



AGENDA

The City of Santa Fe And Santa Fe County

Buckman Direct Diversion Board Meeting

THURSDAY, MARCH 7, 2019

4:00 PM

CITY HALL

CITY COUNCIL CHAMBERS

200 LINCOLN

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF AGENDA
4. APPROVAL OF CONSENT AGENDA
5. APPROVAL OF MINUTES FROM THE FEBRUARY 7, 2018 BUCKMAN DIRECT DIVERSION BOARD MEETING
6. REPORT ON MARCH 5, 2019 FISCAL SERVICES AUDIT COMMITTEE (FSAC)

CONSENT AGENDA

7. Monthly Update on BDD operations. (Randy Sugrue, Interim BDD Operations Manager, rsugrue@santafenm.gov, 955-4501)
8. Request for approval to purchase system equipment from HACH Company for the amount of \$32,084.10. (Mackie Romero, BDD Financial Manager, mmromero1@santafenm.gov, 955-4506)

RECEIVED AT THE CITY CLERK'S OFFICE

DATE: February 27, 2019

TIME: 11:53 AM

9. Discussion and possible action on proposed revisions to the Rules of Order for the Buckman Direct Diversion Board. (Nancy Long, BDD Legal Counsel, nancy@longkomer.com, 982-8405)
10. Request for approval of Award of RFP '19/22/P to Long Komer & Associates to provide legal services for the Buckman Direct Diversion Board for a total amount of \$265,000 exclusive of NMGRT. (Mackie Romero, BDD Financial Manager, mmromero1@santafenm.gov, 955-4506)
11. Request for approval of Award of RFP '19/04/P to Glorieta Geoscience, Inc. to provide technical services to the Buckman Direct Diversion Board for a total amount of \$160,000 exclusive of NMGRT. (Mackie Romero, BDD Financial Manager, mmromero1@santafenm.gov, 955-4506 and Rick Carpenter, Interim BDD Facilities Manager, rrcarpenter@santafenm.gov, 955-4206)
12. Consideration and possible action on BDD Board Rio Grande Water Quality action items (from February 7, 2019 BDDDB meeting). (Kyle Harwood, BDD Legal Counsel, kyle@egolflaw.co, 986-9641)

DISCUSSION AND ACTION

13. Request for approval and for BDDDB recommendation to Santa Fe County Board of County Commissioners and City of Santa Fe's City Council to approve the Fiscal Year 2020 Buckman Direct Diversion Operating Budget and Other Fund Contributions. (Mackie Romero, BDD Financial Manager, mmromero1@santafenm.gov, 955-4506)
 - Public Comment
 - Request for approval of the proposed Fiscal Year 2020 Operating Budget and Other Fund Contributions and recommendation to approve by the County Commission and the City Council.

INFORMATIONAL ITEMS

14. Presentation on Los Alamos National Laboratory Clean-Up Efforts as they relate to RDX contamination and update on DOE Order 140.1. (Doug Hintze, or Designee, Manager of the Environment Management Los Alamos Field Office EM-LA, Rick Carpenter, Interim BDD Facilities Manager, rrcarpenter@santafenm.gov, 955-4206 and Kyle Harwood, BDD Legal Counsel, kyle@egolflaw.co, 986-9641) **VERBAL**
15. Presentation on Waters of the United States (WOTUS) regulations. (Alex Puglisi, Environmental Compliance Specialist, aepuglisi@santafenm.gov, 955-4232) **VERBAL**



16. Report from the Interim Facilities Manager. (Rick Carpenter, Interim BDD Facilities Manager, rrcarpenter@santafenm.gov, 955-4206) **VERBAL**

MATTERS FROM THE PUBLIC

MATTERS FROM THE BOARD

NEXT REGULAR MEETING: Thursday, April 4, 2019 at 4:00pm

ADJOURN

PERSONS WITH DISABILITIES IN NEED OF ACCOMODATIONS, CONTACT THE CITY CLERK'S OFFICE AT 505-955-6520, FIVE (5) WORKING DAYS PRIOR TO THE MEETING DATE

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

March 7, 2019

1. & 2. This meeting of the Santa Fe County/City Buckman Direct Diversion Board meeting was called to order by Councilor Peter Ives, Chair, at approximately 4:00 p.m. in the Santa Fe City Council Chambers, 200 Lincoln Avenue, Santa Fe, New Mexico.

Roll was called and the following members were present:

BDD Board Members Present:

Councilor Peter Ives, Chair
Commissioner Anna Hamilton
Councilor Michael Harris
Denise Fort, Citizen Member
Commissioner Anna Hansen

Member(s) Excused:

None

Tom Egelhoff [non-voting]

BDD Board Alternate Members Present:

Ginny Selvin [Las Campanas alternate]
JC Helms [Citizen alternate]

Others Present:

Rick Carpenter, Interim BDD Facilities Manager
Nancy Long, BDD Board Consulting Attorney
Mackie Romero, BDD Finance Manager
Stephanie Lopez, City Utilities Department
Bernardine Padilla, BDD Public Relations Coordinator
Randy Sugrue, BDD Interim Operations Superintendent
Michael Kelley, County Public Works
Kyle Harwood, BDD Counsel
Francisco Romero, BDD
Jay Lazarus, Glorieta Geoscience
James Bearzi, Glorieta Geoscience
Alex Puglisi, City Utilities, Environmental Compliance Specialist
Sara Smith, County Constituent Liaison

Marcos Martinez, Assistant City Attorney
Pat McGuire, N3B
C. Rodriguez, DOE EM-LA
Ben Underwood, DOE EM-LA
Stephen Hoffman, DOE EM-LA
Todd Nelson, N3B

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

There were no changes from staff.

Commissioner Hamilton moved to approve the agenda. Commissioner Hansen seconded and the motion passed without opposition.

4. APPROVAL OF CONSENT AGENDA

CHAIR IVES: Any changes from staff?

RICK CARPENTER (Acting Interim Facilities Manager): No, Mr. Chair.

CHAIR IVES: Very good. Changes from the Board? Member Fort.

BOARD MEMBER FORT: Mr. Chairman, I would like to request that item 12 be removed from the Consent Agenda for a brief discussion.

CHAIR IVES: Very good.

COMMISSIONER HAMILTON: Mr. Chair, I was wondering about item 7. Since that is an informational item and I recognize – I assume it was put on consent in case nobody really wants to hear the Operations Update and to be honest – and I'm open to whatever everybody else thinks, but I am thinking that it is pretty short and it gives us face time and it opens opportunities to ask questions about what's going on which we always seems to need to do.

CHAIR IVES: We are happy to pull it.

COMMISSIONER HAMILTON: Yes, please.

CHAIR IVES: Good.

COMMISSIONER HAMILTON: I was just giving the opportunity for somebody else to object.

CHAIR IVES: I'm not objecting. Councilor.

COUNCILOR HARRIS: If I could; we had this discussion at FSAC and both Commissioner Hamilton and I agreed that it's a valuable information item. So, yes, we should pull it off consent but in the future if we could have it as information we thought that would be appropriate.

CHAIR IVES: We can certainly do that. That's easy. Any other changes to the Consent Agenda? What is the pleasure of the Board? Commissioner.

COMMISSIONER HANSEN: Yes, I realize that most of our agenda is on consent but I'm wondering – we are pulling number 12 off; right?

CHAIR IVES: Correct.

COMMISSIONER HANSEN: And we're pulling seven?

CHAIR IVES: Correct.

COMMISSIONER HANSEN: Do we need to pull 9 for any reason?

CHAIR IVES: If you have questions on it, yes.

COMMISSIONER HAMILTON: I don't but –

COMMISSIONER HANSEN: Okay, I'm good with the change. I apologize, I just came back from Washington, DC and I got my packet a half-an-hour ago.

CHAIR IVES: No worries.

COMMISSIONER HAMILTON: Mr. Chair.

CHAIR IVES: Yes, please.

COMMISSIONER HAMILTON: I'd like to move to approve consent with those two changes.

COUNCILOR HARRIS: Second.

CHAIR IVES: Motion and a second to approve the consent agenda as amended. Is there any further discussion? All those in favor. Any opposed, any abstentions.

The motion passed by unanimous voice vote.

Consent Agenda

7. Removed from Consent
 8. **Request for approval to purchase system equipment from HACH Company for the amount of \$32,084.10**
 9. **Discussion and possible action on proposed revisions to the Rules of Order for the Buckman Direct Diversion Board**
 10. **Request for approval of Award of RFP '19/22/P to Long Komer & Associates to provide legal services for the Buckman Direct Diversion Board for a total amount of \$265,000 exclusive of NMGRT**
 11. **Request for approval of Award of RFP '19/04/P to Glorieta Geoscience, Inc. to provide technical services to the Buckman Direct Diversion Board of a total amount of \$160,000 exclusive of NMGRT**
 12. Removed from Consent
5. **APPROVAL OF MINUTES: March 5, 2019**

There were no corrections and Commissioner Hamilton moved to approve. Board Member Fort seconded and the motion passed by unanimous voice vote.

5. REPORT on March 5, 2019 FISCAL SERVICES AND AUDIT COMMITTEE (FASC)

CHAIR IVES: Mackie.

MACKIE ROMERO (BDD Financial Manager): Mr. Chair, members of the Board, a Fiscal Services and Audit Committee meeting was held on March 5th. In attendance was myself, BDD Financial Manager, from the City, we had Councilor Harris, from the County, Commissioner Hamilton and Joe Gonzales. And from our Las Campanas entity, Tom Egelhoff. We discussed consent agenda items number 8 which

was our request to exceed \$60,000 purchase threshold with HACH Company to purchase equipment. We discussed the City's purchasing policy and the need for equipment and there were no major concerns with this item. We discussed consent agenda items 9 and 10 which were our request to award proposals. We discussed the multi-term budgeting, what legal services were included in the compensation amounts; however, there were also no major concerns with those items. We discussed the approval and recommendation of the budget which will be discussed further in the agenda and we also discussed vacancies which will also be reported later on by our Facilities Manager and we did discuss the next PMFSA committee meeting which I have tentatively scheduled for March 20th as long as everyone from the committee accepts that invitation. So hopefully there will be no changes to that meeting. That's my report. If you have any questions?

CHAIR IVES: Questions? Good, thank you, Mackie.

Consent Agenda Items:

7. Monthly Update on BDD Operations

CHAIR IVES: Commissioner Hamilton.

COMMISSIONER HAMILTON: I was wanted to hear the presentation and then to see if there are any questions and I really appreciate it.

RANDY SUGRUE (Interim BDD Operations Superintendent): Thank you, Mr. Chairman, members of the Board, I appreciate the opportunity because there are a couple of minor changes that I should throw in and I will.

For the month of February BDD raw diversions averaged 3.5 million gallons per day. Drinking deliveries through Booster Station 4A and 5A averaged a little over 3 million gallons per day. Las Campanas did divert water in February because it's a cold month Tom doesn't divert much water but it did on about the 20th divert about 1.6 million gallons which is an average over the month of about 60,000 gallons a day, a significant amount of water. Our on-site treated and non-treated water therefore was about .41 million gallons per day. The BDD provided approximately 51 percent of the water supply for the City and the County for the month. We have our water resources drought update included which in general is positive. And then I revised the graph to just show 2019.

I had a request and I would like to ask your permission on future reports if you'll notice there's about eight pages of previous years' diversion numbers and that's repeated every month, and I'd like to just include the previous year to save paper and time and bulk in the packet. So with your permission, next month I'll just provide a report of this year and 2018 for comparison. If you ever have any questions, the information is easily available.

CHAIR IVES: Does any member of the Board have problems with that or concerns, if you could identify them now, otherwise I think that's fine.

MR. SUGRUE: Thank you. The other small item. Tom reminded me of this. When we put the packet together it is generally about the third week of the month in question and so I only have numbers up until about the third week. I try and then average for the rest of the month. So when I come in I can give you the minor corrections, again next month, on water diversions because there's usually five to seven days that I can't

specifically include. So in the future, I'll give you my estimation to the end of the month and then I'll give you a minor correction or two if they are pertinent.

CHAIR IVES: Accuracy counts so that sounds very good.

MR. SUGRUE: It is important to us.

CHAIR IVES: Any other part of the presentation, otherwise we'll go to questions.

MR. SUGRUE: Please, I'll stand for questions.

CHAIR IVES: Questions from the Board, Commissioner.

COMMISSIONER HAMILTON: I have just a quick question just about the Las Campanas diversion because that's different than the raw water delivery that you have listed here which is 000.

MR. SUGRUE: Yes, it is different because at that point when I put the numbers together Tom hadn't diverted.

COMMISSIONER HAMILTON: Got it. Thank you.

MR. SUGRUE: And so, again, I can bring that to the Board's attention monthly there will be some minor corrections that have the specific/the actual numbers for the tail end of the month.

CHAIR IVES: Other questions from the Board, Commissioner.

COMMISSIONER HANSEN: This is just hypothetical but what do you see, or does anyone see or have a good projection of what might be the runoff and how much water will start coming?

MR. SUGRUE: Quantity wise we can't really say. There's too many variables but it looks good. At this point at our upper SNOTEL gauging station, there's over 4 feet of snow.

COMMISSIONER HANSEN: Oh, okay.

MR. SUGRUE: So as the warmer weather comes in, that is going to result in a great influx of water to the reservoirs. Canyon Road is already ramping up production to bring the water level of the upper reservoir down to allow capacity to handle that inflowing water. So it's looking good.

COMMISSIONER HANSEN: Thank you.

BOARD MEMBER FORT: Just one follow up question on that, Mr. Chairman. When will the meetings of the parties with respect to the BoR deliveries be held this year?

MR. CARPENTER: It's normally, I'm sorry, Mr. Chair, members of the Board, it is normally scheduled for April. I was just informed earlier today, however, that meeting will be combined with another meeting of the San Juan-Chama Contractors Association which is currently scheduled for March 22nd. So we should have an update and we can provide that to the Board at the April Board meeting.

CHAIR IVES: Other questions? Yes, Commissioner.

COMMISSIONER HANSEN: Is that meeting open?

MR. CARPENTER: It will be a public meeting.

COMMISSIONER HANSEN: So will it be here in town?

MR. CARPENTER: Mr. Chair, members of the Board, the meeting will be held at the Convention Center here in Santa Fe.

COMMISSIONER HANSEN: Thank you.

CHAIR IVES: I had one question. In the middle of page 2 in the packet, it states, "the City received over 90 percent delivery from BoR of full firm-yield of San Juan-Chama Project water for year 2018," and then it goes on to say that, "in 2019 it is projected to be about normal," and my recollection is that 2018 was the first time we had anything less than 100 percent. So that to me means our 100 percent is our normal so we're anticipating 100 percent.

MR. CARPENTER: That's a good observation. The deliveries from the project were about 90 percent of full firm-yield; however, we were able to divert more than that because we had water in storage from previous years. As Mr. Sugrue indicated we are expecting very good runoff, at least normal if not above normal for this year. I think we'll probably get 100 percent this year.

CHAIR IVES: It was phrased oddly given what I understood at least normal to be. So, thank you. Anything else? What is the pleasure of the Board?

NANCY LONG (BDD Board Counsel): Yes, Mr. Chair, this is an informational item, usually.

CHAIR IVES: Thank you very much for your report. I look forward to the changes next round.

MR. SUGRUE: Thank you. Very good. We produce a great product and I appreciate your support in helping us do that.

COUNCILOR HARRIS: Thank you.

12. Consideration and possible action on BDD Board Rio Grande Water Quality action items (from February 7, 2019 BDDDB Meeting)

CHAIR IVES: This takes us to the second item from the consent agenda. Board Member Fort, would you like a presentation first?

BOARD MEMBER FORT: I don't need one, thank you, Mr. Chairman. Kyle, the letters are great. I think the one suggestion I would like to make with respect to them and looking for example at the letter on page 3, the final paragraph begins, "The BDD's ability to divert," I'd like to fill this in more and I think everyone now on this Board understands the issues that are involved but I guess related to this that this will be less than a formal motion, I think it would be great if we told the public what we're doing with respect with – I'm looking up to see our public relations person or communications person here – I think it would be great if we were able to tell the public what we're doing with respect to protecting water quality, what we're attempting to do and for those purposes a letter that has a fuller explanation about what we're looking at with respect to Los Alamos, what we're looking at with respect to TMDLs and so on would be helpful. I'd like a few more in effect informational paragraphs. This is fine for the audience to which it is going but so that it could be used and distributed to other audiences. Thank you.

KYLE HARWOOD (BDD Counsel): Might I suggest that you and I work on some language and we'll bring back a new draft for the next meeting.

BOARD MEMBER FORT: Sure.

CHAIR IVES: We can certainly do that.

COMMISSIONER HAMILTON: Well, just one question. I think that's a great idea. My only thought is the longer the letter – this gets right to the point. This

being succinct has some communicative advantages. Would be effective to have a one-page appendix to the letter so it takes it out of the flow of the key thoughts but still provides the information? You guys would still have to work on it and bring it back but you can think about that.

MR. HARWOOD: With two lawyers in charge of an appendix.

COMMISSIONER HAMILTON: I'm trying to think of something snarky to say, but it's not coming to me.

CHAIR IVES: No more than 50 footnotes.

COMMISSIONER HAMILTON: Thank you.

BOARD MEMBER FORT: And I'm sorry, Mr. Chairman, I would make the same point with respect to the other two letters that are there. So I understand – I guess, it seems to me that we would begin the first parts of the letter explaining what we're doing and what we're doing right and then the kind of action paragraph is one in which we're saying what we would like to see from the Environment Department, what we would like to see from the elected representatives. So perhaps we would even lead with those paragraphs: here's what we're asking from you and here's what we're doing.

I think we deliver a very good product. There's a lot of people within the City who probably still don't know that and they're buying bottled water and so on and so I think we should be proud of our activism in this area and proud of the role that we're going to play within the state. So I'd like to make these letters ones that will be persuasive to a large audience. Thank you.

COMMISSIONER HANSEN: So, I was meeting with Senator Heinrich yesterday and I really think that this is an important letter that Senator Heinrich would be also very interested in. We had a discussion about the Buckman Direct Diversion when I was in his office with him so besides Senator Udall, I definitely think we should include Senator Heinrich.

MR. HARWOOD: On that point, Commissioner, it just makes sense to send it to all five congressionals perhaps.

COMMISSIONER HANSEN: Pardon?

MR. HARWOOD: To send it to all five congressionals.

COMMISSIONER HANSEN: Yeah, I think that would be really good even though Representative Haaland and Xochitl Torres Small are not directly impacted but I think water quality is a really important thing to all of them and they should know what we're doing and I think that they would be interested in knowing what we're doing.

MR. HARWOOD: And they all drink water in Santa Fe when they come to visit.

CHAIR IVES: You found the common denominator. Very good.

COMMISSIONER HANSEN: Chair.

CHAIR IVES: Yes.

COMMISSIONER HANSEN: I just want to make one more comment. I did brag about our water today on the plane. I was sitting next to a person who does solid waste in Connecticut and he said to me that people just really have to start drinking tap water and water out of their taps, you know. And, I said, yes, we have the Buckman Direct Diversion and we have really good water.

CHAIR IVES: As well as Canyon Road Treatment, another good source, of course. But, yes. So, we won't take action on this today. So the direction is to take it

back and work with Board Member Fort on modifications to be brought back to the next meeting of the BDD for action at that point in time, yes?

COMMISSIONER HAMILTON: Sure, that sounds good.

CHAIR IVES: That is the consensus. Very good.

DISCUSSION AND ACTION

13. Request for approval and for BDDB recommendation to Santa Fe County Board of County Commissioner and City of Santa Fe's City Council to approve the Fiscal year 2020 Buckman Direct Diversion Operating Budget and Other Fund Contributions

MS. ROMERO: Mr. Chair, members of the Board, during last month's Board meeting, the Buckman Direct Diversion presented our annual operating budget request for fiscal year 2020. This request was for \$9,696,409 to support our operations plus annual contributions to the Major Repair and Replacement Fund for \$626,706 for a total recommendation of \$10,323,155.

Mr. Chair, prior to approval and recommendation our JPA states we will allow for public comment. But I just wanted to refresh your memory on the budget numbers. Thank you.

CHAIR IVES: I appreciate that.

Public Comment

CHAIR IVES: Let's move on to public comment which we had postponed from the last meeting to this one. Is there anybody who would like to address the Board on the budget that has been presented? There being none, we'll close the public comment on the budget.

Request for approval of the proposed Fiscal Year 2020 Operating Budget and Other Fund Contributions and recommendation to approve by the County Commission and the City Council

CHAIR IVES: Let's move on to questions of the Board. Mike, Councilor.

COUNCILOR HARRIS: Thank you, Chair. We had no real questions. I think everybody has seen it and worked it, understand it and we all know where the bump is having to do with litigation costs. We have accepted that. I think the point that we're going to hear from Mr. Carpenter is really what we talked about, Mackie, Ms. Romero mentioned that we lost or we're about to lose another key person and so we've got real staffing issues at Buckman Direct Diversion that we really need to address. And that's probably the most substantive discussion we had FASC on Tuesday regarding the budget.

CHAIR IVES: What is the pleasure of the Board with regards to the budget?

COMMISSIONER HAMILTON: Mr. Chair, I would move to approve the budget.

COUNCILOR HARRIS: Second.

CHAIR IVES: We have a motion and a second. Further discussion. There being none all those in favor signify by saying aye.

The motion passed by unanimous voice vote.

CHAIR IVES: Very good. Mackie, thank you, and on to the respective governing bodies.

MS. ROMERO: Yes, thank you.

INFORMATIONAL ITEMS

- 14. Presentation on Los Alamos National Laboratory Cleanup Efforts as they relate to RDX contamination and update on DOE Order 140**
[Exhibit 2: DOE-OEM Presentation; Exhibit 3: DOE Order 140 Materials]

MR. HARWOOD: Thank you, Mr. Chair. I'd like to just take one moment to identify and welcome Mr. Hoffman to the podium. He is in for Mr. Hintze this week because, as Mr. Hintze indicated he would be out of state, so I would like him to just introduce himself for a moment because I think you can do a better job than I.

STEPHEN HOFFMAN (DOE EM-LA): Thank you all for inviting us here. As Kyle mentioned, my name is Steve Hoffman, I'm the deputy manager out at the Environmental Management Field Office in Los Alamos. You routinely hear from my boss, Mr. Doug Hintze who is on work related travel. Just as a quick reminder of what we do up there, our legacy waste cleanup project is driven by, predominantly, by two lines of effort: our solid waste and our solid and water lines of effort. That is how we're funded. Soil and water pertains primarily to investigating and remediating hazardous chemical contamination. And the solid waste line of effort involves retrieving, packaging and shipping mixed low-level and solid waste. Low-level waste going predominantly to commercial vendors where our transuranic waste goes exclusively down to the Waste Isolation Pilot Plant down in Carlsbad, New Mexico.

So I think my boss has already beat me to the punch and brought you what we call our "smart book." If you need one, I brought one that we can pass around and if we need more I can deliver them –

COMMISSIONER HANSEN: We have not gotten the smart book.

MR. HOFFMAN: Well, then I've got one up on my boss. I'll leave this one and if you like it, we'll bring more. It is publicly releasable. With me this afternoon is Mr. Patrick McGuire, he is our project director for our Royal Demolition Explosive or RDX campaign. He's got 35 years experience. He has a wealth of knowledge in characterizing and remediating hazardous soil and water and I think you're going to enjoy his presentation. With that, I'll turn this over to Mr. Patrick McGuire.

MR. HARWOOD: Just to be clear Board, I think that Doug brought that book last month and handed out copies of it. We are happy to get copies anew or I can scan it and send it out. I'll scan it and put it in the archive that we'll be talking about in a minute so that it will be available to you all without further printing. And just for the Board's information, we asked Mr. McGuire to do a 10 minute presentation of RDX and then to get back to the final item on this agenda.

PATRICK MCGUIRE (N3B): Mr. Chair, members of the Board, thank

you for allowing me to come in here today and give you a presentation on RDX. If you'd like to go to page number 2, these are our presentation topics. And I hope that the take-away today is that you'll come away understanding that RDX does not threaten public water supply and that we have a plan in place to be sure that it does not.

If you want we can go to the next slide. This is a conceptual cross-section of the Mesa Canyon setting and the groundwater systems that underlie it. And you'll see here that there are three groundwater bodies. We have the alluvial groundwater, that's the shallow groundwater. We have perched intermediate and then we have the deeper regional groundwater system. And the regional groundwater system and that's where the public water supply wells are screened, the top of that water body is about 1,300 feet below the top of the mesa. So below ground surface. We monitor all three groundwater systems; the alluvial, the perched and the regional. And, again, as the slide shows, the public water supply wells are screened in the regional aquifer.

If you'd like to go to the next slide, I'll give you a little bit of history. Back in the early 1950s in an area called TA-16, facilities were constructed in the southwest portion of the laboratory. And these facilities, we call it building 260, were produced and constructed for the manufacturing and casting of high explosives of which RDX is one and this program supported the nuclear weapons program. In the process of making RDX and high explosives, water is used. So during the manufacturing years several million gallons per year of wastewater was discharged to the Cañon de Valle through an outfall that we refer to as 260 outfall. So back in the early 1990s there was a soil investigation. RDX was detected in the soils. In the late 1990s there was a groundwater investigation and RDX was measured in both the intermediate groundwater system as well as the regional groundwater system. The levels that were detected were below any standard but it was detected back in the late 1990s. And presently we do detect RDX in springs, surface water and shallow groundwater. Now we try to get a kind of estimate of the mass of RDX that is in the system. So if you look at just what's below the TA-16 area, again the outfall 260 there is approximately 1,500 to 3,600 kilograms of RDX in the system. In the regional groundwater, we estimate that there is 35 to about 415 kilograms of RDX in the system.

I'd like to go to the next slide. Based on the results of that initial soil investigation in the early 90s, from approximately 2000 to 2010 there was remedial activities that took place and that remedial activity, in essence they were, as I refer to them, as dig and haul jobs. Basically, there were several excavations. The excavations were completed so that the side walls and the bottom of the excavations met the soil cleanup standard and then after that standard was met, these excavations were backfilled. In addition, there was some permeable rock and this rock contained residual RDX. It was going to be difficult to excavate and so grout was injected into the permeable rock. In the business we refer to that as in-situ stabilization. In essence what it does is it creates this cement/concrete area that does not allow water to infiltrate through it. So you have this concrete/cement block, water if it does come into contact with it, it is shed off. So water is not able to come into contact with RDX and therefore it doesn't get into the deeper groundwater system.

At the completion of that work there was a construction completion report that was submitted to NMED and NMED approved it in 2017 and concluded that the surface remediation was complete and no further action was required. It did require that there

would be long-term monitoring and so on semi-annual basis we still monitor the surface water alluvial against shallow ground water as well as the springs. We also do an inspection of where the soil remediation took place to make sure there's no erosion occurring. And there is a report that is due at the end of September of every year. We refer to it as the Long-Term Monitoring and Maintenance Report. And that report is a Consent Order milestone that we need to meet.

So if you go to the next slide, I would like to just briefly talk about the geographic relationship between where the RDX area is and where the Buckman Direct Diversion is located. And if you look at the slide here you see the dark brown area, that is the water canyon water shed. If you at about 3/4s of the way if you will, up to the left you'll see a number of symbols, that is the TA-16 area that's where the RDX area is located. And the RDX area is located in the Cañon de Valle. Cañon de Valle meets Water Canyon and then the Water Canyon discharges to the Rio Grande where you see that blue star. That discharge location is approximately five river miles downstream of the Buckman Direct Diversion. So, again, we monitor the stormwater sediment in the three groundwater zones. Again, we do see RDX in the alluvial groundwater system. I would mention that we also see evidence of natural biodegradation of RDX within the alluvial system. We see the byproducts of that degradation when we collect groundwater samples. And as I mentioned the discharge from the Water Canyon, again, this is the canyon where all of the RDX work takes place, that the discharge is actually five miles downstream of the Buckman Direct Diversion.

If you go to the next slide, once the surface remediation was complete then the focus could become deep groundwater. In order to investigate deep groundwater you've got to install groundwater monitoring wells. And so that installation of the monitoring wells helps us assess the nature and extent of contamination. So the nature is, it's RDX. The extent is, what's the size, what's the footprint of RDX within the system. So as I mentioned there are groundwater monitoring wells in the intermediate zone and that's about 600 to 1,000 feet below ground surface, again, below the top of the mesa, so below ground surface. And there are about 12 monitoring wells within the intermediate groundwater zone. We also have approximately nine wells that are within the regional aquifer that monitor water quality within the regional aquifer underlying the RDX area. In addition to understanding the nature and extent, we also need to understand the fate and the transport of RDX in the system. So if you will, what is a molecule of RDX when it is in the system? What does it do when it comes into contact with a clay mineral? What does it do, as I mentioned, if a bacteria gets it and uses it in its metabolic processes? So we have to understand that as well. So there are other studies that have been conducted. Tracer studies, aquifer tests, we've done some bench scale studies and we have determined that groundwater flows at about 20 to 40 feet per year. So on average about 30 feet per year. And all of these investigation activities were done with NMED's approval.

