received about 354 acre-feet this  
16 year which is in Heron. We'll have to move that into Abiquiu by the end of the month. So  
17 the plan is to move into Abiquiu and we currently have about 550 acre-feet in Abiquiu  
18 currently. So we will store it there and I'm not sure if Bill is going to discuss what the  
19 plan is between all the other parties – ABCWUA, some of the pueblos, BOR, the City  
20 and the County. We hope to participate in releasing some of our San Juan Chama water  
21 to keep the river flowing throughout the end of October. So we'd like to participate in  
22 that also but we're just looking at what we have available and getting management to  
23 support that.

24 COMMISSIONER HANSEN: Thank you.

25 CHAIR IVES: Other questions from any member of the Board? Thank  
26 you very much for that report. Appreciate it and we appreciate the visuals that help  
27 interpret that information.

28  
29 **7. Presentation of the Buckman Direct Diversion Project Annual Financial**  
30 **Report for Fiscal Year Ended June 30, 2017** [*Exhibit 3: Audit Exit Conference*  
31 *Report*]  
32

33 MS. ROMERO: Mr. Chair, members of the Board, we are pleased to  
34 present the Buckman Direct Diversion Project's annual financial report for fiscal year  
35 ended June 30, 2017. Laura Beltran-Schmitz from CliftonLarsonAllen is here and she's  
36 going to present our audit findings and our audit results So I'm going to go ahead and  
37 pass out a handout and we'll go through that. Thank you.

38 LAURA BELTRAN-SCHMITZ: Good evening Mr. Chair, members of  
39 the Board. Thank you for having me this evening to present the audit for the year ending  
40 June 30, 2017. We did have a formal exit conference as required by New Mexico statute  
41 at the conclusion of the audits on July 16<sup>th</sup>, so about a month and a half ago with  
42 members of management, Councilor Ives was in attendance as was Commissioner  
43 Hamilton, so we had that required communication. This presentation to the full Board  
44 complies with further requirements to then present the audit and financial results to the  
45 full Board in an open meeting, so that is why I am here to go over this information with  
46 you.

1 CHAIR IVES: Before you continue just a point of order. I tried to  
2 communicate with Board Member Fort and it turns out that she had a family emergency  
3 and so actually had to go out of state, and so is sorry she will not be here and just wanted  
4 you to know, J. C. you are now our citizen alternate. So thank you for letting me take that  
5 moment. Please continue.

6 MS. BELTRAN-SCHMITZ: So in front of you, you have the presentation  
7 that we went over at the exit. It's also on the screen so I'll advance the slides. But there  
8 are some required communications that I'll be discussing with you all. We'll go over it at  
9 a high level, the audit results at a high level over the results of the findings throughout the  
10 audit.

11 Our responsibilities are to communicate the fact that we performed our audit  
12 under generally accepted auditing standards for the purpose of issuing an opinion on  
13 whether or not the financial statements presented are fairly stated. That includes the  
14 balances and the disclosures that are included. If there were any significant accounting  
15 policy changes from last year to this year we would be required to discuss that with you.  
16 There were no significant changes. There are some significant disclosures related to the  
17 financial statements pertaining to the restatements that we'll discuss a little bit further as  
18 well as it relates to the material weakness that we'll be discussing. But the restatement of  
19 the Buckman's beginning net position for the fact that we had to reduce the opening  
20 capital asset balances as well as consolidate the fund structure for the Board, based on the  
21 type of fund and the type of entity that the Board actually operates.

22 The audit adjustments, materially adjustments we're required to bring to your  
23 attention. This adjustment relates to the aforementioned restatement pertaining to capital  
24 assets. Then the agency funds were also consolidated with your overall fund structure that  
25 resulted in a reduction of your beginning net position of approximately \$195 million. If  
26 there were any past audit adjustments we'd be required to discuss that you. Past would  
27 mean it didn't rise to the level of our materiality threshold that would require us to  
28 actually record it and reflect it in the financial statements, but there were none of those.

29 Inherent in financial statements and transactions there's management estimates.  
30 Not every number at year-end is known. For example, the lives of capital assets. Lives  
31 are associated based on economic value, economic salvage life assigned by management.  
32 A building may last 30 years; it may last ten, but that value is used to calculate  
33 depreciation. So inherently there are estimates for depreciation in your net book value  
34 with your capital assets.

35 Similarly with compensated absences, it's an estimate to determine how much  
36 you will have to pay out for compensated absences. You don't know how many people  
37 will leave during the year. It's an estimate. So those are some key estimates that are  
38 included in your financial statements.

39 We're required to discuss difficulties that we encounter during the audits. We did  
40 not encounter any difficulties working with BDD staff, with Buckman staff. We want to  
41 make that very clear. The difficulties more lied with, for one, we're in September 2018  
42 presenting the June 2017 audit results so there were some significant delays pertaining to  
43 some staffing issues with the City and the City being the Board's fiscal agent that was  
44 just a ripple effect of our inability to complete the Board's audit until we were able to  
45 complete the City's audit and it was just a ripple effect. So we had some closing entries  
46 that were provided to us all the way through April of 2018 and then compounded with the

1 issues with the restatement, with the capital assets and then the funds sort of escalated the  
2 matter. But all of our interactions with Buckman staff were pleasant. Mackie was great to  
3 work with and got us information as quickly as she could.

4 We didn't have any disagreements with management and to the best of our  
5 knowledge, there was no consultation with other accountants. It's not to say it's not  
6 allowed; simply that if the Board wanted to discuss – have conversations with other  
7 accountants we'd want to make sure they have the same facts and circumstances that we  
8 do, so that they can be evaluated on an even playing field.

9 There weren't any matters discussed prior to management retaining us – selecting  
10 us as the auditors for the last year, and management did sign a representation letter stating  
11 that everything we asked for was provided to us in whole. Nothing was withheld from us  
12 and Mackie and other members of management, and then we asked the City as your fiscal  
13 agent to also sign the representation letter.

14 And now the results of the audit report: We do issue two reports that are included  
15 in the financial statements. The first report starts on page 2 of the hard copy. That's just  
16 our standard independent audit report which identifies the opinion that is issued on the  
17 overall financial statements. We did issue an unmodified or a clean opinion. That's the  
18 best opinion that you want to obtain. That means the financial balances and disclosures  
19 that are in the statements are materially stated. We also have a report on internal control  
20 over financial reporting and that starts on page 32 in the financial statements. This gives  
21 information about the internal controls. It identifies the findings, but we do not provide an  
22 opinion on the Board's – on Buckman's internal control structure. We test internal  
23 controls to help us evaluate the operations but we don't provide an opinion on those  
24 internal controls.