I'd like to go to the next slide and I'll walk you through what we think, in terms of a conceptual model, what's happened here. If you look at this cross section, to the left of cross section are the Jemez Mountains and as you move down slope you'll see where there's Highway 501, Cañon de Valle as well the 260 outfall.

So there are two main flow regimes in this system. As you see, if you're looking from the left of the slide, the cross section you see the shallow, if you will, blue arrows

that are moving horizontally. That's shallow groundwater flow in the system. That's referred to the mountain front. And this mountain front water will percolate into deeper zones as well as it comes into contact with faults and the faults are depicted by the red vertical line with the up and down arrows, so when that mountain front water comes into contact with faults it will then go deeper. And this deeper flow regime is referred to as the Mountain Block. So here is what we think happens: the mountain front water which is originating from the snowmelt and rainfall in the Jemez Mountains, that shallow water flows downhill and it then comes into contact with the RDX that was in the outfall 260 area and that water that contains RDX infiltrates down and gets into the intermediate zones. It continues to infiltrate down and then gets into the regional aquifer. And this shading that you see here, the RDX pathway, I'm trying to depict the concentration, what happens to the concentration of RDX. So within the shallow zones right beneath the 260 outfall, RDX concentrations are higher and then they decrease as you move down through the system.

So if you go to the next slide, take a look at the system in plan view. The red symbols, they depict monitoring wells that are screened within the regional aquifer. The green symbols depict monitoring wells that are screened within the perched intermediate zone. To the right of the slide you see the larger green symbols that depicts the closest water supply wells. If you look to the left, you'll see this blue outline, this tongue shape. This is the extent of the perched intermediate water. If you look within there you'll see a green outline that outlines the area, the extent of RDX that's within the perched intermediate zone. And then this yellow-shaded area, that depicts the extent of RDX within the regional aquifer and within that yellow zone you'll see the two purple symbols. Those symbols depict two wells that exceed the NMED tap water screening level of 9.66 micrograms per liter or parts per billion.

One thing I would also point out is that there's a distance of over three miles from the eastern extent of the RDX to the public water supply wells. One thing that I also would point out is that RDX has never been detected in a public water supply wells. As part of DOE supplements the monitoring program that the county has and the monitors for RDX and high explosives they have never been detected in a public water supply well. It has often not been detected in the wells that have been found in between this yellow shaded area and where the green wells – the public water supply wells depicted by the green symbols. And DOE will continue to collect this monitoring data.

If you go to the next slide, so upcoming activities. In August of this year there will be a report submitted to the NMED and it is referred to as the Deep Groundwater Investigation Report and that report is going to focus on RDX in the perched and regional aquifers. The objective of this report is to determine whether we have sufficiently characterized RDX in the system. In addition there will be a numerical model that will help us understand what RDX footprint will look like in the future. What that will help us do is to determine whether long-term monitoring will be sufficient to be protective of the public or whether we need to go into some form of remediation. Regardless of what the decision is, long-term monitoring will continue.

If you'd like to go to the next slide, it gives you a sense of schedule. As I mentioned there is ongoing monitoring. In August 2019, that's when the report, the deep ground water investigative report will be submitted to NMED. And I'd also like the Board to understand that we hold monthly meetings with the NMED and the purpose of

holding those meetings is to ensure that we get their input along the way as well as they understand what we think of how the system is operating and so that when we submit this document in August there should be no surprises to the NMED and that we anticipate that there would then be a fairly quick turnaround in terms of their review. And we anticipate their review being completed in February 2020. As I mentioned before, the decision at that point could be long-term monitoring is sufficient to be protective of human health in the public water supply or we need to go into a corrective measures evaluation. Corrective measures evaluation is a feasibility study that we would assess and evaluate remedial alternatives. In August of 2020, and this is a target Consent Order milestone date, there would be a decision by the NMED of what the remedial alternative/remedial design would like that. We would then go into the design phase which is referred to here as the corrective measures implementation plan. That would be submitted sometime in September of 2021 and then from there you go on to operate your remedial system.

That's the presentation. With that, I would be happy to take any questions.

CHAIR IVES: Questions? Commissioner.

COMMISSIONER HANSEN: What hazard level is this considered, the RDX, is this a hazard 1, hazard 3, hazard 5?

MR. MCGUIRE: It is considered a possible carcinogen.

COMMISSIONER HANSEN: Possible, so it doesn't have a hazard level associated with it.

MR. MCGUIRE: It is referred to as a possible carcinogen.

COMMISSIONER HANSEN: And are you sampling in Water Canyon?

MR. MCGUIRE: And so within –

COMMISSIONER HANSEN: Are you doing surface waters?

MR. MCGUIRE: So where the confluence of Cañon de Valle and Water Canyon, their confluence, there is a surface water sampling location there and we do sample semi-annual. RDX has never been detected at that location.

COMMISSIONER HANSEN: And what happens when humans come into contact with this?

MR. MCGUIRE: You know, it's my understanding reading some of the history that particular with soldiers in C4, RDX made a great deal of C4 that when they would want to start their fire to cook their food they would use their knives and they would cut up the C4 and then they would use it to cut their food and so they became exposed it and it causes nausea. It can cause convulsions, and causes them to become very sick.

COMMISSIONER HANSEN: So besides nausea and making you very sick, you said it is a carcinogenic, so have cancer been found in the soldiers that have been doing this? What is the level of carcinogenics that we're dealing with?

MR. MCGUIRE: Well, if you look at the tap water screening level that NMED tap water screening level of 9.66 micrograms per liter, that number is derived from someone, 150 pound person drinking one liter of RDX at that concentration every day for 70 years. If that was the case, there would be one additional cancer risk in 100,000 people.

COMMISSIONER HANSEN: And then I know you have all of these corrective measures and that you're working with NMED but are you still – is this chemical still being injected into the ground in any way up in Los Alamos? Or is it being

disposed into the ground anywhere?

MR. MCGUIRE: No. What there is, is there is still research that is ongoing. There are waste management practices that are in place that does not allow the wastewater to then get into the environment.

COMMISSIONER HANSEN: So you have this review and the corrective measures, I'm sorry I don't know if I really got an answer there. Are you still putting this stuff in the ground?

MR. MCGUIRE: No, ma'am.

CHAIR IVES: And on that point, I know you're on the EM side. I don't know if you have full knowledge of what NNSA is doing on the other side of the house.

COMMISSIONER HANSEN: Right, on the other side of the house you don't know. On the plant whatever terminology you want to use.

MR. MCGUIRE: I've been to the facility –

[Speaking from the audience, Mr. Hoffman states that there is no more outflow since the 1990s]

CHAIR IVES: The only thing I would ask is that if you speak please come down to the microphone. Just so that we can capture it.

COMMISSIONER HANSEN: Thank you, Chair.

MR. HOFFMAN: Thank you, Patrick, you did a great job. No more outflow since the 90s as mentioned in the presentation. That's not connected to the EM or NNSA message line. This is just want it is.

COMMISSIONER HANSEN: What can you do to remediate this?

MR. HOFFMAN: We have not begun investigating CMEs as Patrick mentioned corrective measure evaluations study of alternatives because we haven't even finished evaluating the extent, as he mentioned, wells to evaluate where the extent of this contaminant is.

COMMISSIONER HANSEN: And so you've known about this since 1990; correct? Isn't that what you said?

MR. HOFFMAN: Not from memory but from the slide there, the first investigation in soil occurred in the mid 1990s and the outfall discharge was terminated in 1996. We don't have any great fidelity in terms of what's beyond that slide right there.

COMMISSIONER HANSEN: So in 20 or 30 years, you've not come up with anyway to remediate this anywhere across the country? This must exist in other sites, other places and they don't have a way to remediate this?

MR. HOFFMAN: There may be indeed other techniques. We are not prepared to talk about them tonight. That's not really the point of the presentation. The point is to give you an understanding of the extent of the contamination, what we're currently doing and how we're interacting very closely with NMED on this.

COMMISSIONER HANSEN: Okay. Thank you.

MR. HOFFMAN: You're welcome.

CHAIR IVES: Other questions? Board member Fort.

BOARD MEMBER FORT: Just a quick question on this. Do I understand that RDX is the only contaminant that has been found as a result of the outfall or is this presentation just about RDX?

MR. HOFFMAN: This is about RDX. When we do our sampling, we pull out an entire slate of potential contaminants and RDX is the area of interest so hence the

briefing.

BOARD MEMBER FORT: But when you say the area of interest, are there similar projects going on with respect to other contaminants or it means no other have been found at levels that are above the Environment Department levels?

MR. HOFFMAN: I'm going to have to phone a friend for that; Pat.

MR. MCGUIRE: So within the RDX area, again as Steve has mentioned, when we analyze we analyze for a whole suite of compounds. Not only the high explosives but also semi-volatile, volatiles and we do detect other high explosive compounds but not at the concentrations that we find of RDX. Also, there are some very intermittent, very low level detections of chlorinated solvents like a TCE for example. But the primary focus, and if you look at the extent – as I mentioned the nature of the contamination within the area everything points to RDX. That's what you really want to address.

BOARD MEMBER FORT: Okay, thank you.

COMMISSIONER HANSEN: And, Chair, did you say you were under a Consent Order to clean this up or – do you have a Consent Order with NMED?

MR. HOFFMAN: This is indeed part of the Consent Order and as Pat mentioned the first milestone that – looking on the very last slide before the question slide, you see that NMED reviews our deep groundwater investigative report and then there's a potential interaction with corrective measure. That is, we may simply observe it and let it attenuate naturally or with NMED's guidance we may take on an active technique or campaign to attenuate it. Regardless, this is part of our Consent Order and so you're seeing some of the milestones or parameters right there. Mr. Harris.

COUNCILOR HARRIS: Yeah, so the deep groundwater investigative report, that covers a range of potential contaminants not just RDX; is that correct?

MR. HOFFMAN: I'm sure it does. I'll let our pro come back to the mike.

MR. MCGUIRE: Yeah, we will mention the other contaminants but again the focus is RDX. And when you look at the Consent Order and actually look at the milestones that are in the Consent Order, one of the – it focuses in on RDX and what the Consent Order milestone has in there is that there will be a groundwater risk assessment addressing RDX within the system. Again, in the report we will talk about all of the compounds that have been detected but the focus will be RDX.

COUNCILOR HARRIS: Okay, all right. I'm curious and I know that you don't have a crystal ball but what is your expectation about the report and how it might be received?

MR. MCGUIRE: We are, as I mentioned, engaging the NMED on a monthly basis. We are working through issues. At this point without seeing the results of numerical modeling because that's going to help us understand what the RDX footprint will be in the future and so I don't really – I'm trying to keep an unbiased opinion of where we might go with this. But, again, I am hoping that with the meetings with NMED and having the numerical modeling results we should have our future runs, again looking at the future footprints here within the next month or so, so we'll have plenty of time to be able to assess the model and the model results and take a look at the footprint and then try and make a decision from there.

COUNCILOR HARRIS: So based on – so funding levels, does that remain an issue? I mean, that's always part of the pace for any cleanup operations and

certainly that would apply at Los Alamos.

MR. HOFFMAN: We are well funded right now. That is not a constraint. So this is an initiative, a campaign, it's one of the more highly prioritized one. And it's not taking a backburner to any other funding initiative.

COUNCILOR HARRIS: Okay. All right. Thank you, Chair.

CHAIR IVES: I was just going to just come back to two points in the presentation. One was the map on page 6 which shows the outflow of Water Canyon but that's five miles downstream from the Buckman Diversion?

MR. MCGUIRE: That's correct. That's where the blue star is. That's where the discharge from the Water Canyon is to the Rio. That's correct.

CHAIR IVES: Okay, so presumably one could draw the conclusion that the RDX moving on gradient is really not a concern for Buckman probably at any point in time.

MR. MCGUIRE: I would make that conclusion, yes, I would agree with that.

CHAIR IVES: And then you talked about the relative speed of groundwater flow 20 to 40 feet per year, maybe an average of 30, and I'm not sure of the distance from that eastern most edge of the RDX contaminant how far that is down to the Rio Grande? But it looked like, just looking at the map, it could be 8 to 10 miles.

MR. MCGUIRE: I agree with that. That is correct.

CHAIR IVES: In which case we're talking at the 30 feet per year, 880 years plus.

MR. MCGUIRE: That's correct, yes.

CHAIR IVES: Okay. And I understand that obviously things may need to be done and I don't know the characteristics of RDX underground and whether there are any natural processes that make it less significant in terms of its pollutive affects but, again, it doesn't seem to be certainly any type of risk for BDD or certainly an immediate risk for anybody's water except Los Alamos and that's why you're monitoring it with regards to the wells up there.

MR. MCGUIRE: That's correct. And when we look at the studies that have been done and look at how RDX moves through the groundwater system it actually moves a little bit slower than water itself. And we anticipate that one of the conclusions from the deep ground water investigation report that there will be additional monitoring wells that will be screened to the east side of the extent of RDX. So, again, to provide some additional sentinel wells to be sure that it never gets to the public water supply or if it was heading that way, we would have plenty of time that it would be detected and then we would have plenty of time to remediate before it ever would get into the public water supply.

CHAIR IVES: Great. Two final questions. When do you think you'll have the RDX fully characterized based upon the work you're doing?

MR. MCGUIRE: Well, part of the deep ground water investigation report is to determine if we have sufficient data. I would say right now, professionally, that we have a pretty good handle on the eastern edge of the RDX extent. So, again, we have a good handle on the eastern extent; the extent between the RDX and the public water supply wells. Where we lack data is the western side, the Jemez Mountains side. But, again, groundwater flow would have it be that we would have sufficient coverage if you

look at the way that groundwater flows on the eastern side of the extent of the RDX.

CHAIR IVES: Okay. And then the last question, at the beginning part of the presentation the milestone report was referenced as being provided in September of the year but that last, second to last page, referenced reports the deep groundwater report going in in August; is that the same report or are they different?

MR. MCGUIRE: They are different. The one that is due annually in September we refer to as a long-term monitoring and maintenance. So that is the long term monitoring for the shallow soil and groundwater system. So that's where we monitor surface water. We monitor the springs and we monitor shallow groundwater. Then we collect samples on a semi-annual basis and then we prepare the report that is submitted to the NMED in September. And so that takes care of the surface if you will. And now we're writing a report on the deep groundwater system.

CHAIR IVES: Okay, thank you. I wasn't sure which is why I wanted to ask. Any further questions in connection with the presentation? There being none, gentlemen, thank you very much for coming down. It's always informative and fascinating so thank you.

Update on DOE Order 140.1 [Exhibit 3]

CHAIR IVES: We would thank our counsel who has to run off to another meeting and let us continue. We lost one counsel and have replaced counsel. [Ms. Long departs and Mr. Harwood takes her seat.] Welcome, Kyle. So a presentation on DOE Order 140.1

MR. HARWOOD: So as many of you know, there has been some proposed changes to the interface with the Defense Nuclear Facilities Safety Board and I believe this item was added to the agenda so that we can discuss that proposed change and some of the communications that have been made around it. And I'll just mention by way of introduction that I will be placing – I believe you already have materials handed out, is that right? So those materials will go in the dropbox archive that I also sent out today to the Board.

COMMISSIONER HANSEN: Thank you, Kyle. I asked Kyle if we could discuss this because I attended and I was really sorry to – I know that your name was listed on the places to make comments, Chair Ives, and I was sorry that you couldn't make it to Albuquerque. But I wanted to share with you my comments and the comments from the CAB which is the New Mexico Citizens Advisory Board that serves up there. And part of the reason I have been working with Senator Udall and Senator Heinrich both on this, they are extraordinarily concerned about DOE Order 140.1. They believe along with the chairman of the Defense Nuclear Facilities Safety Board that this is actually a violation of the rule of law. That this order is overstepping their boundaries, DOE. There are four main points and it's covered in my letter. The first is departmental elements, and I am wondering if we have enough copies to hand some out to the audience members? Did we have any? I made sure that everyone had copies. So acting at the direction of the secretary or the secretary's designee to deny access to information where the person requesting the information does not need such access in connection with his/her duties, the secretary can deny the Defense Nuclear Safety Board access to information which is a violation of the statute because they are an oversight board and

they were defined and set up by Congress. So they are not a – they are not overseen by DOE. They are overseen by Congress so it is a statutory issue.

And then second it appears to improperly limit the DNFS access to only complete documents in two key areas. One is where the documents contain DOE decisions on the safe design and operation of defense nuclear facilities. So, and I'm not going to read the whole paragraph, but I'll give you an example of why this is such problematic. When they were designing the chemical metallurgy, the CMRR or metallurgy building, if the Defense Board wouldn't have been there to do oversight we would not be aware of the fault lines that are in Los Alamos and the problems with the fault and so therefore then the design of that building had to be redone because of the Defense Nuclear Safety Board.

Third is that the contractors, this will be written into the contractors, basically it amounts to a gag rule for the contractors not being able to give information to the Defense Nuclear Facilities Safety Board once their contract has been implemented. This was a discussion at the public hearing. The chairman and the board, the Safety Board, questioned Sandia and Los Alamos and the environmental management of Los Alamos with Los Alamos Environmental Management this order has not been put into the contract of N3B because their contract was signed before the order was put into effect which was in May 2018. So that means it will come up next time. What was also stated during the public hearing by the attorney for the Defense Nuclear Facilities Safety Board is that they're basically losing up to 70 percent of protection and that WIPP will lose all oversight Defense of Nuclear Facilities Safety Board which I consider incredibly serious since we had an explosion there that lasted for three years and closed the facility.

And, fourth, was the health and public safety and defining where the health and public safety is of workers inside defense and outside defense. So this order from DOE 140 would therefore not – would state to the Defense Nuclear Facilities Safety Board that they would no longer be overseeing workers. Outside defense they would be seeing them and that is not the intent of the statute. The statute is very clear that it is there to protect workers along with the public health and safety and this is one of their main missions.

Senator Udall, Senator Heinrich and myself and the CAB members all requested this hearing in Albuquerque and it was very enlightening. I also included the questions from the Defense Nuclear Facilities Safety Board and their presentation. And if you look on page 3 where the arrow is, I'm sorry it's not in color, but there's a pie-shape, so all the rest of the categories will be eliminated from oversight. So over 70 percent of what they see right now will be – could be eliminated by this order and some of it has been eliminated by this order.

I felt it was a really strong statement of the chairman of the Defense Nuclear Facilities Safety Board to say that this is a violation of the rule of law. Something that I think all of us take incredibly seriously. These are not my words but I do support what he said. But those were his words. And also another Defense Nuclear Facilities Safety Board member stated that she had a statute that she was going to follow and that she was not following anything except for the statute. So they were pretty much united in what they felt about this order and that it needs to be rescinded and that it needs to be taken back. Senators Udall and Heinrich both feel very strongly about that. Most of our entire delegation also I shared this with Assistant Speaker Lujan when I was in Washington DC and he was incredibly concerned about this order especially considering that LANL is in

his district. I also spoke with Representative Haaland because Sandia is in her district and they didn't know anything about it because this order was done basically in the dead of night with no public hearing and no information shared with anybody. It is only since it has kind of come to light that people have and the Defense Nuclear Facilities Safety Board has run into issues where people are not giving them the information that they need to do their job. I, personally, over the last 15, 20 years, 30 years this board was set up by Senator John Glenn in 1988 and I have seen, as long as I have lived in New Mexico, I have seen the benefit of this board in its protection of New Mexico and the citizens and especially also workers on site.

So I wanted to share this information with you. I have been working with Chair Hamilton on bringing – she knows that I am bringing a resolution forward in the County and I would be happy to share it with the City, the resolution that I am working on so that you also know the issues that are happening out there. And while I was in Washington DC I tried to talk, since I was at NACo, the National Association of Counties, I tried to talk to county commissioners and I did almost talk to every single commissioner that has a facilities. They only oversee about 13 states that have nuclear facilities. So I found those 13 states and gave them this information also.

CHAIR IVES: Thank you for that update on DOE Order 140.1. Does anybody have any questions for the Commissioner?

COMMISSIONER HAMILTON: No, but I do want to on the record commend Commissioner Hansen for this. It's a lot of really good information and a lot of due diligence and it was very well done.

COUNCILOR HARRIS: I would agree. Thank you for the work. I'll read through this and I'll have a conversation. I found myself looking through this document to see when the effective date was. It's effective upon publication.

COMMISSIONER HANSEN: Right.

COUNCILOR HARRIS: May of 18.

COMMISSIONER HANSEN: And, I did have DOE from Washington DC in my office thanks to Senators Udall and Heinrich, and they stated that they – we pointed out all of these issues with the order, this was DOE from Washington, and we pointed out all of the issues from the order and they did say that they would review the order in May of 2019 and then they said maybe in May or June or July of 2019 and so I don't think it is something that we can wait. I think that they need to rescind this order and I am extraordinarily concerned about the lack of safety that DOE is trying to take away. You know, nuclear safety is something that is very dear and near to my heart. I think that it is one of the most important things that we can all work on for our citizens and I want to make sure that our workers in these facilities and in these sites are safe and along with the citizens outside.

CHAIR IVES: I don't think you'd get any argument from anybody sitting up here.

COMMISSIONER HANSEN: Thank you.

CHAIR IVES: Very good. Any other questions? In that case, we will take up the next item

15. Presentation on Waters of the United States (WOTUS) Regulations

CHAIR IVES: Alex, welcome.

ALEX PUGLISI (City Environmental Compliance Specialist): Thank you, Mr. Chair, members of the Board. Thanks to LANL for that presentation on TA-16. As a former employee of Los Alamos I was actually responsible for sampling that outflow and I hope I'm not that one in 100,000. I did wear gloves when I took the sample and I never used a penknife on explosives that I know of. I should be okay.

But as many of you have probably heard there have been proposed changes to the definition of Waters of the United States and basically we've been waiting for that definition to be released by EPA for many months. They first proposed it in December of 2018 and they sent that out as a preliminary proposal. Of course, the government shutdown actually prevented them from releasing the final proposed rule but that was done on February 14th and it was published in the *Federal Register*. It gave the public and all interested parties until April 15, 2019 to submit comments and questions.

As many of you may have heard, the City of Santa Fe is looking forward to passing a resolution with regards to the proposed definition of Waters of the United States and we are going to submit comments to the rule. I believe the County of Santa Fe has passed a similar resolution so I appreciate that.

Let me talk a little bit about the rule. Basically, in 2015 the Obama Administration passed a rule they called the Clean Water Rule and that defines what the Waters of United States is. When the 1972 Clean Water Act was implemented, basically, the Waters of the United States was treated as navigable waters of the United States and tributaries to those navigable waters. Those included both intermittent and ephemeral and perennial tributaries to those navigable waters. The biggest implication of the proposed rule is that it actually eliminates a lot of those tributaries. And it actually eliminates any water of the United States that might have formerly been considered navigable or somehow involved in interstate commerce from that definition and those would include intermittent and ephemeral water bodies, such as the Rio Puerco in western New Mexico, that would be the biggest one I could think of. Another one would be Tijeras Arroyo and that flows into the Rio Grande in Albuquerque. We have an example right here in Santa Fe too: the Santa Fe River. The Santa Fe River would be impacted by the proposal so I'll just go through some of the major comments and the major provisions that the City may have comments on.

The first one would be the proposal to exclude ephemeral waters from Waters of the United States. It is our opinion and obviously we'll basically make sure that our comments are legally valid before we send them out. We've had conversations with our legal staff and there are some things that are not fully explained in the new rule that definitely need to be clarified before we can submit comments. Unfortunately, the public hasn't been given the opportunity to ask questions of EPA or the Corps of Engineers and any of the proposed hearings are actually closed only to federal, state, tribal agencies that have direct responsibilities for implementation of the Clean Water Act. So we haven't had the opportunity to actually ask these questions except with some of our state peers and the Corps of Engineers and EPA in Dallas. But right now a lot of what they're telling us are their preliminary interpretations of the rule and they're not even sure

exactly how some of these streams will be treated.

Eliminating the Clean Water Act protections for all ephemeral waters regardless of their significant nexus to downstream traditionally navigable waters of the United States will have a devastating impact on the nation's waters, particularly in the arid southwest. The proposed one-size fits all approach regarding ephemeral waters conflicts with the goals of the Clean Water Act to restore and maintain the chemical and physical and biological integrity of the nation's waters and wherever attainable an interim goal of water quality which provides for the protection and promulgation of fish, shellfish and wild life and provides for recreation in and on the water. The goal is that those uses be achieved. As you know, the Santa Fe River even though it is ephemeral water body supports many of those uses even in its ephemeral stretch. We actually during the classification of the Santa Fe River the New Mexico Environment Department actually went out and took pictures of people wading and swimming in the Santa Fe River during a rainstorm and so that was one of the adjustments –

COMMISSIONER HANSEN: I have some pictures for you.

MR. PUGLISI: So, just to let you know, let's look at the Santa Fe River as an example. Santa Fe River from the wastewater treatment plan below to the Rio Grande we believe is a perennial water body and we hope that that stays that way under the proposed rule. Up above that we have an ephemeral stretch and that stretch is about 10 miles long. And then we come to an intermittent stretch which is about four miles long and goes up to Nichols Reservoir. Up above Nichols Reservoir it's a perennial water body. And the proposed rule would not only eliminate ephemeral and intermittent tributaries unless they have a direct nexus to the Rio Grande, but it would also eliminate those water – we believe, that they would eliminate those perennial and intermittent stretches above an ephemeral. So anything above that ephemeral stretch which starts at about Guadalupe Street, that's how it is divided up in the classification that New Mexico Environment Department uses would be eliminated from classification. That would even include the watershed itself, the perennial stretch in the watershed. Why, because it is separated, it's isolated from the Rio Grande a traditionally navigable water body of the US by that ephemeral so it would not contribute flows to that perennial body of the United States – waters of the United States.

So we're very concerned about losing those protections even for the intermittent and especially for the perennial reaches of the Santa Fe River.

Eliminating jurisdiction of all ephemeral waters is not mandated by the courts right now. Part of the reason, the justification behind the passage of this new rule was that the old implementation strategy was being challenged in court by several different parties, industries and even municipalities. But the court mandates that have come down right now say nothing about eliminating all ephemeral water bodies from classification under the Clean Water Act. So we feel that the proposed rule should, at a minimum, be revised to recognize and maintain the jurisdictional status of ephemeral waters that do have a significant nexus to a downstream traditional water body. The rule – I'm just trying to hit the main – I already have a lot of comments put together so I'm trying to just hit the important things.

Severing jurisdiction for perennial and intermittent segments upgrade of ephemeral segments is contrary to the goals and the objectives of the Clean Water Act and will leave important and unique waters, such as the watershed, unprotected.

Preamble language which indicates a ephemeral segment with severed jurisdiction upstream of the ephemeral segment should at a minimum be deleted we believe. The rule must clearly state that all intermittent and perennial segments of rivers and streams are jurisdictional by rule regardless of whether they are located upstream or in nexus to an intermittent or perennial water body.

The accumulative effect of unregulated downstream traditional navigable waters is a big concern to us. And this I think is maybe one of the biggest concerns to the Board and part of the reason why I would like to give this update today. So, as we heard there are several tributaries to Los Alamos that reach the Rio Grande. Most of those tributaries are ephemeral water bodies. They do not fall perennial. They fall perennial – in one of them, there is a perennial stretch in the upper watershed but the stretches that intersect with the Rio Grande are mostly ephemeral. We believe that this could mean that some of the current protections under the individual stormwater permit that has been issued to Los Alamos will no longer exist. Furthermore, and a lot of people aren't considering this, Los Alamos does a lot of point source discharges from TA-16 for example. That one has been eliminated but there are a number of other point source discharges that discharge to these ephemeral water bodies. Those point source discharges would also be removed from regulation if this rule is implemented as is currently being interpreted.

We have heard some people say that there is a possibility that ephemeral water bodies like that might be considered a point source to a perennial water body, the Rio Grande. So in other words, at the confluence with Los Alamos and Pueblo Canyons in the Rio Grande it would be considered a point source of discharge to the Rio Grande and somehow regulated. That's somewhat ironic and somewhat – it just doesn't make sense because point source discharges are regulated at the point of discharge to a Waters of the United States. If those ephemeral water bodies are no longer Waters of the United States there will not be an NPDES permit and how you can regulate a cumulative effect of several discharges downstream including natural runoff and erosion at a point of confluence with a navigable water is beyond most of us and we don't feel that, even the preamble of the proposed rule which somehow suggests that this could occur, we don't see how that would be implemented under the definition of tributary, ephemeral and intermittent water bodies. And so that's a huge concern to us and it's also a concern throughout New Mexico.