25 And as identified in that report and as previously mentioned we did have a  
26 material weakness this year because of the restatement for capital assets and for the  
27 agency funds, and the issue with the capital assets in a nutshell is the fact that the plant  
28 and the dam, the entire project, was included on three audited financial statements –  
29 Buckman's, the City's and the County's, and that can't happen, because the full value  
30 cannot be on three different sets of financial statements. So that's in a nutshell why we  
31 had to restate Buckman's opening financial statements and that required us, because of  
32 the timing of all of this, the City and the County's CAFR were already completed. We  
33 could not include those assets on Buckman's financial statements and issue a clean  
34 opinion. So we did remove those from Buckman's financial statements, which is why it's  
35 a restatement of approximately \$195 million. So that's the assets that are coming off. It's  
36 not cash that left. It's not a restatement of your revenue. It's assets that are coming off.  
37 That's just really high level, a lot of conversation that went on about this.

38 And then the other finding that is included in the report is a compliance finding  
39 because we didn't meet it by the statutory deadline as outlined by the New Mexico State  
40 Auditor's Office, which would have been – I believe it would have been December 15,  
41 2017, which would have been the required deadline. So because we didn't issue at that  
42 time we had to issue a compliance finding.

43 That is all of our required communications and I stand for any questions.

44 CHAIR IVES: Questions from the Board? Councilor.

45 COUNCILOR HARRIS: So at FSAC we didn't discuss – I know it's not a  
46 material weakness, but maybe provide a little bit more detail on the funds previously



1 reported as agency funds. That note. Can you provide a little bit more detail on that? I'm  
2 looking at the required governance communication.

3 MS. BELTRAN-SCHMITZ: Of course. So previously, there were agency  
4 funds and actually you can also look at Schedule 2 of the financial statements.

5 COUNCILOR HARRIS: Good. Thank you.

6 MS. BELTRAN-SCHMITZ: This will help me discuss this as well. So  
7 Schedule 2 of your financial statements –

8 COUNCILOR HARRIS: What page would that be?

9 MS. BELTRAN-SCHMITZ: Page 31. Our copy page 31.

10 MS. ROMERO: 34 of your packet.

11 MS. BELTRAN-SCHMITZ: Oh, 34 of the packet. Apologies. So this  
12 schedule is essentially what your agency funds would be reflected as if we had left these  
13 described as agency funds. But the definition of an agency fund means that Buckman  
14 would be holding cash in a purely custodian capacity and it's simply being passed  
15 through to external parties, parties who are not part of the Board. Because these  
16 previously identified agency funds were holding money from the City, the County and  
17 Las Campanas, those are the partners of the Board, therefore the Board is not holding  
18 money for entities outside ownership of the Board, rather than money is being held for a  
19 specific purpose. We left those purposes intact in the emergency reserve and in the major  
20 repair and replacement reserve fund.

21 Those restrictions are still intact. Simply that money is now restricted in that  
22 position at the end of the year, rather than being held in an agency fund. Because the  
23 agency fund would only be if Santa Fe County was not a partner to the Board, say, for  
24 example. If Santa Fe County wasn't a partner to the Board, however, gave money and  
25 then would get it back it would be distributed to somebody outside the Board, that could  
26 remain an agency fund. But these monies do ultimately go to serve expenses of the  
27 Board. It's not just being a pass-through. An agency fund truly means you're just  
28 receiving it and then cutting a check for somebody that does not belong to the  
29 organization.

30 COUNCILOR HARRIS: -- increase in net position, increase of net  
31 position in the amount of \$3,589,862. So basically you said you've just recharacterized  
32 the money, is one way to express it, it seems. And so as an agency, as agency funds it did  
33 not show up as a net position and so that basically the monies, the dollar amounts are not  
34 any different, whether they're agency or characterized as reserve fund. But it did increase  
35 our net position. The BDD recognized that now as part of our net position.

36 MS. BELTRAN-SCHMITZ: Yes, that's exactly right. When it was an  
37 agency fund you would simply be getting cash, recording asset and liability, and there'd  
38 be no income statement impact. However, now, you are recognizing that revenue, but it's  
39 immediately going down into your restricted net position.

40 COUNCILOR HARRIS: Right.

41 MS. BELTRAN-SCHMITZ: So you still can't just use that money for  
42 whatever you want, which you never were. That's why they were restricted. So this  
43 schedule that's on page 34 of your hard copy, it is – 31 of the financial statements, 34 of  
44 the packet.

45 COUNCILOR HARRIS: Oh, okay.

46 MS. BELTRAN-SCHMITZ: So 31 of the hard copy. It's titled Scheduled

1 Changes in Restricted Net Position by Partner. This was your agency fund schedule  
2 previously, and it was just called Schedule of Changes in Fiduciary Assets and  
3 Liabilities. So we left all of it intact; we just had to change the name, change the titling  
4 and position of it for financial statement presentation purposes, and all of the dollars are  
5 the same, treating it exactly the same. This is simply – you put it perfectly. It's a  
6 recharacterization of how it's presented for financial reporting purposes.

7 COUNCILOR HARRIS: Okay. Thank you.

8 COMMISSIONER HAMILTON: So we actually talked about this at the  
9 audit meeting and then at FSAC a couple of days ago but it might be of general interest.  
10 So could you say a couple of words about the restatement of the capital that was done for  
11 this year, for all the reasons you stated, but I think there still has to be some discussion  
12 about what we do moving forward, and then we have to do that pretty quickly or else  
13 we're going to put Mackie way behind the eight ball again and she's going to start  
14 throwing eight balls back at us, for the next year audit. So the idea of how the assets are  
15 listed still needs to be discussed.

16 MS. ROMERO: Mr. Chair, Commissioner Hamilton, you are correct. We  
17 are scheduled to have an entrance conference with our auditors next week and that's  
18 where I will discuss this with them and then we will try to plan a meeting with both City  
19 and County Finance staff so that we can all get together and see if this is something we  
20 can resolve between all our financial statements, or do we need a little bit more time and  
21 possibly hiring maybe not this audit firm but another audit firm to come in and re-  
22 evaluate Buckman's structure and what's the correct way to record these assets.

23 COMMISSIONER HAMILTON: Fabulous. And I knew you had it  
24 handled. I just wanted it on the record for everybody who wasn't at the previous meeting.  
25 So thank you.

26 MS. ROMERO: Thank you.

27 CHAIR IVES: So obviously, the resolution of this for purposes of this  
28 audit on the capital, this \$190 million, was to move it out of BDD and presumably into  
29 the City and the County. In my understanding that was with the agreement of the City  
30 and the County. Am I correct in that?

31 MS. ROMERO: Mr. Chair, so the City and the County already had the  
32 assets in their books so all we did was get a confirmation from the City and the County of  
33 what the asset number and accumulated depreciation number was, and we just removed  
34 that from BDD's books.

35 CHAIR IVES: And then in terms of that total dollar figure, do you know  
36 how it appears on the City's and County's financial statements?

37 MS. ROMERO: I do not, but maybe Laura knows how the City –

38 MS. BELTRAN-SCHMITZ: I can only speak for the City's books,  
39 because we do the external audit for the City as well, not the County. But the City does  
40 have the value included in their water fund. And so that was part of our procedures to  
41 double check to really verify are these truly record in multiple places and it was the exact  
42 same asset ID number, same years. It was pretty blatant. It was even titled BDD, so it was  
43 pretty – zero room for is this right?