Just to extent this to New Mexico, 90 percent of the waters in New Mexico are ephemeral water bodies. We believe that 90 percent of the waters that are currently regulated by EPA in the State of New Mexico would fall out of jurisdiction and like I said, the Santa Fe River is one. I could give you another example, we have a number of streams and creeks coming off of the Sangre de Cristos, Nambe Creek, Nambe River, Pojoaque River, these would all fall out of jurisdictional status and so it's of a huge concern not only here in Santa Fe but throughout New Mexico.

I know a number of groups are going to be submitted comments and it is our hope that the City can submit comments and we would certainly invite any comments from the Board that you may want to see submitted. But I think you definitely have some concerns with regards to upstream discharges into the Rio Grande upstream from the BDD diversion, such as Los Alamos and even further north. There are a number of tributaries that come into the Rio Grande that would fall out of jurisdiction. So that is certainly a concern that this Board should consider.

That's the end of my presentation and it was meant to be a verbal presentation. I will stand for questions.

CHAIR IVES: Let me just ask one clarifying question because I do know about the resolution that is being forth in the City as a co-sponsor of that. So it appears our respective jurisdictions are doing exactly that through the governing bodies of each entity. I'm just trying to figure out whether it is necessary that BDD as an amalgam of both bodies weigh in separately.

MR. PUGLISI: Councilor, thank you for the question. No, it's not necessary. I would just invite any comments that you may have on points that we may be missing here.

CHAIR IVES: Understood. Councilor Harris, I'll start over here this time.

COUNCILOR HARRIS: Alex, thanks for the information. I only have had a very shallow level of information so far.

MR. PUGLISI: We all do right now.

COUNCILOR HARRIS: Yeah, but are your comments in a form that you're circulating yet or how are you – where do you stand in terms of the statement that is coming out of our Utilities Department?

MR. PUGLISI: Councilor, thank you for that question. I think what our plan is that no comments will be really circulated on a widespread basis until our legal counsel has a chance to review them and we believe that the comments will also not really be formulated until the resolution passes. We definitely want the resolution to pass. And it is my understanding that the resolution will be heard next week at the Finance Committee meeting on Monday and then following that it will actually be heard by the Public Works Committee on the following Monday –

COUNCILOR HARRIS: It will be the other way around.

MR. PUGLISI: Yes, I think you're right, I apologize.

COUNCILOR HARRIS: It's Public Works next Monday and then –

MR. PUGLISI: And then to Council on the 27th.

COUNCILOR HARRIS: All right. Good, thank you.

CHAIR IVES: Other questions.

BOARD MEMBER FORT: Thank you very much, Mr. Chair. Thank you, great presentation. Could you identify, not now, but would it be possible for you to do a memo for the Board about what NPDES permits there are that might be affected by this as well as stormwater discharges that would affect our intake at Buckman?

MR. PUGLISI: Certainly could. New Mexico Environment Department does publish a list of NPDES permits on their website. So it would be basically everything along the main stem of the Rio Grande or a tributary to the Rio Grande. Not so much the ones on the main stem –

BOARD MEMBER FORT: Not the main stem, no. So I'm thinking specifically of the ones that would affect – obviously the ones within Los Alamos and then you mentioned the stormwater permits as well.

MR. PUGLISI: Right, I could certainly research that with the Environment Department and I believe we could probably do that.

BOARD MEMBER FORT: And, Mr. Chairman, I would think the – I don't mean to be cynical about the Trump Administration and I certainly support

submitting public comments to the Trump Administration but I think perhaps the action for the Board might be attempting to get a commitment from Los Alamos, presumably, as the primary entities currently holding these permits to continue in compliance with those permits and there will be a new administration in two years, perhaps, but I'd like to get commitments from Los Alamos with respect to those permits.

MR. PUGLISI: Board members, I also believe that the Source Water Protection Plan that I think Daniela will be bringing before the Board next month, also addresses a lot of those possible sources.

BOARD MEMBER FORT: Mr. Chairman, it might. When we looked at it before, it only went, I think, 10 miles upstream. So I'm not sure if it will include those.

MR. PUGLISI: Oh, it hasn't even made it to Española then.

BOARD MEMBER FORT: It would be good if it did, but I don't know if it will. Thank you.

CHAIR IVES: Not an action item. It's informational. Certainly, I think we can take that up as a possibility with Los Alamos. And, again, I always beg the question whether it is this Board or the constituent agencies who are the most appropriate ones. Commissioner.

COMMISSIONER HANSEN: I've been happy to be able to work with Alex on this issue for quite some time. I have been working on this issue at the national level with NACo. I sit on the Environment, Energy and Land Use Committee for them. And I brought back a pile of papers about the Waters of the US and definitions and different things. While I tried to get an appointment at EPA, it didn't happen. We couldn't make that happen. But I did speak with Senator Udall, Senator Heinrich, Ben Ray Lujan, Deb Haaland, they're all onboard. Deb Haaland is requesting that the time be extended for comments and I don't know if that will happen but that is something that is definitely on that. I really want to share all of the documents I have with Alex because it's complicated. What is going on is extraordinarily complicated.

One of the things that I heard in Washington was that they're thinking about – they've created this map of the rivers of Waters of the US and they've created a Waters of the US for New Mexico which goes up to like the San Luis Valley and kind of covers most of New Mexico, goes down to Texas and a long strip along the border and they're thinking of defining intermittent per watershed. That was just thrown out to me. I just heard that in a conversation. It's not anything that's in stone. But it is something that we can start to request, how are the definitions. What is really important here is the definitions on how they define intermittent for each watershed and how we define ephemeral and that is one of the really important points about of Waters of the US.

I understand your question Chair Ives about do we also need to make comments. But the message that I have gotten is that more comments are needed. Every single comments counts. And if we want to have standing, if we want to have any kind of ability to be part of a larger suit or anything or protect a certain reach of the river, it would be to our benefit as a separate board to make our separate comments about our diversion because when I mentioned this to Assistant Speaker Lujan he was just horrified. He was just like, he was angry and I had a very good conversation afterwards with his aide and I told him that I would follow up on what we were doing because they are really concerned about this. All of our delegation is concerned about this issue of Waters of the US because they recognize that we can lose 90 percent of our protection and that is the

last thing that they want to have happen in New Mexico. So I don't think it could hurt us even if we made a short comment about where the water system is and the waters around the water system of the Rio Grande because parts of the Rio Grande could be considered ephemeral. I mean, according to Speaker Lujan and some other people I have heard this is a big topic at NACo and unfortunately I did not know that there was a meeting with EPA and the leadership of NACo because not everything is shared and I would have really liked to have gone to that meeting. You know, out in the west we are very unique and New Mexico is very unique in its watershed and so one size does not fit all. What is happening in Maine and Connecticut and Delaware has nothing to do with the waters that we have here. So I think the definitions about our watersheds are really the places where we might be able to gain some protection.

And I have more to say and I would like to get with Alex and share the information that I brought back that we could go over that together. He has a good handle on this. But I would like us to write a letter from the Board and I know that we can't do it now but April 15th is right around the corner so if we are going to write a letter I think we need to start thinking about it and along with the City and the County because we've already passed our resolution and we are starting to work on it and we passed it right before I left for Washington.

MR. PUGLISI: Mr. Chair, I did forget that the River Commission will also be reviewing the proposed resolution and that meeting is next Thursday, the 15th.

COMMISSIONER HANSEN: And I also sit on that committee.

CHAIR IVES: Commissioner.

COMMISSIONER HAMILTON: So just a thought about – you kind of questioned the appropriateness of whether BDD has standing to comment or to just be like the City and the County.

CHAIR IVES: Really both entities are commenting.

COMMISSIONER HAMILTON: But it's really not that subtle but Member Fort brought up a really – her question highlights – well, Alex said it straight out and it's a really good comment. The implications of WOTUS where it takes the regulatory teeth out of discharges and contaminants and cleanup and restoration and aspects of implementation of the Clean Water Act that are driven by this definition. And so clearly BDD if we're doing, even if we think it needs to be extended, we're doing a source water protection thing. We're looking at how things upstream of us impact and that's the nexus here. I think it is directly related. I mean there are people sitting here who have already done a huge amount of – what's the expression; footwork? But the background work has already been done so we can build on that. It's not a huge effort for us to do that but I think that there is direct interest in BDD.

COMMISSIONER HANSEN: Agreed.

CHAIR IVES: So an approach we could take because both of the bodies will have acted by the next meeting of this Board would presumably be to provide comments from the Board coordinating – and I'm not sure whether folks have separate comments they want to submit to Alex to put in the form of letter from this Board regarding the rules.

COMMISSIONER HAMILTON: I hate to volunteer other people but I wonder if somehow between Kyle and Nancy that that would be the appropriate funnel. Because Alex is doing comments for the City although it would be very helpful to have a

little bit of information on what protections BDD would be losing per Member Fort's comment if we had directly or at least generically some information on that, it could help focus our comments.

MR. HARWOOD: Given the timing that Alex has laid out, I'd like to suggest that we put an item on the agenda and be able to report out what has happened between now and our next meeting which will be at least a little bit before the deadline.

COMMISSIONER HANSEN: What has happened with the other comments?

MR. HARWOOD: All the other materials that are being prepared. I know that Alex has mentioned several times that the City Attorney's Office is reviewing their comments and that would be a big part of the lift so that we're not duplicating efforts. So hopefully, if not packet time, BDD Board meeting time we can update you all on that and have a pretty quick turnaround if this Board chooses to send in a letter. So it's not adding a lot of work but a placeholder and a plan. I don't know if that answers some of the questions.

COMMISSIONER HAMILTON: Mr. Chair. I just want to add to that that in the comments that Commissioner Hansen spearheaded, work with the County legal so they are reviewed so that is additional input that could be used.

COMMISSIONER HANSEN: And possibly Jerry Schoeppner also and the County Attorney office is working on comments and then I have this large section of papers that I brought back from NACo that are specifically about the Waters of the US and the questions and answers and that might help us to clarify some of the issues. EPA actually, what was reported back at the EELU was that the meeting that they had with EPA was one of the best meetings they had on Waters of the US. So I have all of this material that the EELU has been working on Waters of the US even before I joined the board. They have been working on it for the last year and I just joined the board in July so of last year. So I have a lot of comments and I will get together with Alex and our attorney and we'll figure out what would be appropriate to each body.

CHAIR IVES: Yeah, I think Santa Fe has to figure out what's appropriate to them.

COMMISSIONER HANSEN: Right, for them.

CHAIR IVES: So would it be possible to get copies of all of these materials that you have?

COMMISSIONER HANSEN: Yes, we will, I will work with Sara, my constituent liaison, and we'll try and scan them in. That's what we'll do. We'll try and scan them in and there might be some links also on NACo's site of the Energy, Environment and Land Use Committee that I can also share with everybody.

CHAIR IVES: I think the agenda item for next time would be a review of City and County actions on the proposed changes to the WOTUS Rule as well as recommendations for specific comments on the rule by the BDD based upon impacts to its system which seems very appropriate. And at that time, we can make it an action item for submitting of comments and we can always delegate them the final preparation of those comments to some smaller group which might make sense in the instance.

MR. HARWOOD: Very good.

CHAIR IVES: Good.

COMMISSIONER HANSEN: Thank you.

CHAIR IVES: Yes, JC.

JC HELMS: I have a question and a very short comment. First of all, what are the working definitions in your work of perennial, ephemeral and intermittent?

CHAIR IVES: It may be a very long question actually.

COMMISSIONER HANSEN: So this is the problem.

MR. HELMS: Is there a definition out there?

MR. PUGLISI: Ephemeral would be, and I'm not saying that this is exactly how it is being presented in the new rule, but typically I think ephemeral would be considered a stream that flows in direct response to precipitation either rain or snow. For example, the snow we had last week, 5 or 6 inches of snow, you could see that the Santa Fe River is actually running as a result of stormwater running off of our streets. And it's actually further down than it is normally at this year. So that's an ephemeral.

Intermittent is intermittent in time or space and so you could have a seasonal flow which EPA talks about here. So a traditionally perennial stretch, an intermittent stretch, that flows due to snowmelt for example, and in Santa Fe that would kind of be down to the Guadalupe bridge area, that's how the state broke the classifications. There are three different classifications to the Santa Fe River. So that intermittent stretch is flowing as a result in snowmelt in the winter and it flows in the spring, so it is intermittent in time and in space. It has a certain reach that is being fed during a certain time period. Perennial is continuous flow all year.

MR. HELMS: Okay, thank you. I have one comment to make. To what extent – there are plenty of people in this state and even in the city who like the new WOTUS definition. They are not happy with the previous definition, thought it was too broad. To what extent is that point of view considered in your work in the City?

MR. PUGLISI: Are you referring to the public or within City government because I am not aware of any opposition to the –

MR. HELMS: No, the public. Is that point of view represented within the City in your discussions in preparation of comments?

MR. PUGLISI: We haven't actually released the City's position on the rule yet so I know the City will invite public comment on that. And so at that point in time we can obviously see what the input is from people who may be opposed to the rule but as of yet I haven't heard any – there's been no indication – well, there was indication to the City that they would actually see us comment and that came from the River Commission. But I have not seen any letters or anything submitted to the City that says we're actually in favor of the rule change. No, I have not. And, actually, I would recommend that those folks make their voice heard at the public meeting on the City's resolution. I'm not sure if the comments themselves will actually go to Council or it will just direct staff to prepare a letter for the Mayor's signature.

CHAIR IVES: And folks, I'm looking at the time.

MR. PUGLISI: Sorry, my five turned into 25.

CHAIR IVES: No worries. No worries. Thank you for that presentation.

MR. PUGLISI: Thank you.

16. Report from the Interim Facilities Manager

CHAIR IVES: I would be remiss if I did not say, Happy Birthday, and I

hope there's time to celebrate after this meeting.

MR. CARPENTER: Thank you, I think at this point. That's very nice of you, Mr. Chair, thank you.

In the interest of time I will try and be brief. I just have a couple of updates for the Board on pumps and people. I'll start with pumps, I think that that is a little easier. I can't go into too much detail because as the Board knows the pumps are partially the subject of ongoing litigation. But I did want to give you an update of where we're at with a couple of ongoing efforts. We have pumps 2 and 4 in the raw water lift station are currently offline. We are evaluating what the possible fixes might be. I will be back in April with a recommendation and a possible request for action on what that might be and what it would look like and what the cost implications would be, whether that's in open session or in executive session. Pump #4 is looking pretty good. If you will recall that's the one where we had the problems with the oil and the seal. We had higher hopes that that would work better. However, we have done some repairs to that and at the beginning of next week, we will begin testing that pump and I will also update the Board in April on how that is going. So that's pumps.

CHAIR IVES: Questions on pumps? Very good.

MR. CARPENTER: Thank you. People, so there are a number of vacancies on the Buckman Direct Diversion staff beginning with the facilities manager that's the position that I am currently filling in an interim capacity. That position has been advertised. It will close on March 11th and I am hoping for a good crop of qualified applicants. As the Board knows, however, that is a difficult position to fill and I haven't – I don't have an intention to fill the position for the sake of filling it. I want to get a qualified applicant. The worst thing we could do is to make a bad hire or a questionable hire on a position that is as critical as the facilities manager. I will do my best. I have been out recruiting, beating the bushes and we will see what we get on the 11th.

Another critical position is the operations superintendent. That is currently being filled on an interim basis by Mr. Sugrue. It is also advertised and will close on March 29th and we hope to be successful in that regard as well. There are a couple of other positions that are also vacant. The charge operator, we have one position that is currently vacant. It is being filled by an advanced water treatment operator. That's going okay for the time being but we hope that that will also be filled very soon. That position closes on the 10th which is a Sunday, so that may be a typo, but it's very soon, next week. There are two advanced water treatment operator positions and two operator positions and a water resources coordinator position that are currently open. They are not advertised at this point. I am working with the Public Utilities Director and the Human Resources Department and soon probably the union, what we're doing is we're looking at those positions to see if there are efficiencies, the classifications and the compensation, the job descriptions certainly need to be updated. Any cross-training that can be done with existing source of supply positions, so that's under evaluation. It's still a very high priority of mine. I intend to fill those positions as soon as possible but they are currently under evaluation.

There is an administrative assistant position that is vacant and being filled temporarily by a temp staff from an agency. My intention there is to reclassify that position, elevate the position and give Mackie Romero the administrative and financial assistance that I believe she needs. So I want to upgrade that and we'll be working on

that as rapidly as possible.

Lastly, I was notified very recently that the maintenance superintendent that is currently with the BDD, Mr. Adrian Garcia, he is eligible to retire on May 31st of this year and he intends to do so. He has provided me with that notice. That too is a very difficult position to fill. It's a critical position. What I'm working to do currently is I'm seeking permission to begin the recruitment for that prior to his retirement. I don't want to wait until May 31st. If I can start that process sooner, I will and that's what I am working towards right now.

And with that, Mr. Chair, members of the Board, I will stand for questions.

CHAIR IVES: Just two things quickly. That certainly sounds very prudent to be trying to look in the case of a retirement for somebody to fill that position effective at or about the anticipated retirement of the existing person in that position. And I always say if you needed any help talking to HR, I'm happy to try and help in making that case in talking about the significance of BDD and its operation. Then the second, in connection with the facilities manager position, of course, we adopted amendment 8 to the --

MR. CARPENTER: PMFSA.

CHAIR IVES: However we pronounce that acronym. And of course the selection committee was to have designated our citizen board member keeping the electeds out of personnel decisions. And I know fortunately Board Member Fort is staying on but I'm not sure she necessarily wants to tackle that. So I would throw it out as a question eventually which is good to have Mr. Helms as the alternate perform that function. So it's just something to consider as we move forward in our making --

MR. CARPENTER: Mr. Chair, I am happy to have that input and whether it is Board Member Fort or Mr. Helms, I would welcome that.

CHAIR IVES: Good. Other questions, yes, Commissioner.

COMMISSIONER HAMILTON: So you mention all of this and it all makes sense. I am really glad to hear the information. I appreciate you bringing it forward. Just two things. First a small question. In addition to the administrative assistant, I mean that's a great idea to give Mackie more help; but isn't there another financial director position -- not director, whatever the title was -- that's also vacant when she went to the City?

MR. CARPENTER: Yes, Mr. Chair, members of the Board, that's the fiscal administrator position. That's a position that Mr. Vokes actually created before his departure. That is currently also vacant. It's one of the positions that with the Public Utilities Director and with the help of HR, we are also evaluating the efficacy of that position in its current form or should it also be reclassified and if so, how so. So that's also under evaluation currently.

COMMISSIONER HAMILTON: So with regard to the evaluations, that is always a good idea because you can restructure things to fill the positions better. But it doesn't -- but you can't fix the problem by cross-training. It's still a lot of bodies so it's a lot of massive work that is still sort of uncovered.

MR. CARPENTER: I couldn't agree more and I'm a big believer in cross-training for these very reasons.

COMMISSIONER HANSEN: I thank you, Mr. Chair. Did we do a national search for the facilities manager?

MR. CARPENTER: I don't know – Mackie, did we do –

MS. ROMERO: Mr. Chair, members of the Board, we did post the position on Indeed and then we did a couple of other sites. We did the Texas Municipal League and the New Mexico Municipal League, AWRA. Bernardine tweeted it and put it on the BDD website. So we did try and reach out to other sources for that position.

COMMISSIONER HAMILTON: Just if you don't know, the AWRA is the American Water Resources Association and that's national.

COMMISSIONER HANSEN: Okay, great. So one of the things I recognize is that in Santa Fe, in Santa Fe County maybe northern New Mexico, we are definitely having a shortage of workers to fill positions and so I did one day run into Bill McCamley, the new Workforce secretary, and I mentioned to him, you know, this – we need a better skilled, trained workforce. And he talked about apprentice programs and that he's starting to work on instituting that. And so I know at the moment we need these filled, these positions filled, but as we move forward I am hoping that we can start to look at apprenticeship programs as a way to start training our workforce so that we have a skilled workforce available to us that we're not desperate and feeling crunched because we don't have the people that we need to find. So, I just wanted to share that with you.

MR. CARPENTER: Thank you. That's also something that I'm looking into not only with just the BDD but with the source of supply within the City are paid internships, apprenticeships, rekindling our relationship with the Santa Fe Community College and getting that pipeline re-established. Those are all things that I am looking at and I am highly supportive of it.

COMMISSIONER HANSEN: Thank you. I have known that about you, Mr. Carpenter, from the past and I really appreciate it. Thank you so much.

MR. CARPENTER: Thank you.

CHAIR IVES: Other questions for our facilities manager? There being none, thank you very much for that report, Rick. And now we'll do a chorus of Las Mañanitas. [laughter]

MR. CARPENTER: Thank you.

MATTERS FROM THE PUBLIC

CHAIR IVES: Would anybody care to address the Board? Please come up. Unfortunately, we'll have to be quick, although I don't see our usual – please. State your name for the record and then please.

FRANCISCO ROMERO: Alrighty. Mr. Chair, members of the Board, my name is Francisco Romero. I am a BDD employee. My title is Planner Scheduler. I wanted to address some of the staffing issues that we have going on. Maybe I can shed some light on the subject and possibly help facilitate it a little bit.

I've done a lot of research because of some of events that have taken place for myself personally recently. I've got a packet for everyone. [Exhibit 4]

CHAIR IVES: And I will say that we usually try and limit comments to about two minutes. So, just to keep that in mind.

MR. ROMERO: Definitely, so I'll keep that in mind. It's Mr. Carpenter's birthday, we can all to the Bull Ring and celebrate. I'm not going to talk about this whole packet. Really what kind of started my research with things like the PMFSA, the things

that are responsible for the City of Santa Fe as a project manager, the duties and responsibilities of the Board.

I recently applied for a position at Buckman which is the Advanced Water Treatment Operator position. I interviewed. I was selected as the best candidate and unofficially offered the position by means of this memo that essentially is saying that I can have the position but the pay that I'll be offered is going to be substantially less than everyone else because it's got to sit at the minimum range of the City of Santa Fe's comp and pay study. Also, I'll be possibly be left out of A, B and C pay scales that were previously involved for all other operators.

So this got me thinking and researching. So I went to the PMFSA just to see what the duties and responsibilities are. So in here it says, "Provide all staff necessary" – this is for the project manager, "Provide all necessary staff, materials and supplies necessary to operate and maintain the project consistent with the BDD Board funding. Recruit, hire, train staff for the project according to the BDD Board's approved staffing plan."

So then I went to go find the staffing plan. So the staffing plan is in here with an A, B and C pay scale kind of like a pay for knowledge, pay for skill. This was set up originally by the BDD Board. I printed out the minutes, they're in here and I highlighted them.

Then in 2016 EMA Incorporated was hired and paid about \$29,000 to do a study to ensure that the education qualifications along with the pay incentives aligned with BDD's current needs. So I have those results in this packet as well which we're doing 90 percent of those things. And the findings essentially say, yes, that they are aligned with what BDD currently has in place.

So this memo to me, aside from it being a tad unfair, it doesn't seem – it seems like from the PMFSA contract that it is actually the Board's duty to execute a policy and procedure that's involved with these A, B and C pay scales. Not necessarily one person in particular, more of a democracy like the BDD Board is comprised of. So for me now, this strangle hold or bottleneck rather for this position and me going into this position is being held up at the Public Utilities Director's Office. He's the one that initiated this memo and saw to it that it was written so I think if people clearly understood the responsibilities of the project manager, the BDD Board, their union positions that are with the City, there are pay scales that are involved and approved by the Board, if those are understood better maybe this can help facilitate things like this for me and for the other 10 positions because there is a water resources coordinator position that is also unfilled.

So out of these 10 positions that are unfilled, seven of them are essential. So when you have seven operators instead of 14, and they're all essential positions running a plant, it's not safe and I'm glad we talked today about quality of water because eventually if you go through with things that this memo is saying, knocking down pay scales, it's already hard to find people. And then you either don't have people or you have unqualified people. So then where does that leave the quality of the water? I think now is probably not a good time to lower standards, lower pay.

So look through this packet. And if it is something that we can get on the next agenda, I'd be more than happy to speak on this again.

CHAIR IVES: Thank you very much for that presentation. Unfortunately, it's not a back and forth here in terms of comments.

MR. ROMERO: I just wanted to hand out of the packet and meet you all for drinks at the Bull Ring.

CHAIR IVES: I appreciate it.

COMMISSIONER HANSEN: Yes. It's not a question. It's not a question. Francisco, it would be helpful if the members from Las Campanas and the alternate citizen board member could get a packet also.

MR. ROMERO: Yes, I've got one more and I'm done with it now, so – and I did have this – I don't know if you all had this in your packet for your agenda packet today, I've got a structure here that basically says the organizational structure for Buckman which starts with you as the Board and goes to the Facilities Manager and I'm not sure where in here the Public Utilities Director can have a whole lot of hang ups like this. Anyway, I'll give this to you all.

CHAIR IVES: Thank you very much. Any other public comments? Yes, sir. Please come down and state your name.

MARK GARCIA: Mr. Chairman, members of the Board. My name is Mark Garcia. I am a life-long resident of the City of Santa Fe. I have worked for the City of Santa Fe for 12 years, Buckman Direct Diversion for five years as an AWT Water Treatment Advanced Operator. It was tough getting into Buckman because we're one of the state-of-art advanced treatment facilities. I'm here talking about our career and our career advancements. As you heard, they're wanting to kind of reclassify, re-describe our jobs. I don't think that's right. Like Francisco said, as a state-of-the-art facility you don't want to be backing off – they want to deplete our training, in which I'm actually supposed to be in school right now for my associates' degree, I'd rather attend this to get it more put out because we need the training. We need qualified employees and them taking away our training and everything we're not going to be – I mean, we're an advanced treatment facility and we should be focused on that not a conventional where I think the Public Utilities Department is more focused on a conventional not an advanced.

And I just wanted to make you well aware of what we've been hearing is that they're trying to take away our jobs. They're trying to lower our pay with this classified pay scale and as an entity with the City and the County I think it should be up to the Board and not a public utility director saying, we need to do away with this, and we need to cut their pay, we need to do this. I just wanted to make you guys aware of that. What we're hearing and as a certified level 4 operator I covered the treatment plant as a charge operator numerous times by myself which is not only hazardous but safety. I mean, if I trip and fall in the middle of the night at 11 o'clock nobody is going to find me until 5 in the morning. That's why it was structured for four operators. Now we're down to two and like I state, sometimes one at night. And I think we should look into this more clearly and make sure we hold our jobs that are there. Thank you.

CHAIR IVES: Thank you. Others? There being none, we'll move on.

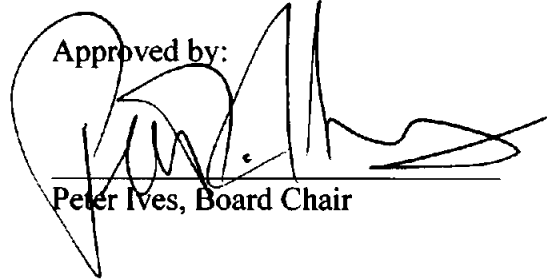
MATTERS FROM THE BOARD


None were presented.

NEXT REGULAR MEETING: Thursday, April 4, 2019 @ 4:00 p.m.

ADJOURNMENT

Having completed the agenda, this meeting adjourned at approximately 6:10 p.m.

Approved by:

Peter Ives, Board Chair

Respectfully submitted:

Karen Farrell, Wordswork

ATTEST:

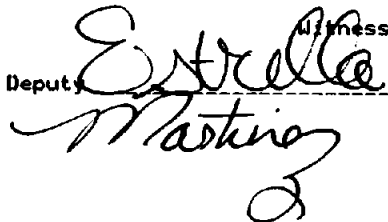
YOLANDA Y. GONZALEZ
SANTA FE COUNTY CLERK

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BUCKMAN DIRECT DIV MIN
PAGES: 33

I Hereby Certify That This Instrument Was Filed for
Record On The 22ND Day Of August, 2019 at 02:14:59 PM
And Was Duly Recorded as Instrument # 1894703
Of The Records Of Santa Fe County



Witness My Hand And Seal Of
Geraldine Salazar
Deputy  County Clerk, Santa Fe, NM

SFC CLERK RECORDED 08/22/2019



AGENDA

The City of Santa Fe And Santa Fe County



Buckman Direct Diversion Board Meeting

THURSDAY, MARCH 7, 2019

4:00 PM

CITY HALL

CITY COUNCIL CHAMBERS

200 LINCOLN

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF AGENDA
4. APPROVAL OF CONSENT AGENDA
5. APPROVAL OF MINUTES FROM THE FEBRUARY 7, 2018 BUCKMAN DIRECT DIVERSION BOARD MEETING
6. REPORT ON MARCH 5, 2019 FISCAL SERVICES AUDIT COMMITTEE (FSAC)

CONSENT AGENDA

7. Monthly Update on BDD operations. (Randy Sugrue, Interim BDD Operations Manager, rcsugrue@santafenm.gov, 955-4501)
8. Request for approval to purchase system equipment from HACH Company for the amount of \$32,084.10. (Mackie Romero, BDD Financial Manager, mmromero1@santafenm.gov, 955-4506)

RECEIVED AT THE CITY CLERK'S OFFICE

DATE: February 27, 2019

TIME: 11:53 AM

9. Discussion and possible action on proposed revisions to the Rules of Order for the Buckman Direct Diversion Board. (Nancy Long, BDD Legal Counsel, nancy@longkomer.com, 982-8405)
10. Request for approval of Award of RFP '19/22/P to Long Komer & Associates to provide legal services for the Buckman Direct Diversion Board for a total amount of \$265,000 exclusive of NMGR. (Mackie Romero, BDD Financial Manager, mmromero1@santafenm.gov, 955-4506)
11. Request for approval of Award of RFP '19/04/P to Glorieta Geoscience, Inc. to provide technical services to the Buckman Direct Diversion Board for a total amount of \$160,000 exclusive of NMGR. (Mackie Romero, BDD Financial Manager, mmromero1@santafenm.gov, 955-4506 and Rick Carpenter, Interim BDD Facilities Manager, rrcarpenter@santafenm.gov, 955-4206)
12. Consideration and possible action on BDD Board Rio Grande Water Quality action items (from February 7, 2019 BDDDB meeting). (Kyle Harwood, BDD Legal Counsel, kyle@egolflaw.co, 986-9641)

DISCUSSION AND ACTION

13. Request for approval and for BDDDB recommendation to Santa Fe County Board of County Commissioners and City of Santa Fe's City Council to approve the Fiscal Year 2020 Buckman Direct Diversion Operating Budget and Other Fund Contributions. (Mackie Romero, BDD Financial Manager, mmromero1@santafenm.gov, 955-4506)
 - Public Comment
 - Request for approval of the proposed Fiscal Year 2020 Operating Budget and Other Fund Contributions and recommendation to approve by the County Commission and the City Council.

INFORMATIONAL ITEMS

14. Presentation on Los Alamos National Laboratory Clean-Up Efforts as they relate to RDX contamination and update on DOE Order 140.1. (Doug Hintze, or Designee, Manager of the Environment Management Los Alamos Field Office EM-LA, Rick Carpenter, Interim BDD Facilities Manager, rrcarpenter@santafenm.gov, 955-4206 and Kyle Harwood, BDD Legal Counsel, kyle@egolflaw.co, 986-9641) **VERBAL**
15. Presentation on Waters of the United States (WOTUS) regulations. (Alex Puglisi, Environmental Compliance Specialist, aepuglisi@santafenm.gov, 955-4232) **VERBAL**



16. Report from the Interim Facilities Manager. (Rick Carpenter, Interim BDD Facilities Manager, rrcarpenter@santafenm.gov, 955-4206) **VERBAL**

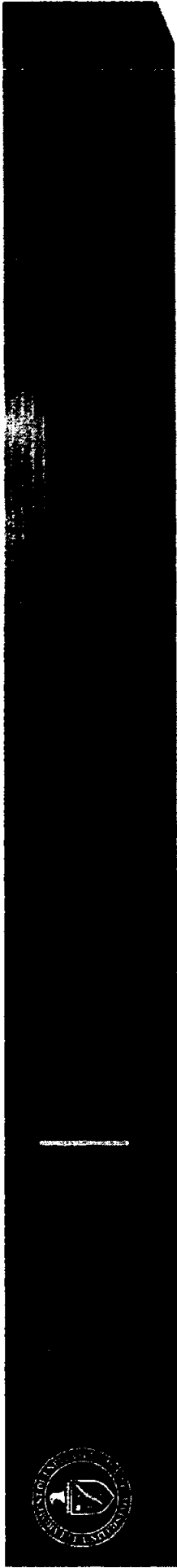
MATTERS FROM THE PUBLIC

MATTERS FROM THE BOARD

NEXT REGULAR MEETING: Thursday, April 4, 2019 at 4:00pm

ADJOURN

PERSONS WITH DISABILITIES IN NEED OF ACCOMODATIONS, CONTACT THE CITY CLERK'S OFFICE AT 505-955-6520, FIVE (5) WORKING DAYS PRIOR TO THE MEETING DATE



075393442877328389

RDX Characterization Project

Buckman Direct Diversion Board



Pat McGuire
Project Lead, RDX – N3B
March 7, 2019





RDX Project – Presentation Topics

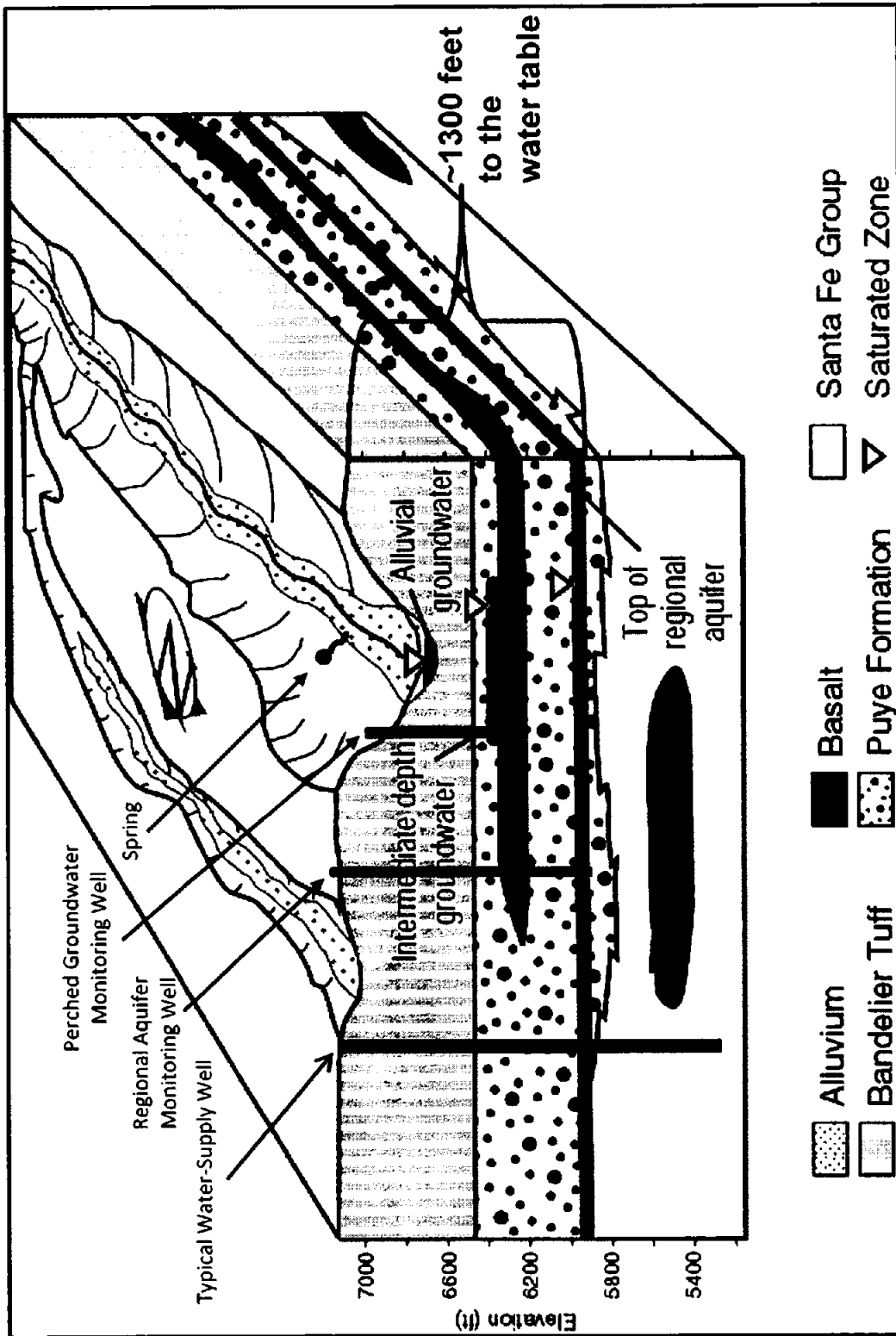
Presentation Topics

- Background
 - Groundwater setting
 - Source and history
 - Remediation conducted to date
- Extent of RDX Contamination in Groundwater
- Next Steps



ENVIRONMENTAL MANAGEMENT
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Groundwater beneath Los Alamos



ENVIRONMENTAL MANAGEMENT
SAFETY & PERFORMANCE & CLEANUP & CLOSURE



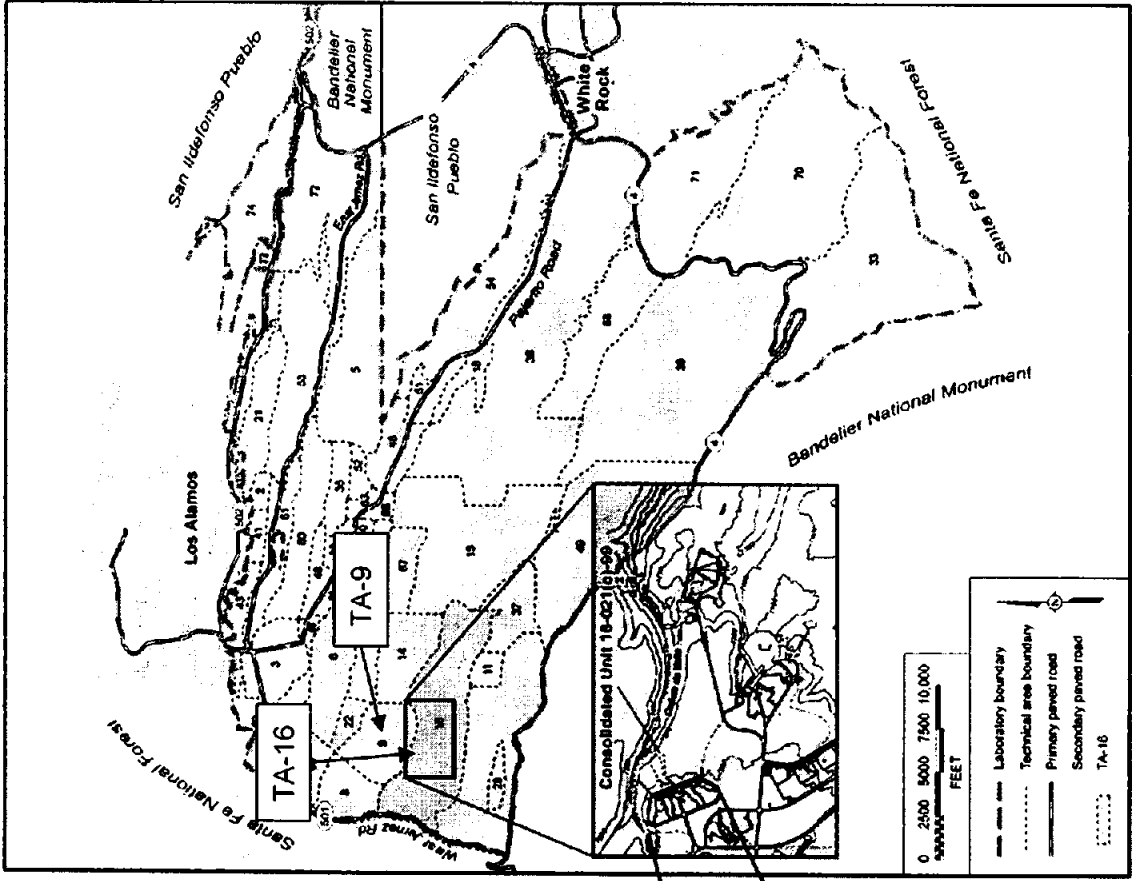


Background

- TA-16 facilities established in early 1950s to develop high explosive (HE) formulations
 - Explosives (RDX, HMX, TNT) were casted and machined for nuclear weapons in 260 Bldg starting in 1951
 - Several million gal/yr of HE-contaminated water discharged to Cañon de Valle (CdV) between 1951 – 1996
- First investigations of RDX in soils occurred in the mid 1990s
- Groundwater investigations first identified RDX (below standard) in perched and regional groundwater in the late 1990s
- Present-day RDX contamination is low in nearby springs, surface water, and shallow groundwater
- Current estimates of RDX in environment:
 - ~ 1500 – 3600 kg total underlying TA-16;
 - ~ 35 – 415 kg in regional aquifer



260 Building





RDX Remediation Activities

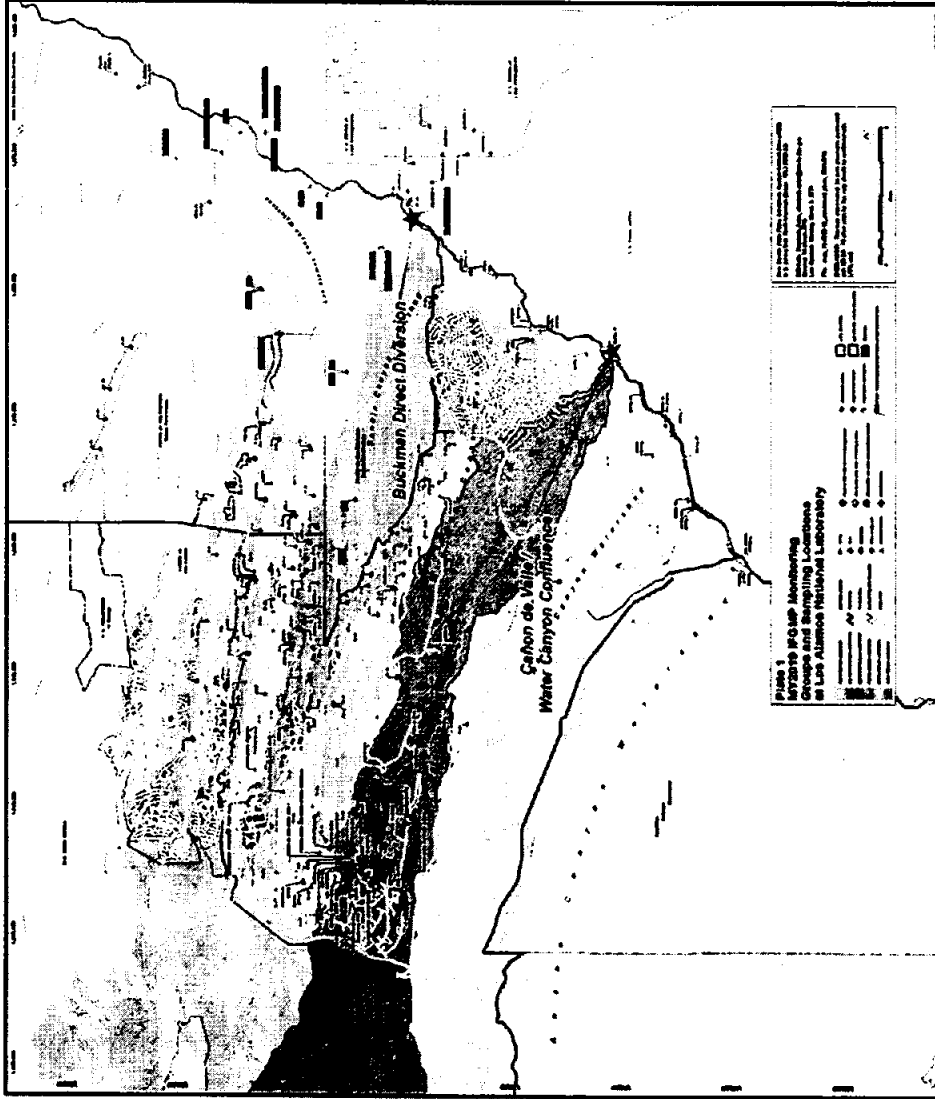
- Surface soil cleanup conducted in outfall area in 2000 – 2001 under an Interim Measure, and in 2009 – 2010 under a Corrective Measures Implementation
 - More than 1500 yd³ HE-contaminated soil excavated and disposed offsite
 - Significantly reduced contamination in surface soils
- Injected grout in permeable rock layers to cut off infiltration pathways
- Remedy Completion Report - 2017
 - Documentation of no further action necessary for cleanup for RDX in surface setting
 - Long-Term Monitoring Plan and reporting requirements for surface water, springs, shallow alluvial wells





RDX Monitoring

- Monitoring for RDX is conducted in storm water, sediment, and three groundwater zones (shallow alluvial, perched-intermediate, and deep)
- Limited occurrence of both shallow alluvial groundwater and perched-intermediate groundwater
- Cañon de Valle flows into Water Canyon
- Water Canyon confluence with Rio Grande ~5 miles downstream of the Buckman Direct Diversion (BDD) intake



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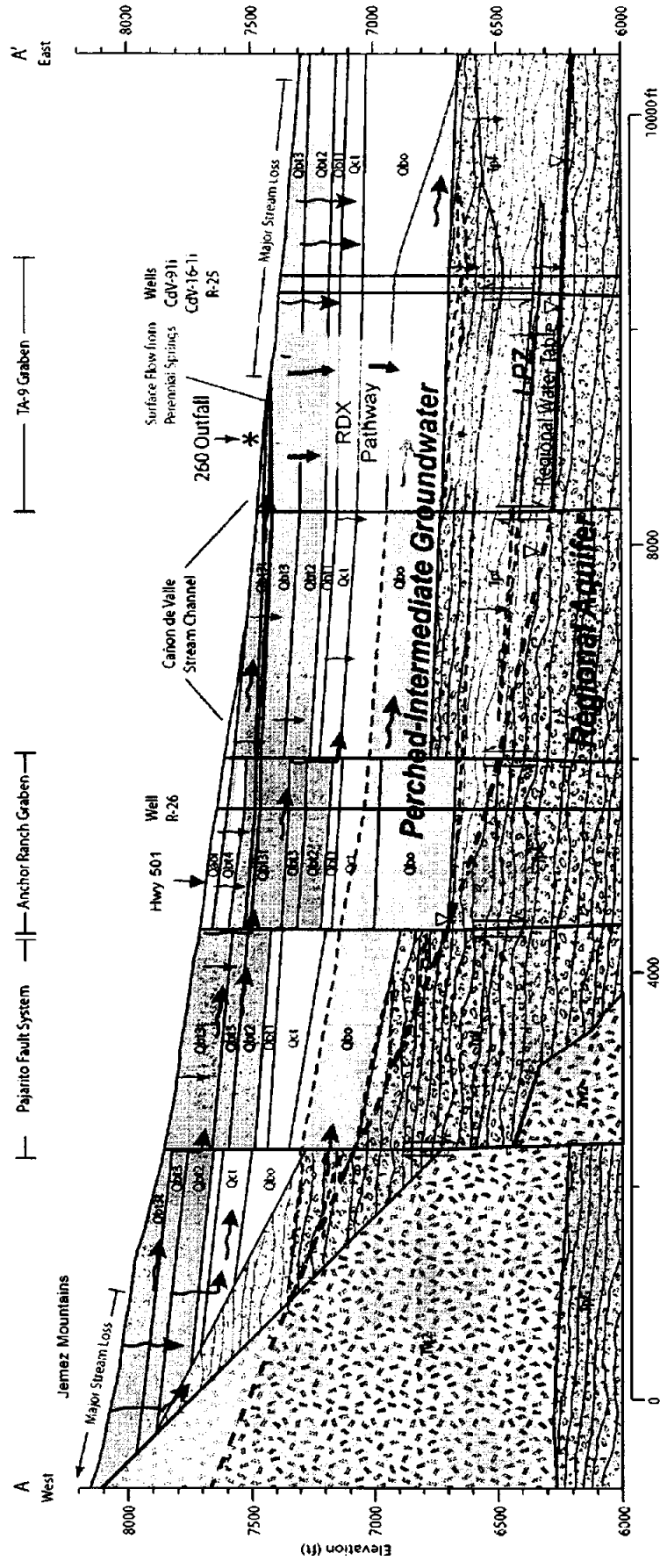
Deep Groundwater Activities

- Installation of monitoring wells to investigate “nature and extent” (size) of deep groundwater contamination
 - Depth to perched intermediate groundwater is ~600-1000 ft below ground surface (bgs); regional aquifer is approximately 1300’ bgs in the TA-16 area because of the elevation of the mesas in the area
 - 12 Intermediate-depth wells screened in perched groundwater (~600-1000 ft bgs)
 - Deep wells screened in the regional aquifer (~1200-1400 ft bgs)
 - Including the latest monitoring well, R-69, there are 9 wells screened in the regional aquifer to monitor the regional groundwater quality in the RDX area
- Studies to understand the hydrology and “fate and transport” (movement) of contamination
 - Tracer studies
 - Aquifer tests
 - Groundwater flow ~20 – 40 ft/yr; RDX in groundwater slightly slower
- All investigation activities performed with NMED’s approval





Conceptual Model



Vertical Exaggeration = 1.95

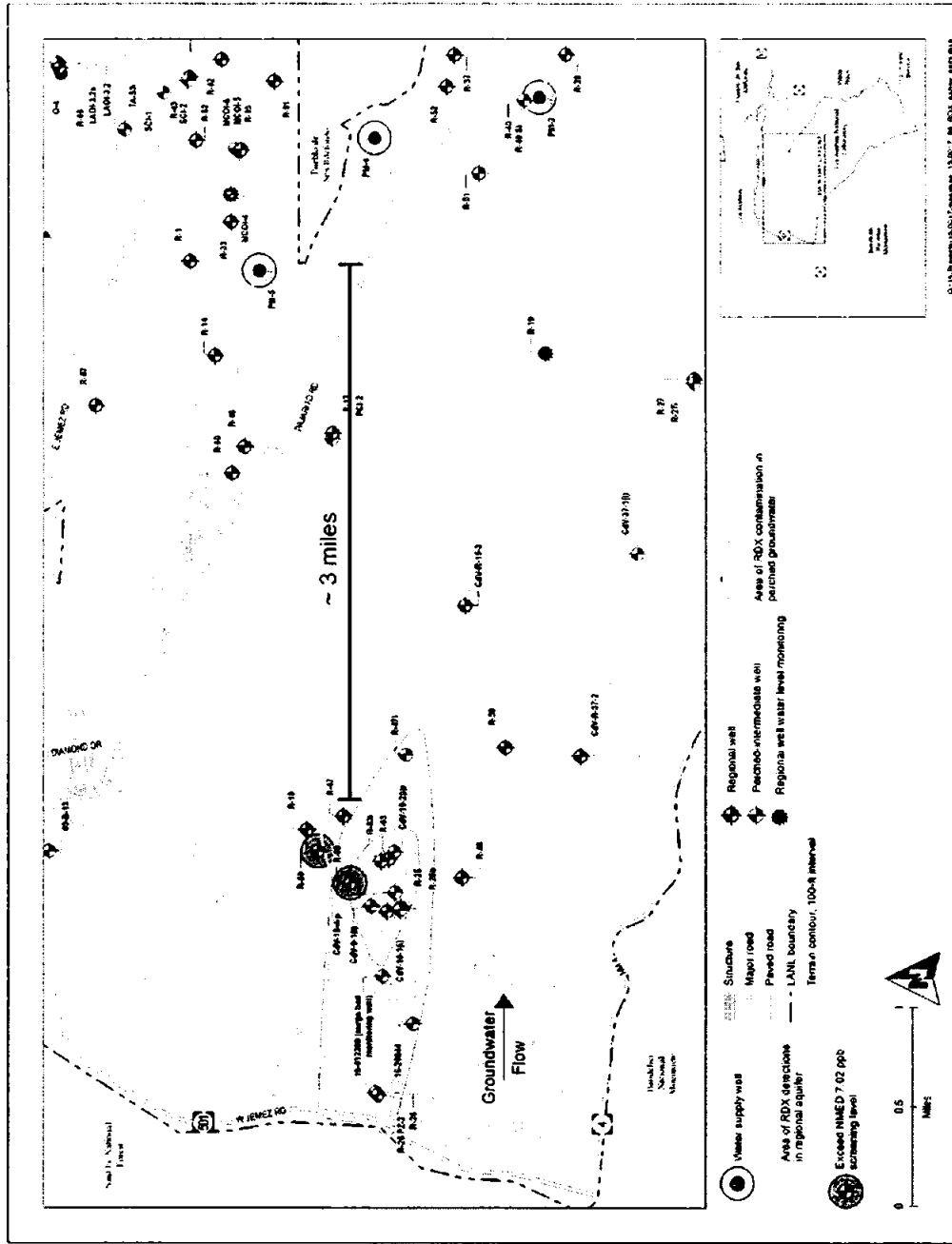


ENVIRONMENTAL MANAGEMENT
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RDX in Regional Aquifer

- RDX is present in several regional groundwater monitoring wells
- Known since 1998 in intermediate and regional groundwater, no detections above NIMED screening level
- Two monitoring wells (R-68 and R-69) have RDX above the NIMED's 9.66 ppb tap-water screening level
 - R-68 ~14 ppb
 - R-69 ~16 ppb
- RDX is not present in Los Alamos County (LAC) water-supply wells (~3 miles away)
- DOE collects groundwater samples from water-supply wells for RDX analysis
 - Sampled since 1998
 - Current semi-annual sampling supplements LAC's sampling efforts
- DOE/N3B will continue to monitor for RDX in water-supply wells and in monitoring wells closer to the RDX project site





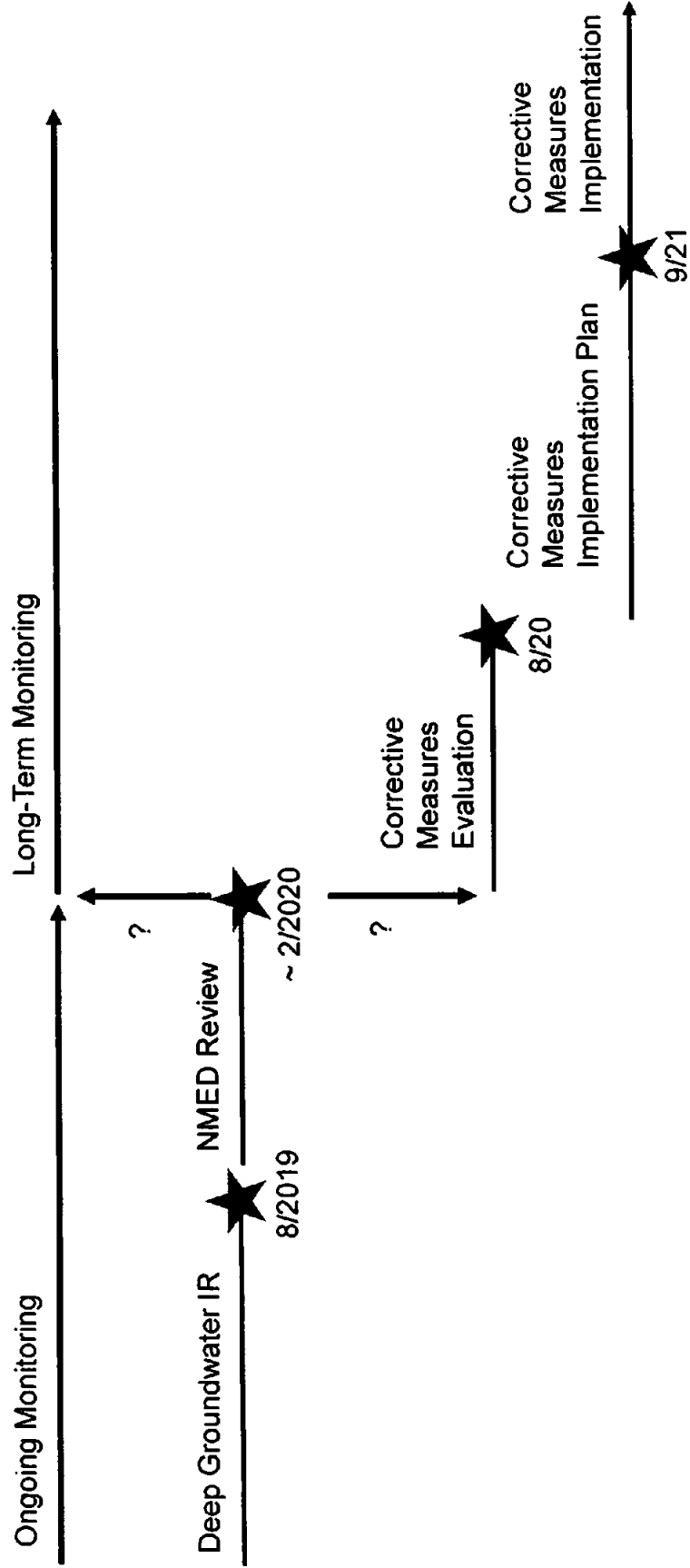
Upcoming Activities

- Deep Groundwater Investigation Report (DGIR)
 - Due to NMED in August 2019
- DGIR Objectives
 - Is the contamination sufficiently characterized?
 - A groundwater model will evaluate
 - Potential for long-term migration of RDX in regional aquifer (i.e., predictions for whether the footprint could grow)
 - whether groundwater remediation is necessary
 - If remediation is necessary, a plan will be developed to propose the approach
 - Long-term monitoring to ensure protection of LAC water-supply wells will be part of any path forward
- All activities conducted under the Consent Order with NMED