44 CHAIR IVES: Apparently nobody was trying to hide it.

45 MS. BELTRAN-SCHMITZ: No, it was pretty darn clear. When we just  
46 started pulling on that thread it just unraveled.

CHAIR IVES: So to me it sounds like the City and the County needs to get together because it sounds like a decision was made not to reflect it on BDD, although I suppose that's something we could bring back into the fold in future timeframes. But it sounds like City and County Finance folks need to get together to talk about how that \$190 million is going to be reflected on our financial statements. So I appreciate that.

I noticed on the one material weakness that was identified, there was a recommendation. We recommend that Buckman evaluate financial reporting requirements to ensure generally accepted accounting principles are followed appropriately. And so a question for Mackie, what if anything do we need to do to get there? It sounds like we've already taken those steps.

MS. ROMERO: Mr. Chair, you are correct. It mainly had to do with the classification of our agency funds and some other funds, so making sure that all those funds are properly classified, meet the correct definitions and then correctly reporting them on the financial statements. So I believe that was done as part of this report.

CHAIR IVES: Thank you. Those were my only questions. If there are no others we will thank you for your presentation and move on to the next item on the agenda. Thank you.

#### **8. Report on 4<sup>th</sup> Quarter Financial Position FT 17/18**

MS. ROMERO: Mr. Chair, members of the Board, this report is to update the BDD Board and its partners on our 4<sup>th</sup> quarter financial position as of June 30, 2018. In your packet I have provided the final expenditure numbers for fiscal year 18. You will see a budget overview. This is the budget that was approved by the Board including any adjustments. I have also presented all expenditures from the first through fourth quarter. From the presentation you'll see we've spent about 88 percent of our operating budget.

You'll also notice we exceeded our budget in some of our major categories: electricity – we exceeded our budget by \$42,726. Chemicals is another category where we exceeded our budget by \$9,028. Materials and supplies was \$4,935 that we've exceeded our budget, those particular line items. But overall, we spent \$7,112,267. That includes our operating budget and then our federal funds from the Department of Energy.

In my presentation I've also shown you the bills. All expenses have been billed to the partners for about \$6,844,048. The remainder of our expenditures were made up through other revenues. We have our PNM solar rebate revenue, which we received \$178,164, and then our federal grant money of \$90,056. So that equals the total of our expenditures.

On the next page, page 3 of your packet, I've also shown you our funds, which are the major repair and replacement fund, and the emergency fund. The major repair and replacement fund was – all partners are billed for the yearly contribution of \$626,706. I've also provided a financial position which indicates our cash balances. So our emergency reserve fund does include interest earned. Our emergency reserve fund is currently funded at \$2,063,495. Our major repair and replacement fund, which includes our yearly contributions and interest earned has a balance of \$2,307,184.

Then I've also shown you the expenses that have been authorized by the BDD Board. So the BDD Board authorized from that fund of roughly over a million dollars,

1 and we've spent \$922,234 of that authorized money from the major repair and replacement  
2 fund.

3 So again, this report is just my presentation to the Board and the partners to let  
4 everybody know – this is a projection of where we're ending our fiscal year for June 30,  
5 2018. Are there any questions?

6 CHAIR IVES: Questions? Commissioner Hansen.

7 COMMISSIONER HANSEN: On electricity, where we went over budget  
8 by \$42,000. We got the solar rebate. So does that have anything to do with it? Or do we  
9 need more solar to reduce our electricity? Could you explain?

10 MS. ROMERO: Electricity is technically a budgeted item, so from a  
11 budget perspective, it does include the expenditure for the solar. It's just – the revenue, I  
12 don't bill the partners for that. I don't bill the partners for it because we have revenue  
13 from PNM to support that. So whether we need additional solar, I'm not sure. It's just  
14 from the budget we under-projected what our electrical costs were going to be for the last  
15 quarter and that's why we have exceeded our budget by that amount, if that makes sense.

16 CHAIR IVES: Mackie, let me just ask, is there anything in here that is  
17 unusual or you would bring to our attention in connection with this report?

18 MS. ROMERO: No, there is not.

19 CHAIR IVES: Do we need to engage in any actual budget adjustment  
20 based upon the fourth quarter?

21 MS. ROMERO: Mr. Chair, members of the Board, no. The fourth quarter  
22 – making any adjustments is done with at this point. From a BDD standpoint we're  
23 definitely going to have to monitor our expenditures for the current year and try to do a  
24 better job at projecting the costs that we need in these categories and then making any  
25 adjustments and bringing them to the Board for approval.

26 CHAIR IVES: I'm just curious. I know we have of course our BARs at the  
27 City every quarter that we consider where we do make adjustments to the budget based  
28 upon actions that are taken. I just wasn't sure that an item as large as the electrical one  
29 where we have exceeded the budget by \$42,000+ required or necessitated any type of  
30 positive or affirmative action by the Board.

31 MS. ROMERO: I can check with the City finance policies and see if they  
32 will allow me to make any adjustments, considering the fiscal year if over, and if they do  
33 then I can bring it back to the next meeting.

34 CHAIR IVES: Okay. I would appreciate that. Commissioner.

35 COMMISSIONER HAMILTON: When we were talking about this year's  
36 budget, are we doing something about bringing this fund up to full funding level?

37 MS. ROMERO: So, Mr. Chair, members of the Board, Commissioner  
38 Hamilton, you are correct. So the major repair and replacement fund was supposed to be  
39 re-evaluated to ensure that the funding contributions from the partners was going to be  
40 adequate to continue funding any major repair or replacement items in the future. Our  
41 fiscal administrator was working on that project and I haven't had a chance to evaluate  
42 where she left off and see if we're going to be able to present something, hopefully  
43 during our budget presentation for the next fiscal year but we'll re-evaluate that and see  
44 how soon we can bring that back to the Board.

45 COMMISSIONER HAMILTON: Great. Thanks, Mackie.

46 MS. ROMERO: Thank you.

1 CHAIR IVES: Follow up to that, what's our target level for that fund?  
2 MS. ROMERO: So right now we've just been funding it at \$626,706 per  
3 year. If you remember prior – I think about two years ago, we were funding it at  
4 \$411,000 per year. I don't have the end target number off the top of my head but we  
5 know that the \$411,000 and probably even the \$626,000 was not going to be adequate.  
6 We do need to do a further analysis of all the capital analysis to try and determine what is  
7 the number that we need from the partners so that we can make sure that there's adequate  
8 balances in those funds as repairs come up.  
9 CHAIR IVES: I guess then what I'd like to do is ask for our next meeting  
10 to have a specific update on that in hopes of making that an item of significance for those  
11 who are doing that work so that we can look at that and make sure it gets addressed and  
12 that the needs of the BDD are being taken care of. So if we could have that on our next  
13 agenda and if there are problems getting that please let me know and we'll try and work  
14 through any logjams.  
15 MS. ROMERO: Okay. Thank you.  
16 CHAIR IVES: Thank you very much for your report.  
17