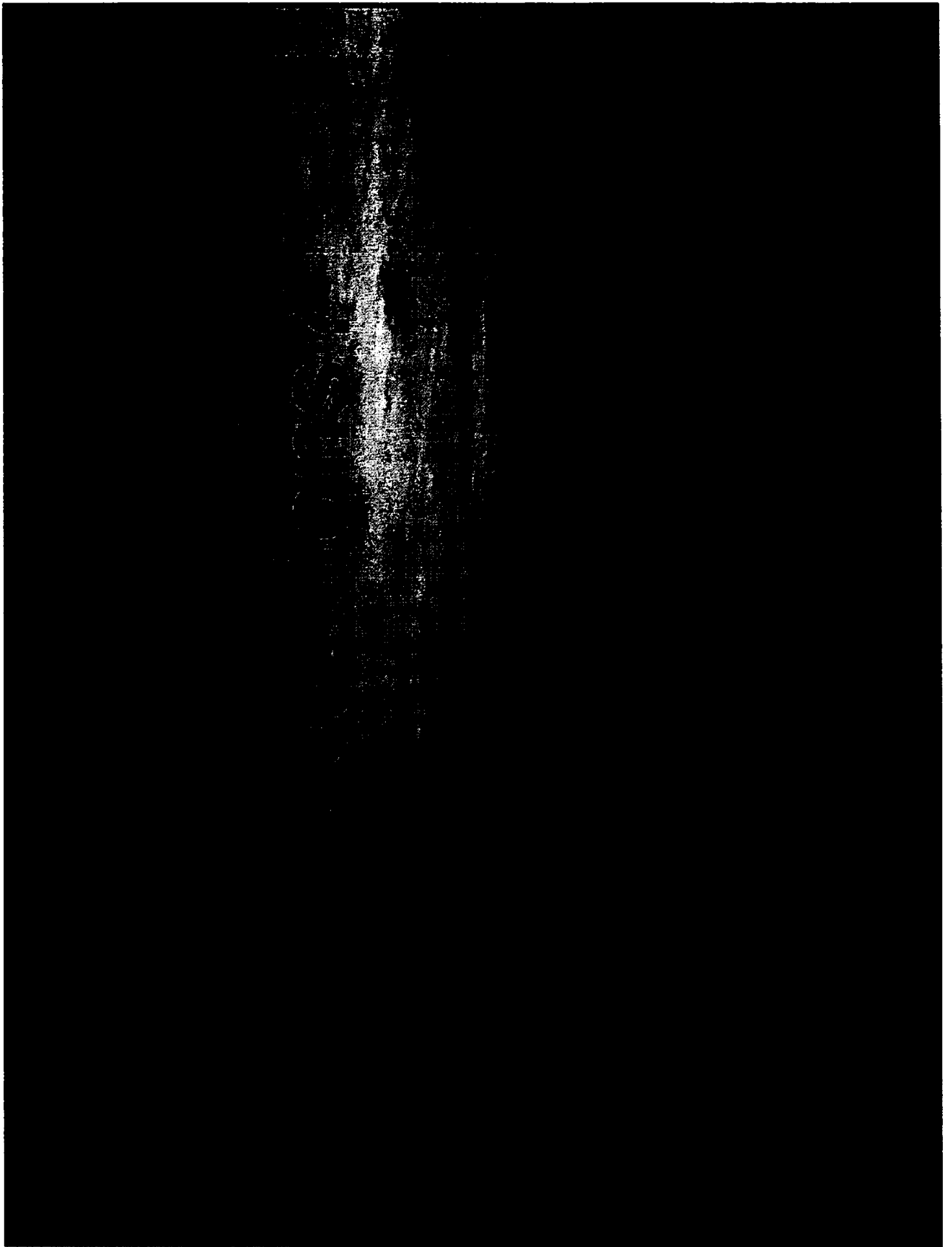




Approximate Schedule of Activities



ENVIRONMENTAL MANAGEMENT
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Anna Hansen
Commissioner, District 2



Katherine Miller
County Manager

Defense Nuclear Facility Safety Board Public Hearing on DOE ORDER 140.1

Albuquerque, New Mexico February 21, 2019

PUBLIC COMMENTS of ANNA HANSEN, Santa Fe County Commissioner, District 2

Good evening, Mr. Chair and members of the Board. My name is Anna Hansen and I am an elected member of the Santa Fe County Board of County Commissioners. I am here today on behalf of my constituents in District 2 of Santa Fe County, all of whom live in proximity to Los Alamos National Labs, a great many of whom receive their water from the County water utility via the Buckman Direct Diversion downstream from LANL, and a significant number of whom work at or near LANL. I want to express my very serious concerns about the potential effects of DOE Order 140.1 on the Defense Nuclear Facility Safety Board's ability to perform its critical statutory duty.

In order to fulfill its mission, the DNFSB must have access to a range of information regarding the design, construction, and operation of defense nuclear facilities such as the LANL. My general concern is that Order 140.1 would improperly impede the DNFSB's ability to obtain the information the it needs from DOE staff and DOE contractors in order to fulfill its statutory mandate. In particular, I am concerned that Order 140.1 could result in DOE or DOE contractors improperly restricting access to and information about defense nuclear facilities to the DNFSB.

I note that the enabling statute for the DNFSB at 42 U.S.C. Section 2286c(a), mandates that the Secretary of the Department of Energy "shall fully cooperate with the Board and provide the Board with ready access to such facilities, personnel, and information as the Board considers necessary to carry out its responsibilities under this subchapter." It stands to reason that this statutory requirement is there to ensure that the Board, its staff, and inspectors get the information and access **they** deem necessary to fulfill the DNFSB's mission. However, the following provisions of Order 140.1 appear to be in conflict with this statutory requirement for cooperation.

First, the Order at Paragraph 4b(2)(b) authorizes DOE "Departmental Elements" acting at the direction of the Secretary or the Secretary's designee, to deny access to information "where the person requesting the information does not need such access in connection with his/her duties." This provision appears to grant the Secretary or the Secretary's designee blanket power to unilaterally determine what information the DNFSB needs to know to perform its independent advisory function.

Second, the Order at Paragraph 4b(2)(1) appears to improperly limit DNFSB access to only "completed documents" in two key areas. One is where the documents contain DOE decisions on the safe design and operations of defense nuclear facilities, with examples given of safety basis documents, safety evaluation reports, and design, construction, and operation Standards. The other is where the documents "represent[] any event or practice at a defense nuclear facility which the DNFSB considers may adversely affect public health or safety", with the example provided of "approved results of fact-finding review and investigations". The obvious concern here is that DOE could deny Board access to critical decisional and investigative documents indefinitely on the grounds that they are not yet completed or approved. This language could enable or even encourage stonewalling by DOE staff.

Third, the Order at Paragraph 4b(3) and (4) could prevent DOE contractors from responding to otherwise proper requests for information or access by the DNFSB without formal authorization from a designated DOE representative. Simply stated, these provisions amount to a "gag rule" and are contrary to the spirit if not the letter of 42 U.S.C. Section 2286c(a). DNFSB inspectors should have unfettered and unfiltered access to DOE contractors and their employees at defense nuclear facilities.

Fourth, I also note that the Order at Paragraph 7h provides a restrictive definition of "public health and safety" that appears to conflict with the provisions of the DNFSB's enabling act. In the Order, "public health and safety" is limited to the "health and safety of individuals located beyond the site boundaries of DOE sites with DOE Defense Nuclear Facilities." The Board's enabling act in no way restricts the Board's mission to advising the Secretary on protecting the public health and safety of individuals living and working outside a defense nuclear facility. 42 U.S.C. Section 2286a(a) in fact expressly states that the Board's mission is to inform and advise the Secretary "in providing adequate protection of public and safety *at* such defense nuclear facilities", and not just *outside* the facilities. I recognize and applaud the Board's track record in documenting and making recommendations on health and safety issues that have arisen within the site boundaries at LANL, and oppose any attempt by DOE to limit the Board's ability to serve that vital function.

At this point, I would also like to acknowledge and thank the Department for allowing me the opportunity to meet with Mr. LaPointe and Mr. Do of DOE yesterday and personally convey the concerns I expressed to you tonight. I was told that our concerns would be taken into consideration, and that a review of the Rule would take place at some point after it had been in effect for a year or so.

In conclusion, I would like to thank you for conducting a hearing on this critical topic today, and urge you to oppose any efforts by DOE or this Administration to any way restrict your access to any and all information you determine is needed to properly advise the Secretary on providing for the public health and safety at defense nuclear facilities.



A U.S. Department of Energy
Site-Specific Advisory Board

NNMCAB Members

- Gerard Martinez, Chair
Santa Fe, NM
- Angelica Gurulé, Vice-Chair
Española, NM
- Cherylin Aucitty
Taos Pueblo, NM
- Max Baca
Las Vegas, NM
- Beth Beloff
Santa Fe, NM
- Adam Duran
Pueblo of Pojoaque, NM
- Elena Fernandez
Taos, NM
- Jacquelyn Gutierrez
Santa Clara Pueblo, NM
- Robert Hull
Los Alamos, NM
- Roger Life
Española, NM
- Joshua Madalena
Pueblo of Jemez, NM
- Daniel Mayfield
Nambé, NM
- David Neal
Santa Fe, NM
- Alex Puglisi
Santa Fe, NM
- Angel Quintana
Pueblo of Pojoaque, NM
- Ulises Ricoy
Española, NM
- Stanley Riveles
Taos, NM
- Ashley Sanderson
Santa Fe, NM
- Steven Santistevan
Arroyo Seco, NM
- Stephen Schmelling
Santa Fe, NM
- Deborah Shaw
Santa Fe, NM
- Irene Tse-Pe,
Pueblo de San Ildefonso, NM
- Michael Valerio
Taos, NM

- Jacob Griego
Student Representative

September 28, 2018

Mr. Doug Hintze, Manager
Environmental Management Los Alamos Field Office
3747 West Jemez Road, MS A316
Los Alamos, NM 87544

Dear Mr. Hintze,

I am pleased to enclose Recommendation 2018-03 "Interface With Defense Nuclear Facilities Safety Board" which was unanimously approved by the Northern New Mexico Citizens' Advisory Board during its meeting on September 26, 2018.

Please contact me if you have questions regarding this recommendation. We look forward to the response from the Department of Energy.

Sincerely,

Gerard Martínez y Valencia
Chair, NNMCAB

Enclosure: a/s

Cc w/encl:

- U. S. Senator Tom Udall
- U. S. Senator Martin Heinrich
- U. S. Congressman Ben R. Lujan
- Secretary Butch Tongate, NMED
- David Borak, DFO (via e-mail)
- M. Lee Bishop, DDFO (via e-mail)
- David Rhodes, EM-LA (via e-mail)
- Gil L. Vigil, Executive Director Eight Northern Indian Pueblos
- Menice B. Santistevan, NNMCAB Executive Director
- NNMCAB File

1 **NORTHERN NEW MEXICO CITIZENS' ADVISORY BOARD**
2 **Recommendation to the Department of Energy**
3 **No. 2018-03**
4 **INTERFACE WITH DEFENSE NUCLEAR FACILITIES SAFETY BOARD**
5 **Drafted by: Stanley Riveles**
6

7 **Background**
8

9 On May 14, 2018, the Department of Energy (DOE) issued Order 140.1, entitled "Interface with the
10 Defense Nuclear Facilities Safety Board (DNFSB)." Effective on the date of publication, Order 140.1
11 was released without advance public notice and without opportunity for public comment. The purpose,
12 according to the Order, is to "emphasize line management accountability and establish clear
13 requirements and responsibilities when working with the Defense Nuclear Facilities Safety Board." In
14 so doing, however, the terms of the Order appear to restrict the mission of the DNFSB and raise
15 concerns about how the effectively DNFSB will carry out its safety mission in the future.
16

17 The DNFSB is an independent organization within the executive branch, chartered by Congress with the
18 responsibility of providing recommendations and advice to the President and the Secretary of Energy
19 regarding public health and safety issues at Department of Energy defense nuclear facilities. The
20 organization does not have any regulatory authority over the conduct or activities of DOE. Instead, it
21 was created in the late 1980s, under the Atomic Energy Act, to provide expert citizen advice and
22 recommendations for consideration and decision by senior DOE officials. Independent reviews of
23 DNFSB recommendations have cited its contributions to improvements in the management and storage
24 of environmental waste; reductions in risk of fire and explosion; improvements in safety standards and
25 procedures; and long-term planning and emergency procedures.
26

27 The relationship between the Northern New Mexico Citizens' Advisory Board (NNMCAB) and the
28 DNFSB is a limited one. Most of the facilities subject to DNFSB jurisdiction fall under National
29 Nuclear Security Administration. However, there are a number of Environmental Management (EM)
30 sites at LANL and New Mexico, such as Waste Isolation Pilot Plant (WIPP) that do fall under DNFSB
31 purview. Whether or not an EM site is subject to DNFSB oversight depends on the level of danger to
32 the public and certain categories of workers. Under the DOE interpretation laid out under the new
33 Order, some undetermined number of facilities at EM sites around the country may no longer be subject
34 to DNFSB safety evaluation. (There is a question about the status of WIPP.) Also, the definitions of
35 "worker" and "public" safety are in dispute and subject to interpretation.
36

37 Order 140.1 has been the subject of substantial media attention and criticism. In addition, several public
38 interest organizations have raised specific concerns about the impact of Order-140.1. They have called
39 for clarification of the following issues:

- 40 • Exclusion of Hazard Category 3 facilities from DNFSB oversight.
- 41 • Exclusion from DNFSB oversight of DOE workers directly involved in affected operations
- 42 • Restriction of contacts between DNFSB officials and contractor personnel.
- 43 • Limitations on access of DNFSB officials to "pre-decisional" and other types of information.
- 44 • Requirement that DOE "speak with one voice" in interaction with DNFSB.
- 45 • Restrictions on staff and whistleblowers from raising safety concerns.

46 The lack of clarity perceived in the provisions of the Order have prompted interested organizations, as
47 well as elected representatives, to call for suspension of the order pending consultations and
48 reconsideration. These include the Energy Communities Alliance and the Alliance of Nuclear Worker
49 Advocacy Groups, among others. In addition, Senators Heinrich and Udall from New Mexico have
50 called for language in 2019 DOE legislation to suspend the order. In a letter approved by all four Board
51 members, the DNFSB detailed the specific reasons why the Order is inconsistent with provisions of the
52 Atomic Energy Act, under which it was created.

53
54 In an August 28, 2018, public hearing called by the DNFSB to review the Order, DOE officials
55 defended its authority to delimit oversight jurisdiction of the DNFSB vis-à-vis DOE operations.
56 William (Ike) White, Chief of Staff and Associate Principal Deputy Administrator for the National
57 Nuclear Security Administration, is quoted as saying that "it is certainly not intended to harm" the DOE-
58 DNFSB relationship." The changes are designed to ensure DOE leaders "have ownership and
59 accountability for the decisions they make." Other DOE officials who spoke at the hearing said they
60 believed the negative impacts of the Order have been exaggerated by the critics. They believed that the
61 actual changes would be minimal, and that any ambiguities, such as access to information and timing of
62 discussions, would be smoothed out during interactions between the two organizations. Matthew
63 Moury, Associate Under Secretary of Energy for Environment, Health, Safety and Security, defended
64 the safety record of the department and restated the DOE commitment to ensuring safety while carrying
65 out its mission. The Hearing evidently did not close the gap. At the end, Acting DNFSB Director Bruce
66 Hamilton questioned whether provisions of the Order are consistent with the Atomic Energy Act, under
67 which the DNFSB was created.

68
69 Under its Charter, the NNM CAB "provides advice and recommendations concerning the following EM
70 site-specific issues: clean-up standards and environmental restoration; waste management and
71 disposition; stabilization and disposition of non-stockpile nuclear materials; excess facilities; future land
72 use and long-term stewardship; risk assessment and management; and clean-up science and technology
73 activities." Ultimately, the goals are protection of the natural environment and human safety. The
74 NNM CAB does not question or undervalue the commitment of DOE EM to safety standards and
75 performance. It also believes that, in the final analysis, DOE EM must take responsibility for carrying
76 out operational tasks. The Chairs also understand that the DOE and DNFSB have sometimes had policy
77 disagreements, and that reforms of DNFSB activities and procedures have been urged by independent
78 observers, such as the Government Accountability Office. At the same time, it is acknowledged that the
79 DNFSB has made and continues to make constructive contributions to improving DOE safety standards
80 and performance.

81
82 **Comments and Observations**

83
84 The NNM CAB believes that the health and safety of the public, as well as responsible execution of the
85 EM mission requires the consistent and transparent implementation of applicable laws and policies.
86 Disagreement on the implementation of the law among Executive Branch agencies, as is currently the
87 case, jeopardizes such implementation. By fostering the perception of organizational conflict, it
88 undermines public credibility. The absence of the opportunity for comment by the public or, indeed, by
89 the DNFSB itself, diverges from common practice and raises questions about the process that resulted in
90 the Order.

91

92 The NNM CAB takes note of the positions of Senators Udall and Heinrich who have called for
93 suspension of the Order pending review by Congress and the public. The NNM CAM also takes note of
94 the DNFSB recommendation to suspend the Order and its offer to collaborate with DOE to clarify
95 implementation.

96

97 **Recommendation**

98

99 The NNM CAB recommends that DOE suspend implementation of Order 140.1 pending clarification of
100 how the order will be implemented at LANL EM sites and how such implementation may differ from
101 previous practice. The NNM CAB requests DOE to provide such clarification through the EM site
102 manager, through DNFSB representatives at LANL, and at public forums. The NNM CAB recommends
103 that the DNFSB hold its next hearing in New Mexico, as Senators Udall and Heinrich have proposed.

104

105 Pertinent questions are listed below.

- 106 1. What direct and/or indirect effects would restrictions on the operations and effectiveness of
107 DNFSB have on the information and oversight mission and responsibilities of the
108 NNM CAB?
- 109 2. Can the NNM CAB receive a full accounting of the changes under this new Order affecting
110 EM sites and how it is designed to benefit the public, nuclear site workers and public
111 health?
- 112 3. How will this Order affect flow of information necessary for the NNM CAB to fulfill their
113 advisory role with DOE EM?
- 114 4. What is the actual impact of this Order on DOE/EM at LANL and its contractor?
- 115 5. Does the Order conflict legally with the Statute that created the DNFSB?
- 116 6. Why was this Order put into effect without notice in the Federal Register or public
117 hearings?
- 118 7. Why has the DNFSB been excluded from information regarding DOE Nuclear Hazard
119 Category 3 or below? At LANL, re-categorization of the Rad Lab to Nuclear Hazard
120 Category 3 takes it outside of the DNFSB's purview.
- 121 8. Is WIPP still under the purview of DNFSB?
- 122 9. What does "speaking in one voice" mean? Does this in any way restrict employees and
123 staff from raising safety concerns?
- 124 10. In reviewing past safety incidents at LANL specifically and at other nuclear facilities, how
125 will this Order change the likelihood that such safety incidents will be uncovered in time
126 for corrective action?
- 127 11. What are the expected life-cycle costs and duration of the LANL clean-up?

128

129 **Intent**

130

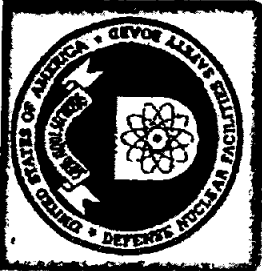
131 It is the intent of the NNM CAB to maintain its interest in this issue and update its members, as
132 appropriate, at future meetings.

133

134

135 **References**

- 136
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144 [the-atomic-energy-act](https://psmag.com/environment/new-order-violates-the-atomic-energy-act). Also, "Trump Administration Moves to Neuter Nuclear Safety Board,"
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147 [nuclear-safety-board/article_eceadb385-f71e-5c79-b2fc-75220867d93e.html](http://www.santafenewmexican.com/news/local_news/trump-administration-moves-to-neuter-nuclear-safety-board/article_eceadb385-f71e-5c79-b2fc-75220867d93e.html)
- 148 4. Energy Communities Alliance letter to DOE Secretary Perry dated August 28, 2018.
149 <http://www.energyca.org/policy> Alliance of Nuclear Workers Advocacy Groups.
- 150 5. Letter from NM Senators Udall and Heinrich to Chairman and Ranking Member of Energy and
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152 [http://nuclearactive.org/wp-content/uploads/2018/08/Udall-Heinrich-Defense-Nuclear-Safety-](http://nuclearactive.org/wp-content/uploads/2018/08/Udall-Heinrich-Defense-Nuclear-Safety-Board-Reorganization-and-DOE-Order-140.1-to-A....pdf)
153 [Board-Reorganization-and-DOE-Order-140.1-to-A....pdf](http://nuclearactive.org/wp-content/uploads/2018/08/Udall-Heinrich-Defense-Nuclear-Safety-Board-Reorganization-and-DOE-Order-140.1-to-A....pdf) Alliance of Nuclear Worker Advocacy
154 Groups letter to Secretary Perry, dated July 24, 2018.
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160 [report/929/1?q=%7B%22search%22%3A%5B%22H.R.+5895%22%5D%7D&r=1&overview=cl](https://www.congress.gov/congressional-report/115th-congress/house-report/929/1?q=%7B%22search%22%3A%5B%22H.R.+5895%22%5D%7D&r=1&overview=closed)
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166 [votes/2018-100-064-regarding-doe-order-1401-soc](https://www.dnfsb.gov/board-activities/board-notational-votes/2018-100-064-regarding-doe-order-1401-soc)



Public Hearing on the Department of Energy's
Order 140.1, *Interface with the Defense Nuclear Facilities
Safety Board*

February 21, 2019

Session 1 – 5:30 – 7:00 pm

*DNFSB interface and access to information, facilities,
and personnel.*

Session 2 – 7:15 pm – 9:00 pm

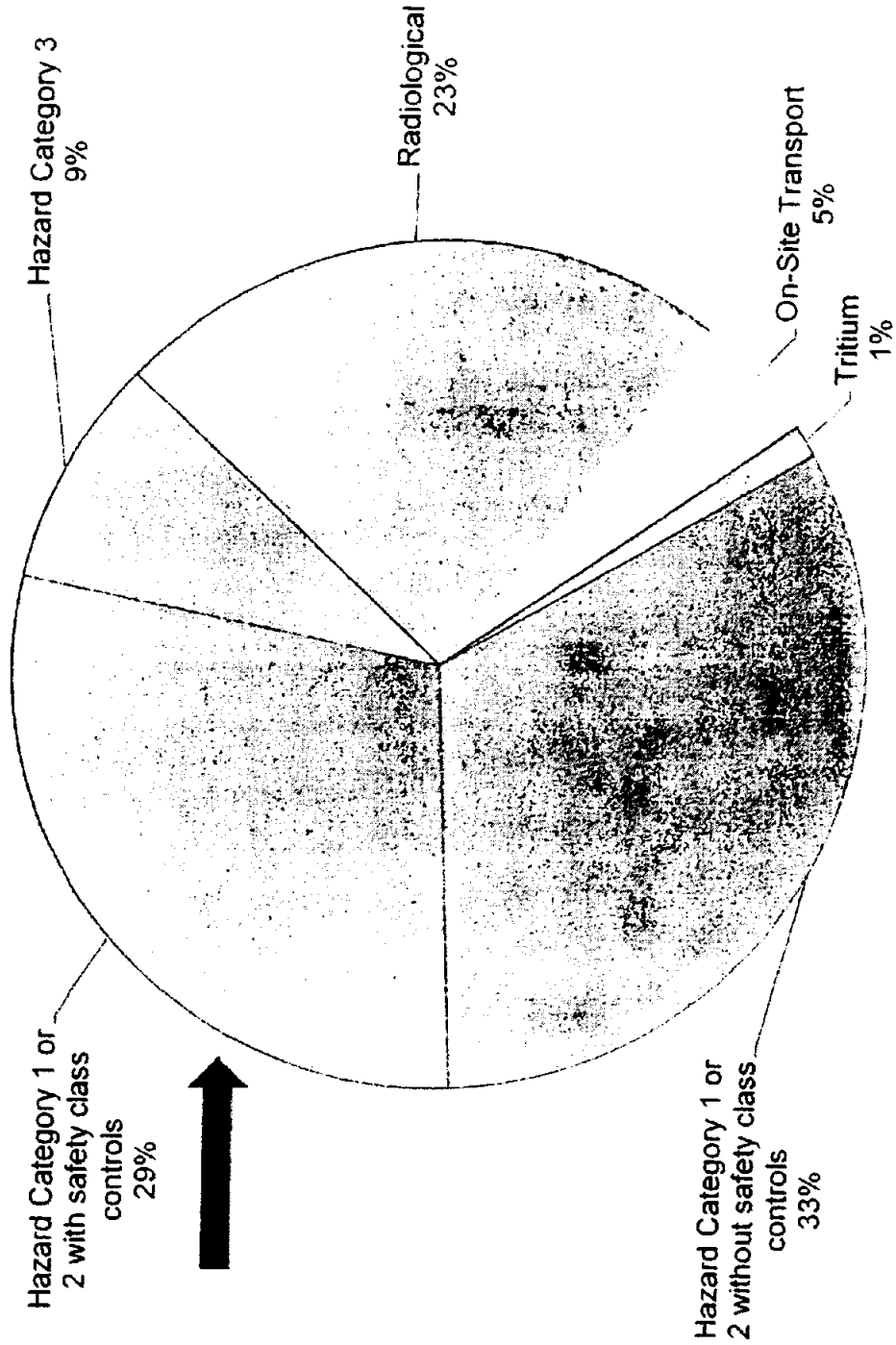
Public Comments and Wrap-up

Exhibit 1 – Board Concerns with Order 140.1

- The Order provides a new definition of “public health and safety” that only includes individuals located beyond site boundaries, thereby excluding onsite individuals and workers from the Board’s oversight;
- The Order provides exemptions allowing DOE to deny access to Hazard Category 3 nuclear facilities or other facilities that DOE determines do not have the potential to adversely affect offsite public health and safety;
- The Order lacks a clear provision to provide the Board with ready access to such information, facilities, and personnel as the Board considers necessary to carry out its responsibilities; and
- The Order contains an allowance for DOE to deny Board requests related to deliberative documents, pre-decisional documents, or deliberative meetings.



Exhibit 2—Staff Analysis of Candidate DOE Defense Nuclear Facilities



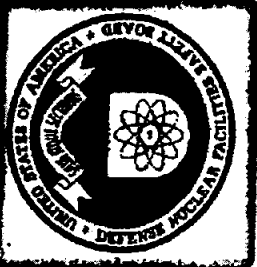
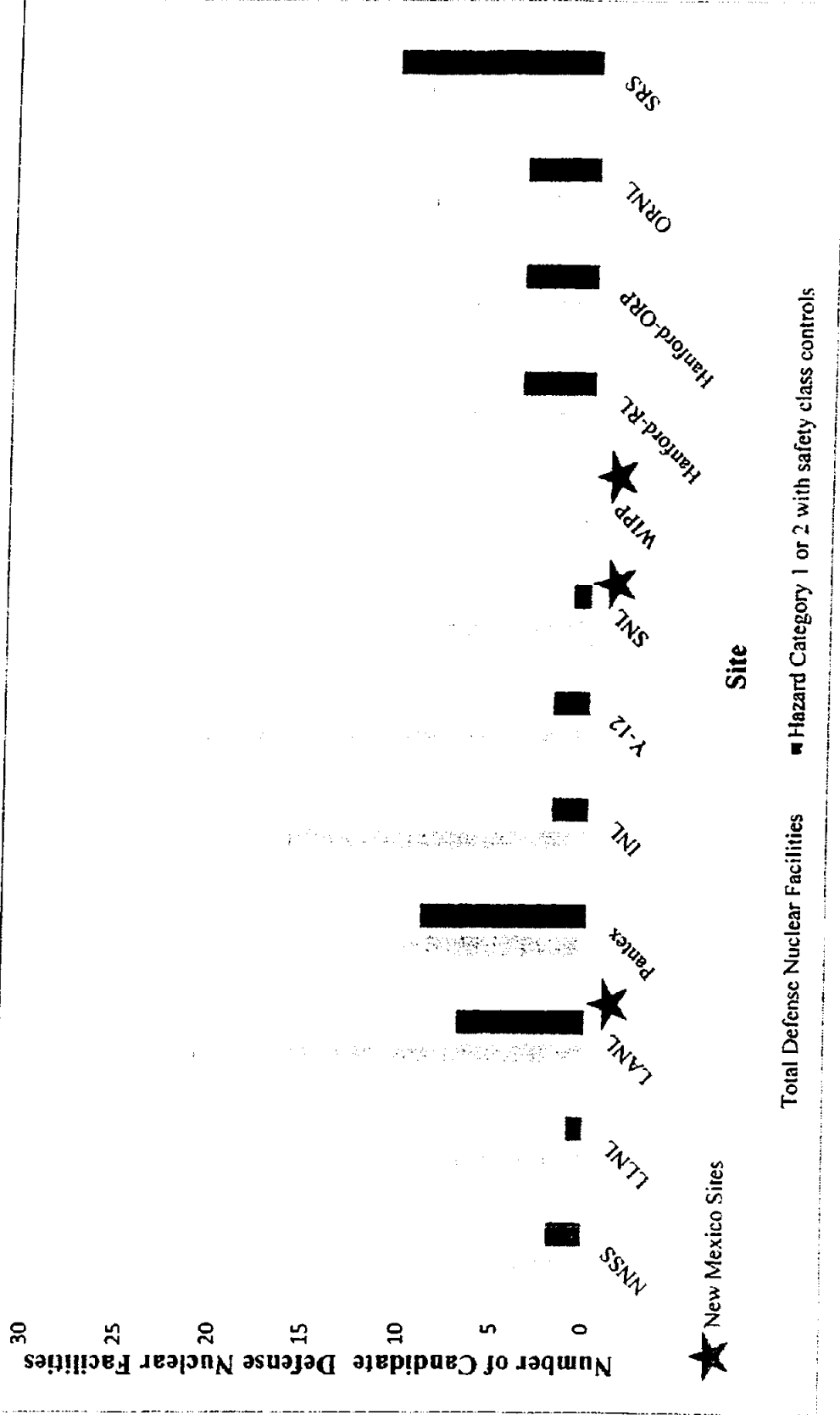
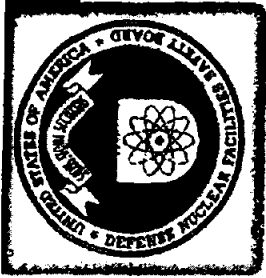


Exhibit 3—Staff Analysis of Potential Impacts of Facilities at each DOE Site



★ New Mexico Sites

■ Total Defense Nuclear Facilities
 ■ Hazard Category 1 or 2 with safety class controls



Questions Regarding Field Office Implementation

1. Is the new Interface Order currently applicable to your field office employees?
2. Have you developed supplemental guidance for your field office employees, such as a procedure or training documents, that describes how the Order will be implemented at your site?
3. Has the Order been added to your site's contract?
 - If not, when do you expect to do so?
 - Has your contractor developed any updated implementing procedures?