18 **9. Report from the Interim Facilities Manager**  
19

20 CHAIR IVES: Nick Schiavo, great to have you sitting there. Looking  
21 forward to your report. Let's leave it at that.  
22 MR. SCHIAVO: Thank you, Mr. Chair. Just briefly, I've been working  
23 with BDD over the last few weeks on an interim basis and have established regular hours  
24 with actually being physically out at the plant and established a weekly meeting with the  
25 managers of the facility. I've worked with Mackie to move some paperwork forward to  
26 post vacant positions, and then I've been coming up to speed on some of the mechanical  
27 components of the facility, where we're at with replacement. Also the proposed TREAT  
28 study and the litigation. So with that I'll stand for any questions.  
29 CHAIR IVES: Questions. I don't know if everybody knows Nick or not.  
30 Commissioner.  
31 COMMISSIONER HANSEN: Welcome, Nick.  
32 MR. SCHIAVO: Thank you.  
33 COMMISSIONER HANSEN: Nice to have you here. I don't have any  
34 questions. I just wanted to acknowledge you.  
35 MR. SCHIAVO: Thank you very much.  
36 CHAIR IVES: Questions anyone? Councilor.  
37 COUNCILOR HARRIS: Hello, Nick.  
38 MR. SCHIAVO: Hello, Councilor.  
39 COMMISSIONER HAMILTON: He doesn't have any questions either.  
40 COUNCILOR HARRIS: It's not a question. So this is your newest hat and  
41 we talked about a number of different capacities. I wish you well. So I guess I should say  
42 that Nick and I worked a lot together on the airport when he was interim out there, so I'm  
43 very comfortable with his ability, because the airport was outside of his normal expertise.  
44 I think this is much closer to where you've been trained and your experience so I think it  
45 will go well. But time is a factor and your spread pretty thin, so just everybody needs to  
46 acknowledge that. I know that became an issue out at the airport a bit.

1           So we'll do what we can to support you but I also really want to know at some  
2 point – not tonight – just kind of your assessment of some of the threads that have been  
3 underway, whether it's TREAT or the issues with the intake, some of which were  
4 addressed in part. Some of which have languished. So I guess at some point you can do it  
5 in a month's time, really give a very realistic assessment of the work that needs to be  
6 done and I think that's part of your job.

7           MR. SCHIAVO: Mr. Chair, Councilor, absolutely. I will work to put that  
8 report together for October.

9           COUNCILOR HARRIS: Okay. Very good. Thank you. Good luck.

10          CHAIR IVES: Other questions from the Board for Nick? I will say I've  
11 worked extensively with Nick at the Water Company. We used to have weekly meetings  
12 and he always brought a keen intelligence, not only for the operations of the Water  
13 Company but also for handling the complexities of a billing system that was in at points  
14 in serious need of attention. The whole conversion to smart meters throughout the city  
15 and a host of other things. So I do have a very high level of confidence in Nick's capacity  
16 as a manager as well as his knowledge of water issues and water operations. So it's good  
17 to have you aboard. Very good. In that case we will move on.

18  
19       **10.     Update on the Rio Grande Water Quality Study Session and LANL**  
20       **Environmental Reports**

21  
22          KYLE HARWOOD (BDD Counsel): Thank you, Mr. Chair. Good  
23 evening, Board. Just two quick items requested from the last meeting. The first is the  
24 much discussed water quality study session. As I think many of you know or can view  
25 from the minutes, Board Member Fort asked that an expert in public health be added to  
26 the panel and I committed to the Board that the next time we tried to coordinate the study  
27 session I would do a poll of both Board members and invitees to the study session and a  
28 public health person, to the best of my knowledge, has yet to be identified, which is why  
29 I've not proceeded with the poll to identify the new date. So we can –

30          COMMISSIONER HANSEN: Do you need help with finding somebody?

31          MR. HARWOOD: As I indicated at the last meeting, I don't know of an  
32 expert in public health that would fit into the agenda that we've discussed. I know Board  
33 Member Fort offered to identify that person and so we're awaiting that composition of  
34 people as was directed by the Board at the last meeting.

35          COMMISSIONER HAMILTON: Mr. Chair. Okay. I think I'd like to float  
36 an idea with regard to the agenda. If we want to recall what our original goals for the  
37 study session were, and maybe Mr. Harwood could restate those, rather than have me  
38 mumble through them.

39          MR. HARWOOD: Certainly. So the initial idea behind the study session  
40 was that we were getting sort of piecemeal updates on various Rio Grande surface water  
41 quality programs that are in existence by the regulators that regulate the source surface  
42 water system and it was coming forward on different months, different pieces of the  
43 picture and so there was expressed a desire to have a non-decisional educational  
44 opportunity for the Board to focus on sort of getting a common base of knowledge about  
45 particularly state and federal water quality programs as it relates to the water that the  
46 project diverts.

1           So we had at one point identified inviting Concerned Citizens for Nuclear Safety,  
2 Amigos Bravos, a presentation by New Mexico Environment Department, and one by  
3 staff, to sort of set the tone and that those would be modest 15- to 20-minute  
4 presentations. On the part of the environmental groups it was to look back and look  
5 forward, observe what has changed on the Rio Grande and what they were hoping to see  
6 change in the future to then inform an open discussion by the Board on where it might  
7 want to put some of its energies. Under the staff presentation we were going to report out  
8 the Board and staff's participation in the 2009 Triennial Review that resulted in the  
9 integrated Section 303B work that we've discussed several times here at the Board. And  
10 the Board had asked that a series of questions be answered by each of the presenters. So  
11 does that answer your question?

12           COMMISSIONER HAMILTON: It does. And some of what you said was  
13 important and the overarching piece that I think is important is our goals for having this  
14 information which helps focus what we want to do on an ongoing basis in terms of  
15 pushing – understanding how to work with the agencies and with other entities to  
16 improve water quality conditions, protect BDD position, that sort of thing.

17           So it's not – it has to focus back on what our mandate is in running the BDD and  
18 what not. So we can be getting pretty far afield. It's not a three-day study session. It's like  
19 a three-hour study session and in the interim I've actually talked to some additional  
20 people and put Denise in touch with an additional person at NMED that has information  
21 that's related – knowledge that can be presented that's related to the idea of contaminants  
22 of concern that may not be regulated and how that's dealt with in the current regulations.

23           And so I've been thinking that that's the level that's probably pertinent for this  
24 first study session. The idea of getting an expert who can say the next step, which is,  
25 okay, once you know something about these unregulated contaminants what are the  
26 details of human health impacts. Because the human health impacts are used for setting  
27 criteria levels. I'm kind of thinking that's a next step thing that might be something that  
28 can be presented to the Board subsequently. So if we could go ahead – and since we only  
29 have three hours I think we might be biting off a little too much. We get the first round of  
30 information and maybe if between now and when we have the study session, if Member  
31 Fort identifies a person they can come and listen – participate but not make a presentation  
32 and can do that subsequently. Just a thought for not only moving it forward but having a  
33 coherent agenda.

34           COUNCILOR HARRIS: I think when Member Fort mentioned it there  
35 wasn't as complete a response as you just gave, Commissioner, but that was the thinking  
36 that we really needed to have some of the baseline information before we really moved  
37 into any discussion or any presentation on public health impacts. That's what I  
38 remember. So it seems that – if we agree that we could move forward without having that  
39 public health individual expert component in place. To do a presentation. Maybe that  
40 person would benefit if they were attending, I don't know, but I think that's what you  
41 said. So that's what I remember. Thank you.

42           COMMISSIONER HANSEN: I support what Commissioner Hamilton  
43 said but also I wanted to through out the name of Pat Longmire. Does nobody else here  
44 know him? Doesn't he do public health? I just remember him coming and speaking to the  
45 River Commission for the City on water quality and pharmaceuticals and a lot of stuff.  
46 But I agree. I think we need to move forward and if the public health issue isn't addressed

1 in the first session it could be addressed at the Board afterwards. Because it seems like  
2 we keep putting this off and putting this off and I think we need to move forward. So  
3 that's my feeling.

4 COMMISSIONER HAMILTON: And if I may, it's not a matter of  
5 ignoring it entirely by any means. It's a matter of dealing with it – getting the background  
6 information on how it's dealt with currently in the regulations and maybe a little bit about  
7 – because there are monitoring requirements for unregulated compounds of concern and  
8 so we can get that background on what people do that and what the general thoughts are  
9 and then we can move to more specific things. And that's why it took me a while, like  
10 Councilor Harris, you're absolutely right. And I agreed with it before but it took another  
11 whole month or two of thinking to agree with myself and realize why I felt that and to  
12 think about the step-wise approach.

13 MR. HARWOOD: I'll proceed accordingly and let Citizen Member Fort  
14 know that anybody she identifies be invited but will not be included now in the selection  
15 of the date, and then –

16 CHAIR IVES: And if timing permitted, and I think that would be fine, but  
17 yes, I think you're hearing everybody's sense that we want to go forward and find a date  
18 for the study session and get that cranking forward. I will say that some of what I struggle  
19 with in all of this is that when I think of the Buckman Direct Diversion, obviously we are  
20 a water production facility, first and foremost. And we have various water quality  
21 standards that we know we have to comply with and at least based upon the TREAT  
22 studies that have been performed that the water that is delivered is high quality water  
23 according to those standards.

24 When it comes to trying to get into the depths of trying to get the segments of the  
25 Rio Grande, their DL standards and those types of standards I wonder whether some of  
26 that might not be more appropriate for the City and the County as the actual owners of  
27 the water that BDD produces to carry those banners forward. So just throwing that out  
28 there because I'm still not sure. I think it's – let me put it this way. Greater information is  
29 great and certainly we're together on this Board so for purposes of doing a study session I  
30 think that's ideal, but whether or not this Board is the appropriate one for carrying the  
31 standard forward on new water quality standards for the Rio Grande I'm not sure.

32 So enough said. We will look forward to getting a date set.

33 MR. HARWOOD: Very good. I'll proceed as you've indicated. The  
34 second part of my verbal update is just to report back to the Board that we had a number  
35 of presentations from LANL staff over the past year. There was a question posed at the  
36 last Board meeting on where some of the hoped for updates stood from LANL and the  
37 Environmental Management Group and -- I recently spoke with individuals there,  
38 including Mr. Hintze who you remember and Mr. Underwood, who's here tonight who  
39 attended that. And they have committed to the October 4<sup>th</sup> BDD Board meeting date to  
40 come and provide updates. There were a number of April – early this year, April reports  
41 that were submitted to NMED on the chromium plume and also on the watershed  
42 sediment transport mitigation project. And so certainly the chromium plume has been a  
43 topic that has been requested an update on.

44 And then the other item that I had on my list was the update on the transition to a  
45 new contractor that I think everyone is familiar with the process that's going on up there.  
46 So I've alerted them to know we'd like to tie off those elements from the prior



1 presentations. I don't know if there's anything else you'd like to make sure that they're  
2 prepared to speak to October 4<sup>th</sup>, but this will be a direct LANL-Board opportunity for  
3 discussion as I think you requested.

4 CHAIR IVES: Questions? Commissioner.

5 COMMISSIONER HANSEN: I know that there was a presentation done  
6 of the LANL at the Fuller Lodge in September I believe it was, and also Governor  
7 Martinez from San I presented and I would like to have the same presentation here to  
8 know what San I and how they're participating in this cleanup. Also I would like an  
9 update on the chloride plume that is also co-located with the hexavalent chromium  
10 plume. Also, I know we have at the moment the MOU for the sampling but I would like a  
11 discussion or an update with LANL on what they are doing on their end about sampling,  
12 also.

13 MR. HARWOOD: Just so I'm clear, Commissioner, the same presentation  
14 as San I that was on the chromium plume topic?

15 COMMISSIONER HANSEN: I believe it is, because their land is right  
16 next to it. I believe that they are working somehow – I don't know. That's why I would  
17 like information. If I knew then I wouldn't have to ask for the information.

18 MR. HARWOOD: Yes, of course. I just wanted to make sure I was  
19 referencing the right presentation. So it's not that you want San I to come and present, it's  
20 that you would like LANL to present the presentation that they made to San I?

21 COMMISSIONER HANSEN: No. San I presented at this meeting. I'm  
22 assuming Mr. Underwood was at the presentation at Fuller Lodge in September, I believe  
23 it was.

24 MR. UNDERWOOD: [From the audience] I wasn't there.

25 COMMISSIONER HANSEN: Oh. Okay. I read the agenda and Governor  
26 Martinez was one of the presenters. Perry Martinez from San I. I just want to be clear  
27 about what Martinez we're talking about.

28 MR. HARWOOD: We'll figure that out. Very good. That concludes my  
29 presentation.

30 CHAIR IVES: I'll go ahead and make a point. I serve as the Mayor's  
31 alternate on the Regional Coalition of LANL Communities and we did have Mr. Hintze  
32 do an update presentation at our last board meeting. And as much fun as it is to have  
33 folks from the Hill come down and do a whole bunch of presentations I think we can be  
34 perhaps more efficient in those presentations and so I'm going to ask that on a going-  
35 forward basis, if you wouldn't mind reaching out to the new executive director in the  
36 person of Mr. Eric Vasquez to coordinate these types of presentations because I think it's  
37 the same information that gets presented at each one of these things. I know  
38 Commissioner Roybal was there and privy to that presentation. So if we can figure out a  
39 way to get everybody at one and I wouldn't mean to not include folks from Las  
40 Campanas and so perhaps we do that here rather than the Regional Coalition but let's see  
41 if we can do a little bit better job at coordinating so that we're just getting it all done in  
42 one meeting rather than two or more.