Date: January 28, 2019

To: Erik Litzenberg, City Manager

Through: Bernadette Salazar, Human Resources Director
 Concur Do Not Concur

Shannon Jones, Public Utilities Division Director
 Concur Do Not Concur

Rick Carpenter, Acting Water Division Director
 Concur Do Not Concur

From: Randy Sugrue, Interim BDD Operations Superintendent

ITEM

Request to hire Francisco Romero as BDD Advanced Water Treatment (AWT) Operator, position number: 2116.

BACKGROUND

Candidate Francisco Romero was recently interviewed and selected by Randy Sugrue, Interim BDD Operations Superintendent, Juan Portillo BDD Charge Operator, and Bradley Prada BDD Interim Charge Operator. Mr. Romero is currently BDD Planner/Scheduler. Mr. Romero has all qualifications required for promotion to BDD AWT Operator.

This request is made with the understanding that, in consideration of the City of Santa Fe Classification and Compensation report released in December 2018, the A, B, C pay bands currently associated with the BDD AWT position are not guaranteed to be available in the future.

RECOMMENDED ACTION

- Please agree to approval of Francisco Romero as a BDD AWT Operator at a pay rate of \$26.035 per hour. This pay rate is within the existing classification for the vacant position number: 2116 and will not create any inequity within the bargaining unit.
- Job Classification: BDD Advanced Water Treatment Operator RA# 2019-PU2.
- Salary Range: 20.214-35.225 (A22).
- The budget for this position is available in the FY 18/19 Business Unit 7280000.



**PROJECT MANAGEMENT AND
FISCAL SERVICES AGREEMENT
BUCKMAN DIRECT DIVERSION PROJECT**

THIS PROJECT MANAGEMENT AND FISCAL SERVICES AGREEMENT (hereinafter referred to as "the Agreement" or "PMFSA") is entered into by and between the Buckman Direct Diversion Project Board ("the BDD Board"), an entity organized and existing under that certain Joint Powers Agreement by and between the City of Santa Fe ("City") and the Santa Fe County ("County"), dated March 7, 2005, and the Sangre de Cristo Water Division of the City of Santa Fe ("Project Manager").

WHEREAS, the City and the County, through the BDD Board, are designing, constructing, operating and maintaining the Buckman Direct Diversion Project;

WHEREAS, in preparation for creating the Project, the City and the County entered into the Water Resources Agreement on January 11, 2005;

WHEREAS, the City and the County entered into a Joint Powers Agreement on March 7, 2005, governing the Buckman Direct Diversion Project, creating the BDD Board, delegating to the BDD Board in §12 the authority to enter into the PMFSA, and designating in §13 the Sangre de Cristo Water Division of the City as the Project Manager and Fiscal Agent of the Project until December 1, 2015;

WHEREAS, the City, the County, and Las Campanas entered into the Facilities Operations and Procedures Agreement on October 16, 2006, which provides for respective ownership interests of the City and the County in the shared facilities comprising the Project, and cost sharing obligations of the City, County and Las Campanas in connection with the Project;

WHEREAS, the purpose of this Agreement is to more specifically describe the duties and responsibilities of the BDD Board, the duties and responsibilities of the Project Manager, how the Project will be operated and maintained by the Project Manager on behalf of the BDD Board, how contributions by the City, the County and Las Campanas will be paid and credited against the obligations set out in the Project Agreements, the duties and responsibilities of the Project Manager as fiscal agent for the Project, and other necessary terms; and

WHEREAS, the BDD Board and the Project Manager desire to enter into the agreement to address the items noted in the foregoing paragraph.

NOW, THEREFORE, for the covenants, promises and consideration described herein, the BDD Board and the Project Manager agree as follows:

AGREEMENT

ARTICLE 1. DEFINITIONS.

Capitalized words or phrases used in the foregoing recitals of this Agreement shall have the meanings assigned therein. In addition, the words and phrases defined in this Article 1 shall have the meanings assigned in this section.

A. "The Agreement," "this Agreement," or "PMFSA" as used herein refers to this Project Management and Fiscal Services Agreement.

B. "Annual Operating Budget" means the annual budget for all activities of the Project, including OMR&R, but excluding the budget for the design and construction.

C. "Annual Operating Plan and Delivery Schedule" means the annual operating plan and water delivery schedule prepared by the Project Manager with input from the City, the County and Las Campanas, described in Section 27 of the FOPA and herein.

D. "The "City" means the City of Santa Fe, New Mexico, a municipal corporation organized and existing under the Laws of the State of New Mexico, and a signatory of the Project Agreements.

E. "The County" means Santa Fe County, New Mexico and the Board of County Commissioners of Santa Fe County, a political subdivision of the State of New Mexico, and a signatory of the Project Agreements.

F. "Design-Build Contract" means the contract to be entered into by and between the BDD Board and a design-build contractor to design and construct the Project.

G. The "Design-Build Contractor" refers to the contractor selected to design and construct the Project.

H. The "Design and Construction Budget" means the comprehensive, multiyear budget for the design and construction of the Project.

I. "Fiscal Year" means a year beginning on July 1 and ending on June 30.

J. "The FOPA" means the Facility Operations and Procedures Agreements for the Buckman Direct Diversion Project Between the City of Santa Fe, Santa Fe County and Las Campanas LP.

K. "The JPA" means the Joint Powers Agreement between the City of Santa Fe and the County of Santa Fe governing the Buckman Direct Diversion Project, effective March 7, 2005.

L. "Las Campanas" means the Las Campanas Limited Partnership, a Delaware Limited Partnership, and a signatory of the FOPA.

M. "OMR&R" means operation, maintenance, replacement and repair.

N. "Owners' Consultant" means Camp, Dresser & McKee, Inc. (hereinafter referred to as "CDM"), under contract with the BDD Board as consulting engineer to the BDD Board, or any successor entity.

O. "The Owners' Consultant Contract" means the contract between the BDD Board and CDM, the Owners' consultant, as amended.

P. "The Project" means the planned Buckman Direct Diversion Project which will divert surface water from the Rio Grande as described in the final Environmental Impact Statement for the Buckman Direct Diversion Project, and includes diversion, treatment, transmission and related works used to deliver water to the respective Independent Water Systems of the City and the County.

Q. The phrase "the Project Agreements" means the WRA, JPA, the FOPA and the PFMSA.

R. "Project Expenses" means those expenditures of the Project approved by the BDD Board and included in a budget approved by the BDD Board, the City and the County, and reimbursement expenses retroactive to the execution date of the JPA.

S. "Project Manager" means the Sangre de Cristo Water Division of the City of Santa Fe.

T. "WRA" shall mean the Water Resources Agreement by and between the City of Santa Fe and Santa Fe County and dated on or about January 11, 2005.

ARTICLE 2. TERM, EFFECTIVE DATE.

This Agreement shall become effective as of the date the Agreement is approved and executed by the BDD Board and the Project Manager. This Agreement shall remain in full force and effect until December 1, 2015, unless terminated earlier as provided in Article 9.E. of this Agreement.

ARTICLE 3. RESPONSIBILITIES OF THE BDD BOARD.

The BDD Board shall be responsible to do all of the following:

A. Exercise all the responsibilities of the BDD Board as set forth in the Project Agreements;

B. Supervise the performance of the Project Manager pursuant to §§ 4 & 12 of the JPA;

C. Review and approve all contracts for the procurement of the Project including documents related to design, engineering, construction, operation and maintenance of the Project, including, without limitation, requests for proposals, requests for qualifications, contracts and expenditures in amounts greater than \$20,000;

The BDD Board shall review, and if approved, execute the Owners' Consultant and the Design-Build Contracts, pursuant to §§ 10 and 11 of the JPA.

Contracts and expenditures in amounts less than \$20,000 may be reviewed, and if acceptable, may be approved administratively by the Project Manager. In an emergency, the Project Manager may approve contracts and expenditures up to \$30,000.

D. Establish by resolution of the BDD Board a document retention and protection policy.

E. Establish by resolution of the BDD Board the Annual Operating Budget;

F. Provide an adequate opportunity for the City, the County, and consistent with the FOPA, Las Campanas, and the public, to comment and make appropriate presentations on any proposed budget;

G. Consider and, if appropriate, adopt, by resolution of the BDD Board, amendments to a previously approved budget that the BDD Board deems advisable;

H. Create an Emergency Reserve Fund and establish procedures for its management pursuant to §24 of the FOPA;

I. Collect, through the Project Manager, contributions of the City, the County and Las Campanas toward design, construction, operation and maintenance of the Project, and related expenditures, and credit those contributions towards the obligations of the City, the County and Las Campanas as set forth in the Project Agreements;

J. Consistent with the Bateman Act, appropriately condition approval of each budget or amendment thereto on appropriation by the City and/or the County in an appropriate budget or budget amendment ;

K. Approve all financing and funding sources for the Project (except for funding to be provided by the City and the County pursuant to the Project Agreements)

and, as appropriate, enter into contracts in connection with such financing or funding sources;

L. Monitor the performance of the Owners' Consultant pursuant to the Owners' Consultant Contract and monitor the performance of the Design-Build Contractor pursuant to the Design-Build Contract; and

M. Take all steps that are necessary and proper for the design, construction, operation and maintenance of the Project.

ARTICLE 4. DELEGATION OF AUTHORITY TO AND GENERAL RESPONSIBILITIES OF THE PROJECT MANAGER.

The BDD Board delegates to the Project Manager the authority and responsibility to do the following:

A. Carry out the directives and policies of the BDD Board, make recommendations to the BDD Board related to the Project, provide support staff for BDD Board meetings, contract with independent legal counsel selected by the BDD Board, contract with specialized legal counsel as needed to support design, construction, operation and maintenance of the Project, and, as directed by the BDD Board, implement the Project during design and construction and, following completion of construction, manage, operate, and maintain the Project;

B. Seek and apply for funding (except for funding to be provided by the City and the County pursuant to the Project Agreements) in the form of grants, loans or loan guarantees, or other funding sources as may be deemed appropriate by the BDD Board, for the Project as directed by the BDD Board and manage any such grants, loans or loan guarantees;

C. Administer all funds loaned, granted or contributed by the City, the County or Las Campanas in connection with the Project, and respond to related audits as may be necessary;

D. Prepare and submit to the BDD Board, the City, the County and Las Campanas no later than December 15 of each Fiscal Year, an Annual Operating Budget, which shall include annual and 5 year projected OMR&R costs, including a 5 year schedule with the Project Manager's proposed facilities and equipment major maintenance and replacement costs, proposed allocation of costs among the City, the County and Las Campanas as provided in the FOPA, a facilities and equipment major repair and replacement fund, and an emergency reserve fund;

E. Develop and implement prior to initial operation a cost accounting system to apportion the total fixed and variable cost of OMR&R to the City, the County and Las Campanas in accordance with the cost sharing provisions of the FOPA;

F. Develop a document retention and protection policy for adoption by the BDD Board;

G. Act as fiscal agent for the Project as provided in Article 7, herein;

H. Once an Annual Operating Budget is approved by the BDD Board, implement the budget, adhere strictly to the budget, and make recommendations for necessary budget adjustments throughout the Fiscal Year, and contract for an annual independent audit, consistent with GAAP and GASB and with the New Mexico Audit Act, NMSA 1978, Sections 12-6-1-, *et seq.*, and 2.2.2. NMAC, *et seq.*, as amended, and report the results of the audit to the BDD Board;

I. Prepare and submit to the BDD Board for approval all documentation to be used for procurement in the Project including, but not limited to, documents related to design, engineering, construction, operation and maintenance of the Project, including, without limitation, requests for proposals, requests for qualifications and contracts in amounts greater than \$20,000;

J. Develop all procurement documents in accordance with the City's Purchasing Manual and present same to the BDD Board;

K. Consult with staff of the City, the County, and Las Campanas regarding the planning and design and OMR&R of the Project;

L. In consultation with the BDD Board, apply for, manage and maintain, including the preparation and submittal of all required compliance reports, all necessary permits for the operation of the Project, including, without limitation, those permits, easements, and rights-of-way held in the name of the BDD Board, and those permits required to be obtained by the BDD Board pursuant to Section 6 of the FOPA;

M. Maintain communication with the BDD Board, the City, the County and Las Campanas, primarily via monthly BDD Board meetings, and keep these entities informed of important matters as may be necessary in the interim between monthly BDD Board meetings;

N. As directed by the BDD Board, act as liaison for the BDD Board and represent the BDD Board in Project matters involving tribal governments, state and federal government agencies, and non-governmental organizations;

O. As directed by the BDD Board, and with the consent and approval of the City and the County, and in consultation with Las Campanas, coordinate the Project with regional water supply planning efforts; and

P. Perform other duties as assigned by the BDD Board consistent with funding and the Project Agreements.

Q. Make commercially reasonable efforts to enforce the terms of all agreements that the BDD Board approves. In the event that the Project Manager's administrative efforts to enforce a specific contract's terms are not successful, the Project Manager shall so inform the BDD Board and shall make specific recommendations for the BDD Board's consideration regarding the BDD Board's contract enforcement steps or procedures, including litigation.

ARTICLE 5. SPECIFIC RESPONSIBILITIES OF THE PROJECT MANAGER DURING DESIGN AND CONSTRUCTION.

During design and construction of the Project (through project acceptance by the BDD Board), the Project Manager shall do the following:

A. Supervise the Owners' Consultant pursuant to the Owners' Consultant Contract as directed by the BDD Board;

B. On a monthly basis, provide a schedule of construction payments to the BDD Board, track Project costs, track progress of the Project, monitor design and construction costs to determine whether such costs are within the sum specified by the BDD Board in the Design and Construction Budget, and manage the Design-Build Contractor within the limits of contractual obligations such that construction of the Project is timely and reasonably delivered pursuant to the project testing and acceptance dates agreed to in the Design-Build Contract;

C. Negotiate and manage procurement of the Design-Build Contract in accordance with the City's Purchasing Manual and present same to the BDD Board for approval;

D. Oversee the Design-Build Contractor in connection with all design and construction activities, and recommend to the BDD Board legal action to enforce compliance with the contract, if necessary;

E. Administer requests for payment by the Design-Build Contractor pursuant to construction draw schedules and timely present requests for Change Orders to the BDD Board and process same;

F. Monitor testing of the completed Project in accordance with procedures outlined in the Design Build Contract and upon successful results accept the completed Project.

ARTICLE 6. SPECIFIC RESPONSIBILITIES OF THE PROJECT MANAGER DURING PROJECT OPERATIONS.

During the operation, maintenance, repair and replacement phase of the Project, the Project Manager shall do the following:

A. Operate the Project within its design limitations to deliver treated water in sufficient pressure and volume to meet the actual demand of the City and the County, subject to the capacity allocations set forth in the FOPA §7, and of a quality that meets or exceeds all applicable State and federal regulations and standards;

B. Provide the treated water referred to the previous paragraph at a point or points of delivery at the BDD Project specified by the City or the County, provided, however, that the Project Manager is not obligated to deliver to points of delivery not constructed during the initial construction of the Project unless the City or the County first construct a new point of delivery at the BDD Project and provide the Project Manager and the BDD Board with thirty (30) days advance written notice of the need for water at the newly constructed point of delivery;

C. Deliver raw water to Las Campanas, at pump station 2A subject to the capacity allocation set forth in the FOPA §7, and manage the common facilities at pump station 2A;

D. Maintain water measurement devices that are part of the Project to account for the actual volume, rate, and time-of-day of all water deliveries to the City, the County and Las Campanas;

E. Use data provided from the metering facilities and monitors referred to in the preceding paragraph to analyze whether deliveries comply with Annual Operating Plan and the Project Agreements, and report to the BDD Board monthly;

F. Seek annually from the City, the County and Las Campanas, information required for the Annual Operating Plan as required by Section 27 of the FOPA;

G. From the data submitted pursuant to the previous paragraph, prepare the Annual Operating Plan and Delivery Schedule described in Section 27 of the FOPA, submit the report to the BDD Board, and make appropriate recommendations;

I. As soon as practicable after the end of each Fiscal Year, the Project Manager shall calculate the actual costs experienced by the Project in the previous Fiscal Year and the amounts paid by the City, the County and Las Campanas for the Project and make appropriate recommendations to the BDD Board for adjustments needed in the current Fiscal Year's budget;

J. Invoice the City, the County and Las Campanas for Project costs according to the cost sharing principles specified in the FOPA no less frequently than quarterly, and collect all sums so invoiced;

K. Schedule and coordinate reservoir release and Project diversion of San Juan-Chama Project water in accordance with the procedures of the U.S. Bureau of Reclamation and the U.S. Corps of Engineers and the conditions of City and County

diversion permit No. 4842 issued by the State Engineer and future permits for diversion at the BDD of San Juan-Chama Project water and as directed by the designated representatives of the City, the County, and Las Campanas, each of whom has the responsibility to make water available at the reservoir from which it will be released;

L. Track raw water diversions by the Project for the City, the County, and Las Campanas, and provide to the BDD Board, with copies to the City, the County, and Las Campanas, a monthly accounting of actual raw and potable deliveries, daily water orders, and other statistical information as the BDD Board may require;

M. Monitor the relationship between the quantity of water actually delivered by the Project to the City, the County and Las Campanas and the permitted capacity of the Project's production facilities and make periodic reports of this analysis to the BDD Board, the City, the County and Las Campanas;

N. Reduce deliveries as provided in the FOPA §9 in the event of a reduced total capacity of the BDD Project caused by facility failure;

O. Provide all necessary staff, materials and supplies necessary to operate and maintain the Project consistent with BDD Board funding;

P. Recruit, hire and train staff for the Project according to the BDD Board's approved staffing plan as it may be amended from time to time and arrange for state drinking water certification for such staff in advance of operation of the Project, so that certified staff is available to operate the Project when the Project becomes operational, and set forth in each proposed budget the costs of the staff apportioned according to the respective benefit to the City and the Project

E M A in

Q. Perform OMR&R duties for the Project at all relevant times in accordance with prudent water utility practices;

R. Report to the BDD Board quarterly and as otherwise required by the BDD Board regarding the OMR&R of the Project and all other relevant matters related to the Project;

T. In consultation with the City, the County and Las Campanas and pursuant to FOPA §27, prepare and present to the BDD Board for approval a comprehensive operations manual for the Project, and updates as needed, which shall include details of all aspects of Project operation including, but not limited to, process control, maintenance, scheduled maintenance outages, rehabilitation and replacement, contingency plans for unscheduled outages, and residuals management; distribute the comprehensive operations manual to the BDD Board, the City, the County and Las Campanas. The Project Manager may delegate, as appropriate, the preparation of the comprehensive operations manual to the Owner's Consultant, the Design-Build Contractor, or another;

U. Provide for appropriate security at all Project facilities;

V. Identify and report to the County the need for Buckman Road maintenance and reimburse the County for the apportioned cost according to the respective benefit to the County and the Project; and

W. Identify and report warranty problems to the Design-Build Contractor or the appropriate subcontractor or equipment supplier and, as necessary, recommend to the BDD Board legal action to enforce such warranties.

ARTICLE 7. FISCAL AGENT RESPONSIBILITIES.

The Project Manager shall act as fiscal agent for Project during the term of this Agreement, and as such shall have the following responsibilities:

A. **Books and Accounts.** The Project Manager shall maintain records of all transactions related to the Project, including third party transactions, in accordance with generally accepted accounting principles ("GAAP"), and standards established by the government accounting standards bureau ("GASB"), and shall:

- (1) establish a uniform system of accounts;
- (2) maintain segregated books and records consistent with GAAP to account for all separate funding sources, including, without limitation, funds provided by the City, the County, or Las Campanas in support of construction or subsequent OMR&R of the Project and funds secured by the BDD Board pursuant to grants or loans from funding agencies.
- (3) maintain supporting documentation and information required by funding agencies and prepare all necessary reports to such agencies;
- (4) provide access at any time to the City, the County and Las Campanas, or each of them, and to the State Auditor, and members of the public, within 90 days following the end of each fiscal year and at any other time as may be reasonably requested, full and complete books and records relating to the Project;
- (5) provide to the City, the County and Las Campanas, or each of them, any additional financial information or documentation relating to the Project as may from time to time be reasonably requested;
- (6) within 90 days after the end of each fiscal year, provide copies of financial statements to the City, the County and Las Campanas, showing the assets, liabilities, revenues, expenses, equity balances and budget comparisons for the Project fund on an annual basis for the prior fiscal year in accordance with GAAP and GASB, complete the Management's Discussion and Analysis (MDA) for the annual financial report, and provide upon request, a monthly general ledger report but may

recommend that its auditors produce the financial statements, dependent on staff available and the complexity of the reporting requirements;

(7) account for the separate financial contributions from, and reimbursements to, the City, the County and Las Campanas, including crediting the County for the contribution of revenues from the County Capital Outlay Gross Receipts Tax imposed by the Board of County Commissioners in Santa Fe County Ordinance No. 2002-5, subject to the terms of that Ordinance;

(8) procure, contract, and pay for as budgeted an annual independent audit, consistent with GAAP and GASB and with the New Mexico Audit Act, NMSA 1978, Sections 12-6-1-, *et seq.*, and 2.2.2. NMAC, *et seq.*, as amended, and report the results of the audit to the BDD Board.

B. Financial Operations. The Project Manager, acting as fiscal agent, shall:

(1) receive and record deposits in connection with the Project in compliance with applicable state and federal statutes, all applicable requirements of grant and loan funding and requirements otherwise imposed by or on the sources of funding;

(2) make and account for all approved disbursements for the Project, ensuring that disbursements are valid and comply with all applicable State investment statutes, and policies and procedures adopted by the BDD Board;

(3) in consultation with the BDD Board, invest excess funds not required for current operations or capital expenditures in accordance with applicable statutes, City and County policies and applicable requirements of grant or loan funding, assuring that investment earnings are credited to Project funds;

(4) carry over any unencumbered monies that are present at the end of a Fiscal Year, and budget those funds to the succeeding Fiscal Year, to be utilized for purposes consistent with the Project Agreements in the succeeding Fiscal Year, and

(5) obtain all necessary approvals for expenditure of funds, including, without limitation, approvals by the BDD Board and the New Mexico Department of Finance and Administration.; and

(6) determine and record capital assets inventory for appropriate general ledger amounts, run and record depreciation, and submit year-end capital asset inventory for the annual physical inventory.

ARTICLE 8. COMPENSATION.

The Project Manager, the City and the County shall be compensated for services rendered, or credited for services rendered prior to the date of this Agreement or of any Project Agreement, as follows:

A. Following execution of this Agreement, the Project Manager shall be compensated for its services as fiscal agent to the Project in an amount equal to one percent (1%) of the total annual operating budget of the Project in any given fiscal year, which the Project Manager may deduct from revenues dedicated to the Project.

B. Following execution of this Agreement, the Project Manager shall confer with the City, Las Campanas and the County to assign expenditures made previously by the City, Las Campanas or the County to the Project, including the dedication of real or personal property to the Project, by including the same in a single proposed supplemental budget document and presenting same to the BDD Board as proposed expenditures of the Project. The expenditures approved by the BDD Board in the proposed supplemental budget document shall become Project Expenses and, the City, Las Campanas or the County may be reimbursed for such approved expenditures or may credit such prior expenditures against current or future obligations under the Project Agreements. Notwithstanding the foregoing, no cash payment or credit shall be made if it is determined by the City or the County's bond counsel, after review of the proposed supplemental budget document, that such payment may adversely affect the federal tax exemption of interest on the obligations issued by the City or the County to finance the Project.

C. Following execution of this Agreement, all expenses proposed to be incurred by the Project Manager in connection with project management of the Project shall be set forth in the Annual Operating Budget and the Design and Construction Budget.

D. The Project Manager shall not incur nor be paid for any additional or extraordinary OMR&R expenses in connection with performing the services described in this Agreement except as specified in the Annual Operating Budget, amendments thereto, or from the Emergency Reserve Fund.

ARTICLE 9. TRANSFER OF FUNDS TO MEET OBLIGATIONS UNDER THE PROJECT AGREEMENTS.

An obligation of a party in the Project Agreements may be met at any time by transferring funds to "the City of Santa Fe as Project Manager for the Buckman Direct Diversion Project." Any such transfer shall be credited immediately against the account of the contributing party, and the City, as Project Manager, shall be a trustee for any such funds received on account of the Project.

ARTICLE 10. MISCELLANEOUS.

A. Default. For purposes of this Agreement, the Project Manager shall be deemed to be in default only in the event of a breach of its obligations hereunder.

B. Right to cure. In the event of default, the Project Manager shall have sixty (60) days from receipt of written notification from the BDD Board to cure the default. If the Project Manager is unable to cure the default with the sixty day period, the Project Manager will notify the BDD Board, the City and the County at the earlier of (1) the time the Project Manager becomes aware of the inability to cure the default; or (2) expiration of the sixty day period.

C. Remedies on Default. In addition to the remedies specified in this Article, if an event of default remains uncured within the sixty day cure period, the BDD Board may elect to treat this Agreement as being in full force and effect and the BDD Board, the City and the County shall have the right to specific performance. If the BDD Board determines that the Project Manager cannot continue in its role as manager of the Project, the BDD Board may declare this Agreement terminated and appoint a successor as Project Manager for the remainder of the term of this Agreement. In the event of termination, the duties and obligations of the parties shall remain in full force and effect.

D. Termination. If this Agreement expires or a default remains uncured as provided in Article 9(B) of this Agreement, the BDD Board has authority to enter into a new Agreement as provide in §13 of the JPA with the Sangre de Cristo Water Division of the City of Santa Fe, the County of Santa Fe Water Utility, or a Regional Entity. In the event of termination, applicable provisions of this Agreement shall continue in effect after termination to the extent necessary to enforce or complete the duties, obligations or responsibilities of the parties arising prior to termination and, as applicable, to provide for final billings and adjustments related to the period prior to termination. Each party shall remain obligated for its share of payments due pursuant to any obligations to a third party incurred as contemplated by this Agreement or the Project Agreements.

E. Dispute Resolution. If a dispute, other than a default which the Project Manager is unable to cure during the sixty day cure period, arises which the BDD Board and the Project Manager cannot satisfactorily resolve, then the BDD Board and the Project Manager agree to those forms of dispute resolution authorized by NMSA 1978, Section 12-8A-1, *et seq.* (2000), except binding arbitration, to resolve conflicts arising under this Agreement, the expenses of which shall be shared equally by the BDD Board, the Project Manager, and, as applicable, the City, the County and Las Campanas. Disputes shall be first discussed by representatives of each party having the authority, if necessary, to bind the party that they represent. Such representatives shall use their best efforts to amicably and promptly resolve the dispute.