43 MR. HARWOOD: I'll report back on coordination.

44 CHAIR IVES: Thank you. Are there more questions?

45 COMMISSIONER HANSEN: Just a comment. Those of us who are not  
46 on the Regional Coalition have no idea whatever happens at the Regional Coalition. And

1 so I really feel like I do not – if the Regional Coalition needs to be updated then that's  
2 separate from us but I feel very strongly that Buckman Direct Diversion, this Board has a  
3 whole different make up than that board and that we need to be updated.

4 CHAIR IVES: Well, and that's why I say if we do the coordination,  
5 because again, the intent would not be to exclude anyone from Las Campanas from  
6 participating, but I think it's just easier to get one report and have participants from the  
7 various folks to whom that report would otherwise be given be aggregated for purposes  
8 of efficiency. Good. Thank you.

9  
10 **11. Discussion on the Refinement of the Scope of Services for the Proposed**  
11 **TREAT Study**

12  
13 MR. SCHIAVO: Mr. Chair, member of the Board, so an RFP was issued  
14 and we've actually received two proposals. So I'm in the process of reviewing those with  
15 staff. It's my intention to review those, refine the scope of what we need for this TREAT  
16 study and then if I'm able to do it, bring that back in October so you would actually see a  
17 recommendation on a consultant with a clear contract, a clear scope of what we want to  
18 get accomplished through that study.

19 CHAIR IVES: And let me just ask, can you share anything when you say  
20 refine the scope what your thinking is so that we're clear on that point.

21 MR. SCHIAVO: Mr. Chair, at this point I've been kind of running  
22 between positions and so I don't open that up. But I can – I would assume that it would  
23 be fine that once I got a closer scope I could send it out to all of the Board members.

24 CHAIR IVES: Do we think we'll have all that ready for the next meeting?

25 MR. SCHIAVO: I think that one is going to be tough, given that we  
26 haven't reviewed the two proposals yet. So I think realistically probably the November  
27 meeting but I would hope to have a draft scope that I can get to this committee prior to  
28 the next meeting so that there could be a discussion.

29 CHAIR IVES: So what – do we add it as a discussion item and then we'll  
30 look forward, hopefully, to hearing a more full presentation and maybe even a contract in  
31 November. Questions? Commissioner.

32 COMMISSIONER HAMILTON: Yes. I know we had a little discussion  
33 about that. So I'd like to see, if we're going to do major revisions to the scope of the  
34 TREAT study that there's a common understanding of what the goals of the TREAT  
35 study were, because maybe just to put it on the record that from my recollection the  
36 TREAT study was laid out in four or five sampling events, and this is covering the last  
37 two of those. And what happened in the interim was that the data were collected and  
38 evaluated and there were some perceived problems with the study and those data were  
39 given over to Glorieta GeoScience to review and the recommendation that came out of  
40 that was one of the problems was the sampling was done without clear data objectives  
41 and what the samples were being collected for, and the process wasn't really clear and so  
42 there were potential analytical problems and what not. And the resolution of that was the  
43 remaining components of the TREAT study should be done with those things rectified, so  
44 that we know why we're sampling. We know – that's the big we – we know how we're  
45 sampling and then how the analysis is going to be done.

46 So there were enough questions about what things were coming into the source

1 water and where they were dropping out that couldn't really be answered effectively  
2 because of those analytical or sampling problems and the variation that was seen. Nobody  
3 could scientifically say whether the variation between the three existing sampling periods  
4 was because of poor sampling or was it a real, valid representation of variation, that we  
5 probably need those two remaining sampling periods. I know it was a real question Nick  
6 had because it's sort of a big commitment and what the goals were. But I have no  
7 problem at all with reviewing it but I think that's sort of my input on what the motivation  
8 for doing the remainder of the study is. So if that can be accounted for I think that would  
9 be wonderful.

10 MR. SCHIAVO: Mr. Chair, Commissioner Hamilton, thank you for your  
11 input.

12 COMMISSIONER HAMILTON: Thank you, Nick.

13 COMMISSIONER HANSEN: So can we say who the two applicants are  
14 or is that not to be shared? I'm assuming it cannot. It's procurement. You're still in the  
15 procurement process, right?

16 MR. SCHIAVO: Mr. Chair, Commissioner Hansen, yes. We're still in the  
17 procurement process.

18 CHAIR IVES: Any further questions on this matter?  
19

## 20 **DISCUSSION AND ACTION**

### 21 22 **12. Consideration and Possible Approval of Amendment No. 8 to the Project** 23 **Management and Fiscal Services Agreement ("PMFSA") between the** 24 **Buckman Direct Diversion and the City of Santa Fe** *[Exhibit 4: PMFSA* 25 *Amendment #8 Redline PMFSA; Exhibit 5: PMFSA Amendment #8 Comparison;* 26 *Exhibit 6: Cost of Service for the BDD]* 27

28 MS. LONG: Thank you, Mr. Chair, members of the Board. As directed by  
29 the Board, the committee that was constituted to address the new PMFSA and the  
30 amendment to increase the project manager fee met since the last Board meeting and is  
31 recommending that an interim amendment and the one that was presented to you to  
32 increase the project manager fee be adopted, and that increase is from one percent to four  
33 percent as we've discussed. And the remaining aspects of the PMFSA would be  
34 continued to be discussed as this committee meets again.

35 In addition to the increase in the project manager fee the amendment that you  
36 have in your packet also fixes the issue with the financial statement audit, the  
37 requirement in the PMFSA being that they were due 90 days after the fiscal year and  
38 Mackie Romero felt that we were unable to complete that, since we really have until the  
39 end of the calendar year for audit purposes. So we made that fix in the interim, and then I  
40 also changed the definition of Las Campanas, because it still had the old definition of the  
41 Las Campanas limited partnership and of course we all know the assignments have taken  
42 place. So those were kind of some minor fixes that are also in the amendment.

43 And I understand there was discussed at the FSAC committee and the County has,  
44 through Mr. Frederick has presented some additional revisions. Some of those are minor  
45 comments to the amendment that I prepared, just more in terms of wording. But the  
46 County has also proposed, and I don't know if you all have this amendment but we'll

1 hand this out. And then I have a comparison version that I can hand out as well, that the  
2 Board, by way of this interim amendment, have the ability to supervise the facilities  
3 manager as well as recommend and interview anyone for the facilities manager position  
4 and make any recommendations regarding discipline or other employment decisions. And  
5 I can let Mr. Frederick speak to the details of that since he put that together, but this is – I  
6 just wanted to present that to the Board.

7 And then for – it may be helpful for you to see the provisions in the existing  
8 PMFSA that are being addressed, so I have just a very short comparison version. And one  
9 more thing, if I can add – I know that when our committee met we received some figures  
10 from the City as to what their calculations are as to what is the actual cost to be the  
11 project manager and fiscal agent and there's been some updating that occurred since then  
12 that Mr. Jones has done, and that number that Mr. Jones has presented to us is \$407,000.  
13 Four percent of \$9 million, which is our operating budget is \$360,000, so somewhat less  
14 than what the calculation by the City is for the cost of managing for BDDDB. Just so you  
15 know what those numbers are. And the committee did have some discussion about the  
16 actual costs and there was an update done that increased those costs since our committee  
17 met by about \$50,000 or so.