F. Notices in writing. Notices required by this Agreement shall be addressed to the parties at the addresses noted on Attachment A hereto, as each party may update them from time to time by written notice to the other parties. Such notice shall either be hand delivered or mailed, first class mail, postage prepaid, to the representatives of the other parties. If mailed, the notice or communication shall be simultaneously sent

by facsimile or other electronic means. Any such notice or communication shall be deemed to have been received by the close of the business day on which it was hand delivered or transmitted electronically (unless hand delivered or transmitted after such close of business in which case it shall be deemed received at the close of the next business day).

G. Representative for Notices. Each party shall maintain a designated representative to receive notices as set out in Attachment A. Any party may, by written notice to the other parties, change the representative or the address to which such notices and communications are to be sent.

H. Authority of Representatives. The parties' representatives designated above shall have authority to act for their respective principals in all technical matters related to the performance of this Agreement and to attempt to resolve disputes or potential disputes. However, they, in their capacity as representatives, shall not have authority to amend or modify any provision of this Agreement.

I. Insurance. The Project Manager shall obtain and continuously maintain insurance policies without interruption, during the term of this Agreement, for the operations and activities on or at the Project, from a licensed insurance company or companies deemed acceptable to the BDD Board, and the City, the County and Las Campanas, which policies shall name the BDD Board, the City, the County and Las Campanas as additional insured, in conformance with the specifications for insurance coverage set forth in Attachment B and the Annual Operating Budget.

J. Term and modification of insurance. All insurance required under this Agreement shall cover occurrences during the term and for a period of two years after the term. If any insurance as required herein is commercially available only on a "claims-made" basis, such insurance shall provide for a retroactive date not later than the execution date and such insurance shall be maintained by the Project Manager for a minimum of five years after the term. The BDD Board shall have the right during the term to request the Project Manager to modify the insurance minimum limits specified in Attachment B in order to maintain reasonable coverage amounts. The Project Manager shall make all commercially reasonable efforts to comply with any such request. If any insurance required to be maintained by the Project Manager hereunder ceases to be reasonably available and commercially feasible in the commercial insurance market, the Project Manager shall provide written notice to the BDD Board, accompanied by a certificate from an independent insurance advisor of recognized national standing, certifying that such insurance is not reasonably available and commercially feasible in the commercial insurance market for water utilities of similar type, geographic location, and capacity. Upon receipt of such notice, the Project Manager shall use commercially reasonable efforts to obtain other insurance which would provide comparable protection against the risk to be insured and the BDD Board shall not unreasonably withhold its consent to modify or waive such requirement.

K. Third Party Beneficiaries. This Agreement was not intended to and does not create any rights in any persons not a party hereto, specifically including Las Campanas except as otherwise set forth in the Project Agreements and, specifically, the FOPA.

L. Modifications. This Agreement may not be modified, altered, changed, or amended orally but, rather, only by an instrument in writing executed by the parties hereto.

M. Severability. If any term or condition of this Agreement shall be held invalid or non-enforceable by any court of competent jurisdiction, the remainder of this Agreement shall not be affected and shall be valid and enforceable to the fullest extent of the law.

N. Subcontractors. The Project Manager shall not subcontract or delegate any portion of the services to be performed in excess of \$20,000 under this Agreement without the advance written approval of the BDD Board. Any attempted subcontracting or delegating without the BDD Board's advance written approval shall be null and void and without any legal effect.

O. Choice of Law. This Agreement shall be governed by and construed in accordance with the substantive laws of the State of New Mexico, without regard to its choice of law rules. The parties hereby submit to the exclusive jurisdiction of the courts of the State of New Mexico, and venue is hereby stipulated in the First Judicial District Court, State of New Mexico.

P. Sovereign immunity. No provision of this Agreement modifies or waives any sovereign immunity or limitation of liability enjoyed by parties or their "public employees" at common law or under the New Mexico Tort Claims Act, NMSA 1978, Sections 41-4-1, *et seq.* (1976), as amended.

Q. Survival of obligations. Cancellation, expiration, or earlier termination of this Agreement shall not relieve the parties of obligations that by their nature should survive such cancellation, expiration, or earlier termination.

R. Binding effect. This Agreement, as it may be amended from time to time, shall be binding on and inure to the benefit of the parties hereto and their respective successors-in-interest, legal representatives, and assigns permitted hereunder.

S. Other Documents. The parties agree to execute such further and other agreements as reasonably may be required from time to time to carry out the provisions of this Agreement.

T. Execution in Counterparts. This Agreement may be executed in counterparts with separate signature pages in the format shown below.

IN WITNESS WHEREOF, the BDD Board and the Sangre de Cristo Water Division of the City of Santa Fe, New Mexico have caused this Agreement to be executed and delivered by its duly authorized representatives as of the date specified below.

THE BUCKMAN DIRECT DIVERSION BOARD

By: [Signature]
Chair

Date: 11-8-07

Attest:
Valerie Espinoza
Valerie Espinoza, County Clerk
[Signature]



THE SANGRE DE CRISTO WATER DIVISION OF THE CITY OF SANTA FE

By: [Signature]

By: David Coss
David Coss, Mayor

[Signature]
Approved as to form
City Attorney
SEAL
[Signature]
City of Santa Fe Clerk
[Signature]

11-1-07
Date

12-3-07
Date

ATTACHMENT A

Parties designated to receive notices under this Agreement:

For the Sangre de Cristo Water Division of the City of Santa Fe

**Rick Carpenter
Sangre de Cristo Water Company
801 West San Mateo Street
Santa Fe, NM 87505**

With copies to:

**City Manager
City of Santa Fe
P.O. Box 909
Santa Fe, NM 87504-0909**

**City Attorney
City of Santa Fe
P.O. Box 909
Santa Fe, NM 87504-0909**

For the Buckman Direct Diversion Board:

**Chair, Buckman Direct Diversion Board
c/o Stephanie Trujillo, Secretary
801 West San Mateo Street
Santa Fe, NM 87505**

With copies to:

**Santa Fe County
attn: County Manager
P.O. Box 276
Santa Fe, New Mexico 87504-0276**

**County Attorney
Santa Fe County
P.O. Box 276
Santa Fe, New Mexico 87504-0276**

ATTACHMENT B

Specifications for Insurance Coverage

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

July 5, 2012

This meeting of the Santa Fe County/City Buckman Direct Diversion Board meeting was called to order by Councilor Chris Calvert, Chair, at approximately 4:05 p.m. in the Santa Fe City Council Chambers, 200 Lincoln Avenue, Santa Fe, New Mexico.

Roll was called and the following members were present:

BDD Board Members Present:

Councilor Chris Calvert
Commissioner Liz Stefanics
Ms. Consuelo Bokum
Councilor Carmichael Dominguez
Commissioner Kathy Holian

Member(s) Excused:

None

Staff Present:

Robert Mulvey, Facility Manager
Nancy Long, BDD Board Consulting Attorney
Steve Ross, County Attorney
Stephanie Lopez, Staff Liaison
Erika Schwender, BDD staff
Gary Durrant, BDD staff
Brian Shelton, BDD staff
Teresita Garcia, City Finance

[Exhibit 1: Sign-in Sheet]

3. APPROVAL OF AGENDA

[Exhibit 2: Agenda]

Staff had no changes. Upon motion by Commissioner Stefanics and second by Councilor Dominguez the agenda was unanimously [5-0] approved.

4. **APPROVAL OF MINUTES: June 7, 2012**

Councilor Dominguez moved to approve the minutes as published. His motion was seconded by Commissioner Stefanics and passed by unanimous [5-0] voice vote.

5. **APPROVAL OF CONSENT AGENDA**

There was no consent agenda.

6. **MATTERS FROM STAFF**

ROBERT MULVEY: Mr. Chair, I have one thing I want to discuss. Is Brian Shelton here? Would you please stand up. Brian Shelton has recently been recredentialed as a certified treasury professional by the Association of Financial Professionals. Mr. Shelton has been a CTP since July of 2009. His examination to become a CTP required 36 hours of continuing education units in order to maintain the essential knowledge, skills, and quality of work necessary to deal with working capital and treasury management.

So we believe that this is a definite asset to the BDD and we would just to recognize Mr. Shelton today.

CHAIR CALVERT: Okay. Thank you. Mr. Shelton, congratulations.

DISCUSSION AND ACTION ITEMS

7. **Request for approval to purchase water treatment plant chemicals in an amount not to exceed \$523,006.00**

MR. MULVEY: Yes, Mr. Chair. As you know we have an annual need for water treatment chemicals at the Buckman Direct Diversion project. In May of 2012 we solicited a request for bids for nine water treatment chemicals. We received proposals from six companies. On the second page of your memo we tabulated the low bids for each of the chemicals. I'd like to point out that we did not receive a bid for liquid oxygen which is used in our ozone unit process, but we do have a commitment from the current vendor to provide liquid oxygen until we can rebid this and get it a new price.

So with that we're asking the board to approve \$523,006 for water treatment chemicals.

CHAIR CALVERT: Okay. Discussion, anybody?

COMMISSIONER STEFANICS: Mr. Chair, I'll move for approval of the amount.

COMMISSIONER HOLIAN: Second.

CHAIR CALVERT: Okay. Any further discussion?

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

8. Request for approval to conduct design-build procurement of integrated solar development services for the Buckman Direct Diversion Booster Station 2A solar project

CHAIR CALVERT: Is Dale here? Who's going to do this?

MR. MULVEY: Yes, Mr. Chair, as you recall, earlier in the year the City received funding from the New Mexico Finance Authority to build a solar array at Booster Station 2A. We moved forward to secure a consultant and company that would build this project through a design-bid-build process. Through that effort we were unsuccessful at securing a workable proposal so we took a step back and looked at our procurement methods. We made an evaluation and a determination that using the design-build process would be beneficial in this particular project. The design-build process matches up very closely with the business model of most that the firms that do these projects currently utilize.

So per the Procurement Code we are required to get approval from a City Manager and the appropriate committees to do design-build and our justification for this request is in the memo as well as quite a bit of background that relates to specific information required in the Procurement Code.

CHAIR CALVERT: Any questions from the committee? Commissioner Holian.

COMMISSIONER HOLIAN: So Bob, in this particular project I take it that the Buckman Direct Diversion would actually own the solar panels, correct? It's not like a third-party situation.

MR. MULVEY: Commissioner Holian, that is correct.

COMMISSIONER HOLIAN: And the funding is coming from, I guess the federal government and the state government, and it's part grant, part loan. Is that correct?

MR. MULVEY: That is correct. The money is coming from the State of New Mexico Finance Authority but I believe the initial source is through the federal government through a pass-through. And the second part of your question?

COMMISSIONER HOLIAN: It's part grant, part loan?

MR. MULVEY: Yes. That's correct. Fifty percent of it is grant, fifty percent of it is loan.

COMMISSIONER HOLIAN: And it's up to \$5 million or it's \$4 million?

MR. MULVEY: It's up to \$5 million. We expect the project to come in around \$4 million.

COMMISSIONER HOLIAN: Okay. Thank you.

CHAIR CALVERT: Any other questions? Yes, Councilor Dominguez.

COUNCILOR DOMINGUEZ: Mr. Chair, just for my clarification. We're going to be utilizing the City of Santa Fe purchasing manual?

MR. MULVEY: That's correct.

COUNCILOR DOMINGUEZ: And so I guess, again, for my information, does the BDD have their own procurement process or procedure that's it has followed in the past?

MR. MULVEY: Through the Chair, no we don't. We follow the City's Procurement Code as the fiscal agent.

COUNCILOR DOMINGUEZ: Okay. That's all I have, Mr. Chair.

CHAIR CALVERT: Board Member Bokum.

BOARD MEMBER BOKUM: Thank you, Mr. Chair. Just for a point of historical information, we looked at procurement processes at some point and that was what we all agreed to as a board, years ago. So, just a point of information.

CHAIR CALVERT: Okay. So what's the pleasure of the board on this matter?

COMMISSIONER HOLIAN: Mr. Chair, I move for approval.

COMMISSIONER STEFANICS: I'll second.

CHAIR CALVERT: Any further discussion?

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

CHAIR CALVERT: Just a quick question. This has also got to go to each governing body?

MR. MULVEY: Mr. Chair, my understanding is it needs to go to the Finance Committee, the City Finance Committee and the City Council. I don't believe there's a requirement for it to go to the County but I might be wrong on that.

CHAIR CALVERT: Okay. Thanks.

9. Discussion and request for direction on an amendment to the BDD project FOPA following the sale of Las Campanas, LP assets

MR. MULVEY: Mr. Chair, I'd like to turn this over to Nancy Long who can give you some background on this item.

NANCY LONG: (BDD Board Consulting Attorney): Mr. Chair and members of the board, as the memo that you have points out, Las Campanas in April of this year sold off the remaining undeveloped property that is in Las Campanas and also, as a part of that transaction, assigned its capacity interest in the FOPA, which has the Las Campanas percentage capacity at 17.58 percent among three entities: the Club at Las Campanas, the homeowners water co-op that delivers water to the homeowners – it's roughly a third, a third, a third, is how it ended up being assigned, and to a company that is – it's Arizona Rights, LLC, that is holding the remaining Las Campanas property that was not a part of that transaction.

So those three entities now have this capacity under the FOPA by those assignments. So what we are seeking to do, along with the City and the County attorneys and their offices and those governing entities, because as you know the City is a party to the FOPA as the board is not, but of course it's an agreement that is integral to board operations and dictates how variable and fixed costs are handled and those sorts of things going forward. So all three of us will be involved in that in crafting an amendment to the FOPA. I think it will take some time but we just wanted to get your authority to proceed with that and bring it back here of course before it gets completely formed and goes off to the City and the County for their approval.

CHAIR CALVERT: Okay. Thank you. Any questions from the board?

COMMISSIONER STEFANICS: Mr. Chair, I believe, in my opinion, the recommended action would be appropriate steps to take, because we'll find out from our bodies and our attorneys if there's any discord.

CHAIR CALVERT: Councilor Dominguez.

COUNCILOR DOMINGUEZ: Mr. Chair, I agree. I guess a question that I have is what kind of timeline are we looking at? Are there any issues regarding the timeline? Especially given the – I guess the situation that some of the entities are in.

MS. LONG: Board Member Dominguez, I don't believe this is an urgent matter, that we have to get an amendment done quickly. We can begin to review it and look at it and I anticipate it would take several months to get it done.

COMMISSIONER STEFANICS: Mr. Chair.

CHAIR CALVERT: Yes.

COMMISSIONER STEFANICS: When you say several months, are you thinking prior to January 1? That to me is six months; that's several.

CHAIR CALVERT: That's a liberal interpretation.

MS. LONG: We have not begun this process. I am not sure what hurdles that there might be that might tie it up, but I would think that it could be done, certainly by the end of the year.

COMMISSIONER STEFANICS: Well, just as the Councilor indicated I think it's good to have goals sometimes for the timeline and if we can't meet them then we come back and discuss how it's going.

MS. LONG: I think that's a wise way to approach it.

COMMISSIONER STEFANICS: Thank you very much.

BOARD MEMBER BOKUM: Mr. Chair.

CHAIR CALVERT: Yes.

BOARD MEMBER BOKUM: I just want to clarify or make sure in the meantime everybody's agreed to follow the existing FOPA, so we're not going to run into any problems. The new one being adopted.

MS. LONG: Board Member Bokum, yes. The costs that are assessed under the FOPA are being treated in the same way as if Las Campanas was still a party to the FOPA, and that billing is going out to those three entities that have now been assigned an interest.

CHAIR CALVERT: So we're sort of jumping ahead of ourselves a little bit because we're going to go ahead and assign them a third, a third, a third, and then we're going to come back and formalize that, right?

MS. LONG: Yes. The assignment occurred and it is done.

CHAIR CALVERT: We have to get it into the FOPA.

MS. LONG: So now we are amending it to follow those assignments that we were not parties to, but they did occur.

CHAIR CALVERT: Okay. All right. What's the pleasure of the board?

COUNCILOR DOMINGUEZ: Move for approval.

COMMISSIONER HOLIAN: I'll second.

CHAIR CALVERT: Okay. Any further discussion?

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

10. Request for approval of amendment #5 for Pitcher Komer, LLC for the amount of \$6,500, exclusive of GRT

MR. MULVEY: Mr. Chair, as you know, Lynn Komer has been providing public communication services and public relations services for the board for several years. This amendment is simply to close out her contract, take care of some final work that she did to put the new website in place and with this we'll be paying her for those remaining services and extending the contract for about two years. Two months.

CHAIR CALVERT: I was going to say, two years for \$6,500? She's hired.

MR. MULVEY: That would be great. For two months, and then she'll be separated from service with the board at that point.

CHAIR CALVERT: Okay. Questions from the board?

COMMISSIONER STEFANICS: Mr. Chair, though, I'm reading it longer than two months. I'm reading it to February 19, 2013, and it started February 19, 2009, so that would be four years. So that's a contract and two one-year amendments?

MS. LONG: There have been – if I may answer that because I have looked at this. This is the fifth amendment during that four-year period. So contracts typically are renewed that we receive to try to follow the fiscal year if possible, and that's how this contract was initially drafted. But because Lynn Komer's contract commenced in February four years ago, four years from 2013, we had to keep it within that four-year time period for a professional services agreement; it could not extend longer. The anticipated work should be done, but just as a safety mechanism it was extended out to the four years but these funds will probably be spent and her work will be done within a few months, as I understand it.

COMMISSIONER STEFANICS: Okay, so Mr. Chair and Mr. Mulvey, would the contract also include any new PR assignments?

MR. MULVEY: Through the Chair, no. No, this is simply for work that's in place right now. There will be no new assignments.

COMMISSIONER STEFANICS: So I'm a little confused. So the \$6,500, Mr. Chair, is to complete payment for services already rendered?

MR. MULVEY: Through the Chair, it's possible that some of that work has already occurred. I don't have the exact breakdown of when it did happen. There were expenses that Lynn incurred with her subcontractors to get the website up in place, and I don't believe that we've been invoiced for that at this point. But this is primarily to close out a rather large public relations contract, take care of those loose ends and finalize it.

CHAIR CALVERT: And this is – we have the \$6,500 because it's extending beyond the fiscal year end and we haven't been invoiced so we have to have that money available and we're stating the date is February 19, 2013 just to give us a very large margin of error?

MR. MULVEY: That's correct.

COMMISSIONER STEFANICS: Well, the rationale behind my question, Mr. Chair, is if there was something that came up between now and February that we wanted to have our public relations firm handle, whether or not that amount could cover that.

MR. MULVEY: I understand your question. Yes. I believe there's nothing in here that precludes us from assigning more duties. At this point we have none that we anticipate assigning.

CHAIR CALVERT: But that \$6,500 is not going to cover it. We would have to come up with new money for any new assignment that we came up with between now and February 19th.

MR. MULVEY: We're not anticipating any more work. This is just to close it out. But the contract is still in place and if the board had a need for additional services we'd be happy to address that.

COMMISSIONER HOLIAN: Thank you very much.

CHAIR CALVERT: Councilor Dominguez.

COUNCILOR DOMINGUEZ: Thank you, Mr. Chair. I guess I'm still a little confused, only because in the memo you talk about additional meetings, public controversies, associated with water, LANL, drought, fire. We really don't know what the future will bring in terms of drought, certainly, and fire. And so I know that you say you don't anticipate any additional need to communicate, and I hope not, quite frankly, but if we do, and there's money for it, do we have to go come up with a new contract and go through the whole process to get somebody on board?

MS. LONG: We would have to come back with an amendment if it was during that period of time that the work was to be performed that's covered by this term. So before February of 2013 and there was additional work that needed to be done the term would cover it but presumably all these funds would be spent so we'd come back with an amendment to increase the amount, the compensation. And it would come here.

COUNCILOR DOMINGUEZ: Okay. So next fire season if there's a need to communicate we have to basically rebid.

MS. LONG: You'd have to go out to bid because it will have been more than four years under this particular professional services agreement.

CHAIR CALVERT: Any other questions? What's the pleasure?

COMMISSIONER HOLIAN: Mr. Chair, I move for approval.

COUNCILOR DOMINGUEZ: I'll second.

CHAIR CALVERT: Okay. it's been moved and seconded. Any further discussion?

COMMISSIONER STEFANICS: Mr. Chair, I'm supportive of this amendment. I would just like to see – if staff could just shoot me the original scope of work. I don't need the whole contract; I just need that page that would be scope of work. Thanks very much.

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

INFORMATIONAL ITEMS

11. Staffing Update

MR. MULVEY: Yes, Mr. Chair, this is a staffing update. We've currently had a few people separate from City service at the Buckman Direct Diversion project, so we currently have openings for a charge operator, BDD operator and advanced water treatment operator. Those positions are currently being advertised. In addition to that, we

have a budget analyst position that we're getting ready to advertise, which, as you recall, was approved in the 2012/13 BDD budget, and we also had our planner/scheduler recently separate from City service.

So we have six unfilled positions that we need to fill. We've carried a seventh position since the project start up for an advanced water treatment plan operator. Currently that position is on hold. We will probably wait another six months to a year to determine if that position needs to be filled or if it would be better reclassified to fill another need.

So that's the update of our vacancies. And then we've gone ahead and just put a description in for each one of these positions just as a reminder of what they do and what kind of functions they serve at the project.

CHAIR CALVERT: Okay.

COMMISSIONER STEFANICS: Mr. Chair.

CHAIR CALVERT: Yes.

COMMISSIONER STEFANICS: In the – when we started we sent many water operators to the Santa Fe Community College for training. I believe we absorbed that cost. Is that correct?

MR. MULVEY: That's correct.

COMMISSIONER STEFANICS: So are any of these positions contingent upon or eligible for that training?

MR. MULVEY: Yes. The charge operator, the BDD operator and the AWT are eligible for that training.

COMMISSIONER STEFANICS: The charge, the BDD and –

MR. MULVEY: Advanced water treatment plant operator – AWT.

CHAIR CALVERT: 4, 5, and 6.

COMMISSIONER STEFANICS: Okay. So I'm sure I would find this online, but the minimum qualifications to even apply then? If we're going to send them to training, would be high school? College? What?

MR. MULVEY: Through the Chair, yes. That depends on the job description. Obviously, the qualifications for charge operator are higher than for BDD operator. I don't have those right in front of me but typically they require a certain level of education. Definitely high school. Some community college. A certain amount of years of experience in the field. I'd be happy to get you a memo within a couple of days that clarifies that and outlines the specifics.

COMMISSIONER STEFANICS: Well, if you could send that to me as well, electronically, I'd appreciate it. Thanks.

CHAIR CALVERT: Other questions? I guess I have just a couple. One, I've got to ask this. Since we only have 34 and these are seven of the 34, that's a fair percentage. But it's not affecting our operations in any way?

MR. MULVEY: Mr. Chair, it's not in the short term. Our chief operator, Gary Durrant is here and he will tell you that he's very anxious to get especially these three water plant operator positions filled. We're covering it now with overtime.

CHAIR CALVERT: That's what I was going to say, how is this affecting the overtime budget? That was my next question.

MR. MULVEY: It's affecting it. I don't have the exact number with me right now.

CHAIR CALVERT: Are we covering it with vacancy savings?

MR. MULVEY: Yes. That's a good point. There's definitely vacancy savings.

CHAIR CALVERT: Okay. And I guess my other question was is there a particular reason for some of these separations? Is there anything we need to know about?

MR. MULVEY: That's a great question. The planner/scheduler left for a better opportunity out of state, as well as two of the water treatment plant operators. The safety officer left to start her own business. And that pretty much covers it.

CHAIR CALVERT: Well, I think some of that was what we might have guessed and feared is that we train these people – we had numerous discussions on commitments and time of service and stuff like that. We train these people only to have them snatched up and offered a better job somewhere else. So that's just the way things are now. I guess we feel we got our training and money out of it.

COMMISSIONER STEFANICS: On this point, Mr. Chair. I thought we had attached conditions for that free education and training.

MR. MULVEY: Yes. Through the Chair, that is correct. There was a contract that was implemented that was intended to recover costs for training in the event that operators left within a certain amount of time. I can tell you that this is an issue that we've struggled with a lot. The term provisions of that contract, I believe, are very problematic to enforce. For example, one of the employees resigned in lieu of termination. He resigned voluntarily but would not have been separated voluntarily had he not done that. The contract is very silent on that particular issue.

There are certain, what I would call those kind of inconsistencies that we really need to look at to determine whether or not we can continue to do this. I believe the contract was a very good thing, and I know just from talking to some of the employees out there they are interested in moving on to higher paying jobs but that contract is one of the things that's keeping them around. So it's been successful.

But I really feel that we need to sit down and look at – the devil's in the details and we need to look at some of those details to determine the enforceability of this contract, and we're going to continue to do that.

COMMISSIONER STEFANICS: This can be a condition of employment though. The state does it and several other governmental entities do this. I don't know if we have in there participation in the workplace for six months or a year afterwards, but if we're going to offer training to new people then I think that our contract should be revised for anybody new coming on, not necessarily for the past, but if you've already identified issues then that's a red flag for us to clean up before we hire new people.

MR. MULVEY: Yes, and just as a personal thought on that, the staffing model and the training program made a lot of sense when we were starting the plant up. We were bringing in 33 people into a brand new facility. Now we have a facility that's up and running. We have a lot of experienced people onsite, and some of the expense that we may have incurred training people may not be as necessary now, because we can integrate people in, they can work side by side with experienced, knowledgeable people about this particular plant, and so the money that we spend to provide that same type of training that we did before may not be as critical if we look at our business model.

So we're in the process right now of evaluating, okay, how much training do we really need to provide new people coming in, and how does that play into any new contracts that we write.

COMMISSIONER STEFANICS: So, Mr. Chair, though, and Mr. Mulvey, these four positions, these last four – 4, 5, 6, 7 – are those – those are the ones you indicated might be appropriate for training.

MR. MULVEY: That is correct.

COMMISSIONER STEFANICS: Now, are any of these – it seems to be from their title – senior positions?

MR. MULVEY: Well, yes, depending on how you define senior. The safety officer and the budget analyst are what I would consider part of the professional staff at the BDD. The charge operator is a senior operator position, and the BDD operator and the advanced water treatment operator are subordinate positions.

COMMISSIONER STEFANICS: Well, where I'm going with this conversation, Mr. Chair, Mr. Mulvey, is right now, County employees and City employees, through their professional organizations, are encouraged to go through the New Mexico State University College to become certified in certain areas. And if we already have a water-training program in connection with Santa Fe Community College, I am not in favor of minimizing our requirements or our training, because we are encouraging all of our staff to acquire these certifications through these outside trainings. Do you see where I'm going with this?

MR. MULVEY: I understand. When I talk about re-evaluating the training that we put BDD operators through, I'm not implying that we're going to reduce the qualifications for any of these positions. The positions will still require a certain level of operator certification and that is something that the operators can obtain or maybe already have obtained before they sent in their applications. So this in no way diminishes the professional requirements necessary to obtain these jobs and to be successful in them. It simply talks about the extent, the depth and the breadth of the training that we would provide as part of our business model to bring staff up to the level that we believe is necessary to operate the advanced systems.

COMMISSIONER STEFANICS: Okay, so now you just raised another question in my mind, Mr. Chair, is everyone has to have a water operator license before they come to the application phase?

GARY DURRANT (BDD Staff): [from the audience.] Yes.

MR. MULVEY: Yes. Depending on the position they come in to, they're required to have a certain level of state certification. Through the training programs that we implemented they were able to obtain additional certification and qualify for higher level certifications if they completed a test, but in order to qualify for these positions they have to have a certain level of certification at the time of hire.

COMMISSIONER STEFANICS: Okay. So my questions – you're getting to where I'm going with this whole line of thinking is, these are not entry-level positions.

CHAIR CALVERT: Any of them? BDD operator?

MR. MULVEY: No, they're not. The BDD operator is the lowest level operator position. That's what we would consider the apprentice position, if you want to use that term, but they are still skilled positions. They're required to have a certain level of ability and demonstrated skill before they are hired in these jobs.

CHAIR CALVERT: Right. But when we – if I may – when we hired some of these people for the initial staffing they didn't necessarily have that?

MR. MULVEY: I don't know that that's true. I'd have to check that.

CHAIR CALVERT: I thought we trained some of these people to help get – I don't know.

COMMISSIONER STEFANICS: Well, Mr. Chair, right on that topic, that's why we set up this educational program. We were going to send people out of state, or use out of state people and what we wanted is we wanted a program at the Santa Fe Community College that then could educate people forever in our community to take over some of these positions. So we did have people who were not skilled going through that. We paid for it.

MR. MULVEY: Yes. I understand that.

CHAIR CALVERT: If I may, I would suggest that we bring this back as a separate item for the next meeting/discussion in terms of what our current training and our contractual requirements are, and just have an overall discussion before we get moving forward too much more in hiring these positions. Because I can also imagine that we might see some – hopefully – a lot of times when you have these kinds of situations and people want to move up through the existing chair, right? So we might have people that are operators or whatever that might want to move up and be one of these other positions, right?