18 COMMISSIONER HAMILTON: Mr. Chair.

19 CHAIR IVES: Yes.

20 COMMISSIONER HAMILTON: So just to that point, do we have  
21 detailed backup of that increase of what goes into the \$407,000?

22 MS. LONG: Yes. Mr. Chair and Commissioner Hamilton, I believe that  
23 you should have a copy that was passed out by Mr. Jones earlier at your place. So the  
24 largest increase that I saw was under public utilities from the comparison we have.

25 COMMISSIONER HAMILTON: \$407,000 or \$360,000? I have the  
26 numbers from \$360,000. I don't have the \$407,000. Today? Just now?

27 MS. LONG: It was just today. Yes.

28 COMMISSIONER HAMILTON: Yes. Okay. We just got that today.  
29 Okay.

30 MS. LONG: Yes, Commissioner.

31 COMMISSIONER HAMILTON: Okay, I'll speak further to that in a bit. I  
32 don't actually have it.

33 MS. LONG: The first sheet of that handout is the summary and then the  
34 backup is behind it, and at the bottom of that coversheet you will see there is an amount  
35 that is deducted from the total cost as a baseline cost of being a partner. And then Mr.  
36 Jones arrived at \$407,000. And then comparing that to the figures we looked at at our  
37 committee meeting, Commissioner Hamilton, the largest increase was in public utilities,  
38 which went up by about \$50,000.

39 COMMISSIONER HAMILTON: So we actually – the discussion at the  
40 FSAC meeting where Mackie and Councilor Harris were there – in principle we agreed  
41 we wanted to get to a resolution of this since two months ago we said in two months. And  
42 then that's where we are today: two months. But that's kind of a big increase. And even  
43 Tuesday we discussed that knowing we were going to get revisions this is the document –  
44 I'm assuming the City budget people have already looked at it but County Finance needs  
45 to be able to go through and get some clarity on. Because that's a lot of money.

46 And I do have some questions about what personnel – like \$407,000 is probably

1 five full-time FTEs. It's a lot. So I think getting some clarity on it. I just wanted to put out  
2 there that I think it's appropriate to not vote on this tonight but to be able to make it  
3 retroactive when we do so we can review this, as it is down to the real numbers. We were  
4 in agreement about the principle of doing this and we're theoretically pretty close on the  
5 numbers, so that's what was discussed Tuesday night, that if to give the ability to review  
6 this and to discuss the content when we do vote on it we can make the approval of it  
7 retroactive to September 1<sup>st</sup>.

8 COUNCILOR HARRIS: Yes, I just want to confirm what Commissioner  
9 Hamilton said. This is a very substantive discussion. I don't think – and Mr. Frederick  
10 was there and presented amendment #8, or actually not the full amendment but just the  
11 new additions related to the BDD's role vis-à-vis the facilities manager. That's a very  
12 substantive discussion. We just received these numbers tonight. I've been working with  
13 the numbers. I actually need to talk to Mr. Jones about the public utilities numbers. I have  
14 some questions about that as well.

15 So clearly we need to scrub the numbers and make sure we understand them and  
16 just – for instance, they break it down between direct and indirect costs and there's HR,  
17 there's Risk and there's Public Utilities, as well as others. And one of the questions that I  
18 had was to make sure that the right people were at the table reviewing this information  
19 and it didn't seem, for instance – maybe I missed it – that the City Attorney's office was  
20 not represented. And certainly the City Attorney's Office I think needs to be involved in  
21 the discussion if we change the whole dynamic in terms of the facilities manager and  
22 some of the other subtleties, and remember, I raised the issue of well, does BDD have a  
23 personnel policy? For instance, if the BDD Board is really working through the  
24 evaluation, the hiring and firing of the facilities manager but is subject to City personnel  
25 policy – I could see any number of contradictions that are inherent in that situation.

26 But yes, you're right, Commissioner Hamilton. We did discuss it at length. It was  
27 a good discussion and I think we felt that we really wanted to move it forward but that we  
28 really could not vote on it tonight and it would be our hope that we could settle it in  
29 October and that any number that we did agree to or any formula, and we talked at length  
30 about formulas. Do we just do a percentage? Do we do a fixed cost? Could be understood  
31 by all parties and worked through during the next 30 days by the committee, I should say,  
32 that has the representation that it needs, and then perhaps we can work on October and  
33 that it would be retroactive.

34 It would be retroactive. I think what you were saying, for instance, correct me if  
35 I'm wrong, if we just keep it at the one percent now and we make the adjustment at the  
36 end or we make the adjustment retroactive to the beginning of the fiscal year. Was that  
37 correct?

38 COMMISSIONER HAMILTON: I was actually saying till September 1<sup>st</sup>,  
39 which is not the beginning of the fiscal year.

40 COMMISSIONER HANSEN: That's what I understood also –

41 COMMISSIONER HAMILTON: Anything can be on the table for  
42 discussion but that's what –

43 COMMISSIONER HANSEN: -- from the County Manager but I also  
44 understand that we would like to ensure that this amendment about the project manager  
45 of the BDD report to the Board. And that the project manager reports to the Board, and  
46 that we have some say in who was hired. We might not do the entire interview process.

1 We might have City personnel do the first round of interviews and the last three, or the  
2 top three are brought to the Board as discussion as a possibility. I'm just throwing these  
3 things out because I have not been in some of these other discussions so I do not know  
4 what was discussed, but I feel very strongly that this Board, if the facilities manager  
5 reports to this Board that we have a say in who is hired as the facilities manager. And that  
6 is extremely important to me.

7 I also feel that our County Finance Department needs to look over these numbers  
8 and go over what we're really paying for. Is it really four percent, because as  
9 Commissioner Hamilton has mentioned, if we're up past \$360,000 that's at least four or  
10 five FTEs at the City and so are we paying for City employees to be working at the  
11 Buckman Direct Diversion or are we paying for a portion of those City employees to  
12 work at the Buckman Direct Diversion?

13 So I think there's some details that need to be cleaned up and answered and also  
14 that our County Finance Director look at these numbers and understand what the  
15 percentage is also. It just seems a really high increase from what we have been paying  
16 and I believe the County feels that the facilities manager needs to be hired by the Board.

17 COUNCILOR HARRIS: Yes, it's a high increase because what the fiscal  
18 agent, the City of Santa Fe has been paid is one percent for well over two years, so if we  
19 really are going to – I really misunderstood. I thought you at least concede going back to  
20 the beginning of the fiscal year, not just to September. So there's a lot of things to work  
21 out here that I'm not prepared. I don't think you are either. I heard you say,  
22 Commissioner Hansen, that you want your Finance Department to look at it. That's fine,  
23 but again, this is going to be a tough conversation. Anybody who doesn't believe that is  
24 just not seeing it correctly. This is a tough conversation about how the Board is going to  
25 be run, where the money comes from.

26 So again, I want to be clear at the very least who's on this committee that will be  
27 working to sort this out. Ms. Long, can you illuminate this?

28 MS. LONG: Mr. Chair and Councilor Harris, I think the committee has all  
29 of the requisite representation on it. The City Attorney Office is there. I think at our last  
30 meeting perhaps County Finance was not there. We had two meetings. I think there was a  
31 conflict. So we need to make sure County Finance is there. But in terms of representation  
32 you also have the Chair and the Vice Chair on that committee from this Board. And I do  
33 think we have really good, in both utilities, really good representation on that committee.

34 COUNCILOR HARRIS: Okay.

35 MS. LONG: But the amendment that you were discussing at FSAC was  
36 not discussed at the last committee meeting. So that's why we didn't have the weigh in of  
37 the City Attorney's Office and the City on that.

38 COUNCILOR HARRIS: Okay.

39 CHAIR IVES: Because of the time, yes.

40 BOARD MEMBER HELMS: [away from microphone – asked for names  
41 of the committee members.]

42 CHAIR IVES: If it would be all right, just because we have to be out of  
43 here in five minutes, we'll get that information out to all the members via email,  
44 hopefully tomorrow. If not tomorrow, Monday. But we just need to move on. We have  
45 one more action item.

46 BOARD MEMBER HELMS: [away from microphone - stated it was

1 clearly an important topic and could perhaps be visited in executive session.]

2 CHAIR IVES: We can only consider what has been noticed. But I think a  
3 motion to postpone consideration of any amendment #8 to the PMFSA to the next  
4 meeting of the Board, which is scheduled for October 4<sup>th</sup> would be appropriate. Does  
5 anybody care to make that motion?

6 COMMISSIONER HANSEN: So moved.

7 COUNCILOR HARRIS: Second.

8 CHAIR IVES: We have a motion to postpone to the next Board meeting.  
9 Is there any further discussion?

10  
11 **The motion passed by unanimous [5-0] voice vote.**

12  
13 **13. Request to Approve and Accept Right-of-Way NMNM 120617 Renewal**  
14 **Grant Offer to Construct, Operate, and Maintain the Fiber Optic Line, to**  
15 **Terminate December 31, 2047**

- 16 • **Estimated Annual Rental Fee of \$4,686.36 \$390.53**

17  
18 MS. LONG: Mr. Chair, members of the Board, for your consideration is  
19 the renewal of the right-of-way permit that the Board holds with the BLM for our fiber  
20 optic line. That permit expired before our other permits for some reason last year. It was a  
21 ten-year permit. We're seeking approval from the Board to extend that now for 30 years.  
22 The BLM has approved that. The good news I have for you is that the BLM did not  
23 calculate the rent correctly. When I started asking them for worksheets and how they  
24 came up with the amount, so the rental amount that was stated to be estimated on the  
25 agenda of approximately \$4,000 is actually going to be \$390.53 per years.

26 COMMISSIONER HAMILTON: What's an order of magnitude among  
27 friends?

28 COMMISSIONER HANSEN: \$390 –

29 CHAIR IVES: Let's stay focused because we've only got a couple of  
30 moments.

31 MS. LONG: Their schedule of rent that's currently published, increases  
32 goes through 2025 and so it will go up to the year 2025 to \$451.66 and then there will be  
33 a new schedule. So I would expect it to increase in small amounts after that. They just did  
34 the math wrong.

35 CHAIR IVES: Very good.

36 COMMISSIONER HANSEN: I have one question, obviously. How will  
37 we be affected if this land becomes State land? How will we be affected?

38 MS. LONG: Mr. Chair and Commissioner Hansen, our application is still  
39 pending to convert those to perpetual easements, if that exchange happens it happens for  
40 this permit as well. What we're hearing though is that project is probably not going to  
41 happen, from candidates for that office and the Land Commissioner, the current one, has  
42 sort of thrown in the towel and said the federal government took too long to get the  
43 appraisals done, so I don't think that will be going forward.

44 COMMISSIONER HANSEN: Do we need a motion to approve?

45 CHAIR IVES: Yes, we do.

46 COMMISSIONER HANSEN: I move to approve.

1 COMMISSIONER HAMILTON: Second.  
2 CHAIR IVES: We have a motion and a second. Is there any further  
3 discussion?  
4 COMMISSIONER HAMILTON: I just want to take the opportunity to  
5 thank Ms. Long for actually checking into that because that was discussed at the FSAC  
6 meeting. We asked how that was calculated and to know whether that was reasonable and  
7 to have taken the time to do that is very much appreciated.  
8 CHAIR IVES: Very good.  
9

10 **The motion passed by unanimous [5-0] voice vote.**  
11

12 **MATTERS FROM THE PUBLIC**  
13

14 CHAIR IVES: Is there anybody here to address the Board? If not we will  
15 close that portion of the meeting.  
16

17 **MATTERS FROM THE BOARD**  
18

19 CHAIR IVES: In connection with that, I would make a statement that I  
20 state for the record and our minutes that the only matter discussed during the executive  
21 session of our last Board meeting on August 2, 2018 was the matter as stated in the  
22 motion to go into executive session. No action was taken.  
23

24 **NEXT REGULAR MEETING: Thursday, October 4, 2018 @ 4:15pm**  
25

26 **EXECUTIVE SESSION**

27 **In accordance with the New Mexico Open Meetings Act NMSA 1978 Section**  
28 **10-15-1(H)(7), discussion regarding threatened or pending litigation in which**  
29 **the BDDDB is, or may become a participant, including without limitation:**  
30 ***Buckman Direct Diversion Board v. CDM Smith, et al.*, First Judicial District**  
31 **Court Case No. D-101-CV-2018-01610**  
32

33 CHAIR IVES: Are we adjourning and going into executive session?  
34 MS. LONG: Yes, Mr. Chair, members of the Board. You are adjourning  
35 and going into executive session for the purpose as stated on the agenda to discuss  
36 litigation in *Buckman Direct Diversion Board v. CDM Smith, et al.*  
37

38 COMMISSIONER HAMILTON: Mr. Chair, I move that we go into  
39 executive session for the purposes Ms. Long just stated.

40 COUNCILOR HARRIS: Second.

41 CHAIR IVES: We have a motion and a second. Is there any further  
42 discussion?

43 **The motion to go into executive session passed by unanimous [5-0] roll call vote as**  
44 **follows:**  
45

46 Councilor Ives Aye



Commissioner Hamilton Aye  
Councilor Harris Aye  
Commissioner Hansen Aye  
Board Member Helms Aye

**ADJOURNMENT**

Having completed the agenda, this meeting adjourned at approximately 6:00 p.m.

Approved by:

\_\_\_\_\_  
Peter Ives, Board Chair

Respectfully submitted:

Debbie Doyle, Wordswork

**FILED BY:**

\_\_\_\_\_  
GERALDINE SALAZAR  
SANTA FE COUNTY CLERK

**ATTEST TO:**

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