And so that's – and then we're going to create – then we'll be back to having more of the entry level positions open and then in training and in getting those people from where, hopefully, in the local community. I agree with Commissioner Stefanics; we made a conscious decision not to start with contract employees but with our own employees and we made significant efforts with the Community College to make that happen. So I think maybe if we bring this back – this is an update but maybe next meeting it will be more of a discussion and action item as to how we proceed in the future, where we've been and where we're going and how we want to get there. Yes.

MEMBER BOKUM: If we wait a month to do this, which I think is great that we do it. How is that going to affect hiring? Does that give you heartburn to know – are we saying that we don't want to hire anybody for a month?

CHAIR CALVERT: No. I think they – I understand the question but I think they'll continue with the process. I don't know. I doubt that they'd be done in a month with hiring but I don't know. You tell me how time sensitive this is.

MR. MULVEY: It's possible we could have somebody on within a month. The jobs are advertised right now.

CHAIR CALVERT: But they would be qualified people, right?

MR. MULVEY: Yes.

CHAIR CALVERT: I don't know. I think that's okay. I look at this and I see 34 authorized positions down seven, that makes me a little nervous. So I would err on the side of getting them filled, but we can still move forward with what our ideal process is in the meantime, and if some of them are not hired by the time we complete that process then that's fine. Yes, Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. I was just wondering if you've done any analysis on the salaries that are associated with these positions.

Because the question crossed my mind: Are people leaving because they can get higher salaries for doing the same thing out of state?

MR. MULVEY: Commissioner Holian, just based on the knowledge I have of the reason these employees left is that's why they left. They left for higher salaries out of state. I've spoken to our HR representative about our overall staffing structure and pay structure and that really falls under the purview of the HR Department. I think they recognize a need to look at this, but I'm not aware of any efforts going on currently to do that.

CHAIR CALVERT: Well, can we light a fire?

MR. MULVEY: If that's the board's wishes I'd be happy to.

CHAIR CALVERT: Yes. I don't know. If they don't feel the need we certainly do because again, we don't want to be the training ground and then having people moving on to other positions. Now, some of these people that are moving on, I'm wondering if they were looking at some of these higher positions and the salaries, or were they going to advanced positions at higher salaries. In other words, were they laterals at a greater salary or were they advancing at a higher salary than the advancement would be under our structure?

MR. MULVEY: That's hard to say. I know that some, or at least one of the employees went to work for a power company in Arizona. The planner/scheduler went to work for Intel in Arizona doing planning and scheduling at a much higher salary. I'm not sure the specifics on all of them.

CHAIR CALVERT: Okay. So when you say HR, is that the City's HR? Is that the agent for this project?

MR. MULVEY: Yes, the City's HR Department.

CHAIR CALVERT: Okay. So I would definitely ask them – you wanted to weigh in on that, did you? Because then we're going to get into your area, right?

BRIAN SNYDER: Mr. Chair and Commissioners and Councilors, I'm not from HR; I'm from the Public Utilities with the City. However, this is a complex challenge that we have. If you recall, when we went to hire BDD staff one of the challenges we had was, okay, we're asking for more skill sets when we hire, therefore we need to compensate them more than currently the City is. So we built the structure around our current City structure and we elevated it a level for each of the comparable positions.

CHAIR CALVERT: Because the Buckman facility is more advanced.

MR. SNYDER: Because the Buckman facility is more advanced. As it compares to the County, I know in speaking to Patricio that we also have that challenge that the City utility often pays more than the County utility, or has in the past, so we have tried to figure out a way to compensate fairly within our existing City and County structures. To elevate the pay even more than we currently are, that's definitely something we could look into, but it creates a ripple effect and a challenge throughout both the City and the County's Utilities Departments because we have skilled operators in both the City and the County that are both water and wastewater certified, and asking them to do a little bit less technical work at their current facility than we are at BDD, but paying them two, maybe three tiers less is a challenge. But looking at the big picture we will look at that.

CHAIR CALVERT: Well, but on the other hand, if we increase – just hypothetically if we increase the salary at Buckman slightly more, it gives everybody

incentives to – if they're qualified they can apply for those, right? It gives people a chance for advancement within the existing system, as opposed to trying to hire people from outside all the time. So, I mean I think we also look for that opportunity within our salary structures to allow people to advance within the system.

MR. SNYDER: Mr. Chair, to that point, you are correct. Our plan with BDD is to grow your own and the example of the charge operator and the AWT operator, if I had a crystal ball I would speculate most likely those positions will be filled internally. If there's somebody set up that's worked through the process, built those skill sets in the last year and a half we've been operating I fully expect those to be filled internally. The BDD operator is classified almost an apprentice type. It's an entry level. So most likely that position will not be filled internally within BDD, but that doesn't mean it may not be filled internally from either the City's water operations or the County's water operations. That very well could happen.

One of the challenges is, and we talked about this in great depth when we looked at filling these positions is the bottom line. There's not many certified water operators within New Mexico. So it's a big challenge for us to definitely keep them here. We talked about the contract earlier. It's a good tool for us, but we have to realize that as we tweak something here it definitely has a ripple effect throughout the whole City structure and the County structure that we've tried to already manage. So I just wanted to point that out.

CHAIR CALVERT: And to the extent that BDD operator is entry level and we may or may not get somebody within the existing employment structures, that's all the more reason I think, the discussion we had earlier, trying to grow them locally as well. And through some of the programs we had developed at the beginning of this process. So I think that's some of the things we want to continue to discuss and talk about at the next meeting. But hopefully, you can have some discussion with HR in the meantime and they'll be able to weigh in and we'll have that as part of the discussion for the next meeting.

COUNCILOR DOMINGUEZ: Mr. Chair, I have a question. Again, just for my information and I hate to be not as informed as maybe I could be, being relatively new to the committee. Are these positions part of the bargaining unit?

MR. MULVEY: Through the Chair, the charge operator and BDD operator and the advance water treatment plant operator are in the AFSCME bargaining unit.

CHAIR CALVERT: The operational people.

MR. MULVEY: Yes.

COUNCILOR DOMINGUEZ: The City's collective bargaining unit.

MR. MULVEY: I'm sorry. Yes.

COUNCILOR DOMINGUEZ: So some of the stuff is negotiated through the collective bargaining process and agreement. Correct? And how much of a challenge does that – that may not be a fair question. I won't ask that part of the question.

MR. MULVEY: Mr. Chair, Councilor Dominguez, the pay isn't necessarily negotiated through the bargaining process. However, I envision, similar to what we did back when we were setting up the structures is any adjustment to our current structure we would definitely involve the union in meetings and ultimately a sign-off. Not necessarily negotiation, it's getting an understanding of what the needs are and ultimately

have the union buy into it and union leadership buy into it and sign off on it. It's not formal negotiations.

COUNCILOR DOMINGUEZ: But there is a formal negotiation between the employee and BDD, right? Because I heard many times about contracts being negotiated. So does each employee have an individual contract, separate from the bargaining unit?

MR. MULVEY: That's correct. The employees were asked to sign an individual contract at the time of hire at the BDD, and that was, as Councilor Calvert brought out, intended to mitigate the risk of putting the employees through the training program. But that's separate and apart from the union contract of course.

COUNCILOR DOMINGUEZ: So this might be a question more for City management/administration. Maybe you can answer, Brian. So is there ever any conflict between the two contracts? And I'm asking because we're in some sort of negotiation right now.

COMMISSIONER STEFANICS: Could I piggyback onto your question, Councilor?

COUNCILOR DOMINGUEZ: Sure.

COMMISSIONER STEFANICS: Aren't the BDD individuals employees of the BDD?

MR. MULVEY: They're employees of the City.

COMMISSIONER STEFANICS: Okay. So the contract is not for employment. Otherwise they would be contractors.

MR. MULVEY: No, that's correct. It was a condition of employment to work at the BDD -

CHAIR CALVERT: A retention type contract.

MR. MULVEY: Yes.

COMMISSIONER STEFANICS: Okay. So the retention type contract is not - okay, where I'm going with this is IRS rules. So they're really an employee and the contract is for other provisions.

MR. MULVEY: That's correct.

COMMISSIONER STEFANICS: So I wanted to clarify that. They're not a contractor; they are an employee. Okay. Thank you.

COUNCILOR DOMINGUEZ: That actually clears it up for me a little bit.

CHAIR CALVERT: In terms of involving the unit, if we're talking about increasing the salary for some of these positions, I doubt they're going to object.

COUNCILOR DOMINGUEZ: That may be true but the City has its utility to keep in mind as well.

CHAIR CALVERT: I understand that, but this is a unique position and these positions are already at a higher salary level than the City facility, any of the City's facilities or the County's, so you already have a difference in pay to begin with.

COUNCILOR DOMINGUEZ: Right. Right. No, I understand that. I just wanted to educate myself a little bit more about how some of that works. So, Thank you, Mr. Chair.

CHAIR CALVERT: Okay. Is everybody thoroughly - had their questions and concerns and hopefully we'll have this as a discussion item next meeting.

MATTERS FROM THE PUBLIC

CHAIR CALVERT: Does anyone from the public wish to address the board. Please come down and do so.

DAVID BACON: Mr. Chair, I have some invitations to hand out. [Exhibit 3] This is an event. It's self-explanatory. I just wanted to point out on the agenda that there are a few items that I think should be highlighted. Both Dr. Arjun Makhijani and Dr. Michael Barcelona at the Thursday morning event community center here at the convention. And the on Friday at Northern College, the presentation by the Santa Clara Forestry – I think that will be a very important presentation that someone from the board should be present for.

The pink sheet is a history of the work that CCW has done. The pink sheet is a good historical overview of how this came to be and the group involved.

JONI ARENDS: So, as you know, my name is Joni Arends and I'm with Concerned Citizens for Nuclear Safety. We have been involved and been founding members of the Communities for Clean Water since before 2006. The groups came together, the New Mexico Safety Association, the Honor our Pueblo Existence, and Amigos Bravos came together to be a coordinating body for the other groups that are listed that were plaintiffs in the Clean Water Act lawsuit against the laboratory for violations of the stormwater regulations. And as a result of that litigation the EPA issues what Pete Maggiore has called one of the most aggressive permits in the nation for stormwater management.

Although we were talking originally about 1,300 sites that would be covered under the permit the EPA decided that there would be 405 sites with the highest potential to release contaminants during storm events. And so this isn't all the sites. The permit does not cover all of the sites; it only covers 405, which is still a huge number of sites. EPA has designated 60 of those sites as high priority sites, 30 of them are in Los Alamos Pueblo Canyon.

One of the reasons they're named high priority sites is because they have PCBs, polychlorinated biphenyls. And the reason they're of concern is that at one site the level was 42,000 times the human health standards. So these aren't light facilities. These are not light dumps. None of these sites are lined so all the contamination is moving off site, whether it's ground water or through surface water, towards the Rio Grande.

So one of the reasons that we came together to put this conference together is some data that the New Mexico Environment Department/DOE Oversight Bureau put together in 2008 showing that the highest flows through the canyons, and specifically through LA Pueblo was the second year after the fire. So I just want to highlight this, that there's going to be more public concern this summer because we have data that says that the highest flows through LA Pueblo were the highest after the second year.

And just to give you some perspective, one storm in early August 2001 was at 18,000 cubic feet per second. Before the fire the levels were less than ten. There was one storm that was at 12 cubic feet per second. So we're talking about storm events that are 180 times the normal, what was measure prior to the Cerro Grande Fire.

So we want to really encourage you to come to the conference on the 26th and the 27th. There won't be any repetition in the presentations and it will be an opportunity for

learning. So I'd like to pass this – Mr. Chair, may I pass out this one sheet from the New Mexico Environment Department? [Exhibit 4] Thank you.

CHAIR CALVERT: Thank you.

MS. ARENDS: And if I may add, given the discussion about the number of openings for employees, we want to make sure that the Buckman Direct Diversion project is off during times of high turbidity. In our analysis of the data we found a couple of situations where it was on when there was high turbidity in the river. And we want the Buckman board to be extra vigilant this summer and be proactive, to use the precautionary principle, to shut off the system if necessary.

I want to reference the article in the New Mexican yesterday, the interview with Rick Carpenter, talking about the need for more integrated – the possibility of a more integrated use of all the different water sources this summer because of the low levels in the reservoir as well as low levels in the river and the need to turn on the wells again. Unfortunately, the article did not say how much the levels in the wells had risen as a result of resting them. That would have been something very important for the public to know. We just need to be extra vigilant this summer so that no contaminants get into the Buckman system. Thank you.

CHAIR CALVERT: Thank you. Anybody else?

ANNA HANSEN: Hello. My name is Anna Hansen. I live in Santa Fe. I just wanted to say a few things about the conference that we have organized. I've been working on it, one of the conference organizers. I apologize for any mistakes in this draft invitation that you got. I did it today. So I apologize. But also we've invited Mr. Mulvey to possibly be on the panel. We've talked to other people. We haven't sent out all the formal education and confirmed all the people that will be on the panel on the morning of the 26th but we are talking about it. The Mayor gave us the community conference center to hold this community forum. This is a forum that we hope will be able to address many other issues throughout the community and that we will hold other water community forums in this manner. So I just wanted to give a little bit more of an overview. Okay. Thank you.

CHAIR CALVERT: Anybody else? Okay.

MATTERS FROM THE BOARD

BOARD MEMBER BOKUM: I just wanted to report that I had a conversation with somebody who had been out to do a tour of the water treatment plant and they were very impressed. They were particularly impressed with the staff, which was Bob, Erika and Rick, and it was just really nice for me to hear how somebody who went out there who didn't know a whole lot about the project was thrilled. It was really wonderful to hear that. And staff was great. That was very nice to hear.

CHAIR CALVERT: It is good to hear.

COMMISSIONER STEFANICS: Mr. Chair, on that point, I do think that the people who are attached to any tours are very important, and if it can't be you, Mr. Mulvey, you might want to really identify who has the appropriate enthusiasm. We recently had a large interstate conference here and it got mixed reviews. So based upon Board Member Bokum's comments, the presenter really does make a difference. I know you'll want to put our best face on it. Thanks.

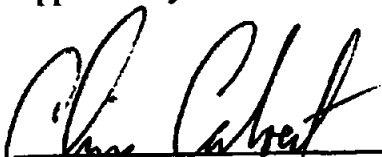
CHAIR CALVERT: Anything else?

NEXT MEETING: THURSDAY, AUGUST 2, 2012 @ 4:00

ADJOURNMENT

Having completed the agenda, Chair Calvert declared this meeting adjourned at approximately 5:05 p.m.

Approved by:

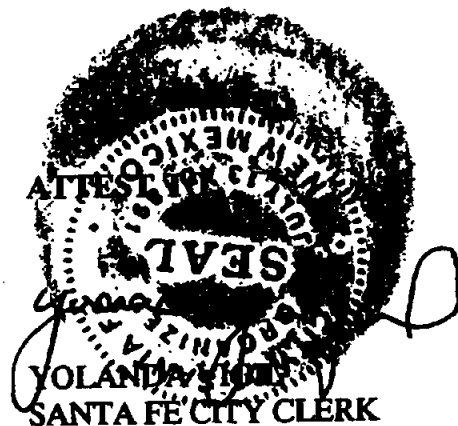

Chris Calvert, Chair

Respectfully submitted:

Debbie Doyle, Wordswork

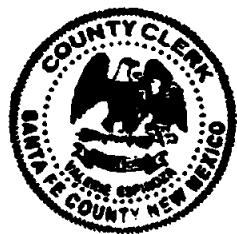
FILED BY:

VALERIE ESPINOZA
SANTA FE COUNTY CLERK



COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss
BUCKMAN DIRECT DIV MIN
PAGES: 19
I Hereby Certify That This Instrument Was Filed for
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Of The Records Of Santa Fe County

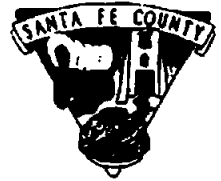
Deputy _____
Witness My Hand And Seal Of Office
Valerie Espinoza
County Clerk, Santa Fe, NM





CITY CLERK'S OFFICE

DATE 6/26/12 TIME 1:55pm
BY [Signature]
[Signature]



AGENDA

THE CITY OF SANTA FE
And
SANTA FE COUNTY

BUCKMAN DIRECT DIVERSION BOARD MEETING

THURSDAY, JULY 5, 2012
4:00 PM
CITY HALL
CITY COUNCIL CHAMBERS
200 Lincoln Avenue

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF AGENDA
4. APPROVAL OF MINUTES FOR THE JUNE 7, 2012 BUCKMAN DIRECT DIVERSION BOARD MEETING
5. APPROVAL OF CONSENT AGENDA
6. MATTERS FROM STAFF

CONSENT AGENDA

None

DISCUSSION AND ACTION ITEMS

7. Request for approval to purchase Water Treatment Plant chemicals in an amount not to exceed \$523,006.00. (Gary Durrant)

8. Request for approval to conduct design-build procurement of integrated solar development services for the Buckman Direct Diversion Booster Station 2A Solar Project. (Dale Lyons)
9. Discussion and request for direction on an amendment to the BDD Project FOPA following the sale of Las Campanas, LP assets. (Bob Mulvey)
10. Request for approval of Amendment No. 5 for Pitcher Komer, LLC for the amount of \$6,500.00 exclusive of NMGRT. (Bob Mulvey)

INFORMATIONAL ITEMS:

11. Staffing Update. (Bob Mulvey)

MATTERS FROM THE PUBLIC

MATTERS FROM THE BOARD

NEXT MEETING: THURSDAY, AUGUST 2, 2012 @ 4:00 P.M.

ADJOURN

PERSONS WITH DISABILITIES IN NEED OF ACCOMODATIONS, CONTACT THE CITY CLERK'S OFFICE AT 505-955-6520, FIVE (5) WORKING DAYS PRIOR TO THE MEETING DATE.



Buckman Direct Diversion

A joint regional project of the City of Santa Fe and Santa Fe County to build a reliable and sustainable water supply.

Memorandum

Date: August 18, 2015
To: Oscar Rodriguez, Director of Finance, City of Santa Fe
From: Mackie M. Romero, BDD Financial Manager
Subject: EMA, Inc. Professional Services Agreement

ITEM:

Request for approval of a Professional Services Agreement with EMA, Inc. for \$27,030 plus applicable gross receipts tax.

BACKGROUND:

The Buckman Direct Diversion currently has an in-house training program that was designed by the City of Santa Fe, and the design engineers of the project. This program was to provide newly hired staff with the knowledge and skills to assume the operations and maintenance responsibilities for the new BDD facilities. The BDD has been in operations for four years and management would like to hire EMA to re-evaluate the current program to ensure our training program could set the standard for New Mexico and the Southwest.

Our approved 2015/2016 operating budget includes funding for this service under Operating Fund BU/LI #7280000.561200.775010

If you should have any questions, please feel free to contact me at 505-412-1188.

Your consideration in this request is greatly appreciated.





**Buckman Direct
Diversion Board**

Buckman Direct Diversion

Pay Model 4.2 (*17 pg.)

Training Program Evaluation Report



FINAL

December 14, 2015

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1 INTRODUCTION

The Buckman Direct Diversion (BDD) Board is evaluating their training and certification program to identify opportunities for better alignment with the current and future needs of the BDD Board and its staff. The original program was created in 2010 during construction through the combined efforts of the Design-Build (DB) Contractor, the Board Engineer and the Santa Fe Community College (SFCC). The BDD Training Program was developed to prepare the initial BDD staff to take over operations of the BDD facilities from the DB Contractor. The initial group of BDD operations and maintenance staff were trained on a full time basis over a period of eight months prior to taking over responsibility for the BDD Facilities.

The intent of the original program was for employees hired subsequent to the plant start-up to meet the same training, certification and licensing requirements as those hired prior to the plant start-up. However, since the new employees are not full time students and the program has not been adapted for the added staff responsibilities of operating and maintaining the BDD Facilities, there is a need to update the program to better serve the current needs of the BDD Board and its staff.

This evaluation includes reviews of program governance documents, current work schedules and current training needs. The evaluation looks at BDD training and certification program requirements, which are part of the SFCC certificate programs developed for the BDD staff, and makes recommendations to for changes needed to meet today's needs. A listing of the program documents reviewed during the course of this project is included in Section 5.2.

2 EXECUTIVE SUMMARY

The BDD Board took ownership of the newly-constructed BDD facilities in 2011. After completing an eight month, full-time training program operations and maintenance responsibilities for the BDD Facilities were turned over to the BDD staff by the DB Contractor. Since then conditions have changed. Attrition, promotions and new positions have created the need to hire and train new employees.

Upon becoming employed by the BDD Board, each new employee is required to meet specific training requirements as a condition of employment. No modifications to the training and certification program have been made, therefore these new employees have struggled to complete the required training for their respective positions within the allotted schedule. Accordingly, the BDD Board is conducting this review of the training and certification program for the purpose of identifying opportunities to modify the program to meet current needs. The following drivers are identified to help answer the question: Why does the BDD need a training and certification program?

- So that BDD staff can maintain required licensing and skills necessary to operate and maintain the facilities according to state and federal regulations.
- To ensure the reliability of the BDD Facilities to provide potable water to its customers.
- To help new employees meet specified training and certification requirements that are a condition of employment.
- To help employees achieve the requirements for increased pay opportunities.
- To prepare employees for succession into higher positions ("Grow Our Own" philosophy)
- To protect the capital investment that has been made in the BDD facilities.

pay →

Details about the program review are provided in Section 3 of this report. The following summary describes some of the impediments to the effectiveness of the program.

- The program content and schedule have not been adapted to the current needs of the BDD Board or its staff.
- The existing written program policies and procedures are in draft form.
- There are no policies or procedures that balance plant staffing needs with training needs.
- New staff do not have the option to attend training on a full time basis as the original staff did.
- There is not a contract with SFCC (or other vendors) to deliver training at the BRWTP.
- SFCC class schedules that are geared primarily for students who are not on full time, twelve hour shifts. Due to their twelve hour shifts, BDD operations staff have very limited opportunities to attend classes.
- The vendor training videos are not effective for hands-on training.
- Alternatives to the SFCC classes have not been identified.

- Hiring qualified staff has become increasingly difficult and there are no trainee positions available to "grow-our-own".

Detailed recommendations for modifications of the BDD training and certification program are included in Section 4 of this report. These recommendations are summarized below.

1. Write and formally adopt a training policy that states clearly the purpose and guidelines for the training and development of BDD employee's.
2. Include in this policy annual updates that outline what training is needed, why it is needed, who needs it, when and how it will be delivered and who will deliver it. The training policy will include a training schedule geared for training delivery to new and current employees.
3. Revise the BDD training curriculum to support internal instructors and course delivery. Include the development of a train-the-trainer training for internal instructors. Develop training for leadworker and supervisory skills. Refer to Table 4-1 for a list of topics recommended for inclusion in the training program.
- Pay → 4. Develop a certification policy to include internal skill testing and demonstration of competence (certification). Update the pay-for-skill and certification criteria to include provisions for an internally managed employee certification program.
- Pay → 5. Develop skill-based pay opportunities for maintenance positions.
6. Re-profile WorkKeys skills for operation and maintenance positions and update essential job functions.
7. Update job descriptions for all BDD positions as indicated in Table 3-1 and create "trainee" positions for operations and maintenance.

3 TRAINING AND CERTIFICATION PROGRAM REVIEWS

3.1 Training Program Review

The current BDD training program has two key components; 1. SFCC classes and 2. Cooperative Education. Refer to Appendix A for a full listing of the BDD Training Program. Although the program was sufficient for the initial group of BDD operations and maintenance staff it does not align with the current needs of the BDD Board or their staff. The program is not linked to "BDD Certification" referred to by the BDD job descriptions. There are no testing requirements or procedures for granting credit to experienced individuals for knowledge and skills obtained prior to employment at the BDD. There is no training for leadership and supervision to support these aspects of the BDD pay opportunities. The following subsections provide the findings of the training program review. The training program must be revised to accomplish its intended purpose. Refer to Section 4.1 for training program recommendations.

3.1.1 Training Program Plan

A BDD staff development, training and certification plan was developed in 2010 as a tool to identify training requirements for the BDD staff and to coordinate delivery of training from multiple sources. Although the training produced effective results for the original BDD staff, it does not effectively serve BDD's needs today. The training program was created for full time students who would transition into full time work. However, without any changes in the content, duration and schedule, the program conflicts with the current full time work schedules. To help bring some perspective, the following issues with the training program have been identified:

1. No updates to the training program have occurred. The program has not been adapted for the added full time staff responsibilities of operating and maintaining the plant.
2. The schedule of SFCC classes and the work schedules of BDD staff are incompatible.
3. The 2010 BDD staff development, training and certification plan is obsolete, no longer serves the needs of the BDD Board and must be updated.
4. The contract with Santa Fe Community College for onsite training delivery has expired.
5. The training videos created originally as a record of the vendor training do not suit the needs of today's Cooperative Education component of the BDD training.
6. There are no clear definitions for "BDD certification", "basic", "advanced" and "leadworker". These requirements are impossible to manage since no clear definition exists.

3.1.2 Training Program Schedule

There is currently no fixed schedule for any component of the BDD training. The BDD job descriptions include a requirement that the employee "pass the applicable BDD certification in all key areas of competency within one year of hire for continued employment with the BDD." BDD O&M employees are required to complete training without having the benefit of an

established training schedule upon being hired. Therefore, the lack of a schedule is causing a high degree of frustration for any BDD staff who must obtain the training as a condition of employment or to qualify for higher pay opportunities.

As shown in Appendix A, the BDD certificates required multiple SFCC classes. The SFCC class schedule varies from semester to semester and from year to year. SFCC sets minimum and maximum class size limits and offers classes based on student demand (head count). The BDD does not have enough students to meet the minimum number required by SFCC to create a class. So BDD employees must enroll, like any other student, in classes as they are offered. It is common to wait several semesters for the needed class to be offered. This "wait and see" approach to scheduling can, and often does, create a situation where a BDD employee is unable to get one or more classes when they are needed and delays the opportunity for advancement through the pay bands to other positions.

The Cooperative Education portion of the BDD training is provided in house. This training consists of viewing videos of previous training at BDD and passing quizzes related to the videos. The schedule for viewing these videos is determined in house. Although there are no policies for setting in house training schedules, Cooperative Education training videos are scheduled on an as-needed basis. Since these videos were created in the classroom when the original vendor training occurred and were not edited, they contain a mixture of valuable and extraneous information. These videos could be edited to remove the extraneous information and incorporated into an updated in-house training program.

3.2 Certification Program Overview

The certification program was created for the BDD operations and maintenance staff. The certification program has three components: 1. NMED operator licensing; 2. SFCC Training; and 3. BDD Certification. These requirements continue to be a source of confusion since "BDD Certification" requirements have not been clearly defined. To meet the requirements of the job descriptions operations and maintenance employees must possess the NMED license specified for their position, complete the training required and receive an academic certificate from SFCC. Two academic certificates, applicable to BDD jobs, are offered by SFCC; one for operations and one for maintenance. Information about these certificate programs is included in Appendix A. Skill-based compensation or pay opportunities were established for the Charge Operator, AWT Operator and Operator positions only. Promotional opportunities for other BDD staff are not based on certification or demonstration of skills.

3.2.1 Certification Policy

There is currently no formally adopted written guidance for governance of the BDD certification program. It should be noted that the SFCC certificates (see Appendix A) were created to meet the intent of the certification requirements for the BDD O&M positions. However, a certification

policy that clearly states the certification requirements would help to clarify program requirements and help alleviate ambiguity that currently exists.

3.2.2 Operator Certification

A certification program for BDD operators was established before the staff were hired and the plant went on-line. Operators may progress through pay opportunities "C, B, & A" by obtaining higher NMED operator certification levels (i.e. 1 – 4), completing specified training, and obtaining the adequate WorkKeys threshold scores. General guidelines for pay opportunities related to operator certification and other credentials have been developed. In addition to NMED Water System Operator certification, the "BDD Pay Opportunities" require "basic", "advanced" and "leadworker" training and certification. These terms are not clearly defined, as they relate to BDD operator certification, in either the "BDD Pay Opportunities" or the BDD job descriptions. These terms, as well as others, should be included in a well-defined formally adopted policy.

3.2.3 Maintenance Certification

The BDD does not currently have a maintenance certification program or provide a clear path for advancement or support for a pay-for-skill career ladder for maintenance positions. Although the BDD job descriptions specify credentials required to qualify for maintenance positions, there are no defined skills or proficiency levels upon which to certify maintenance staff. Since qualifications for maintenance staff differ from job to job, mechanical, electrical and instrumentation specialists are currently among the positions that are the most suitable for certification. Each of these positions require specific training and experience to obtain related industry and/or State certifications.

3.2.4 Job Descriptions

The BDD job descriptions specify training and certification requirements. Each BDD position was created to meet the unique needs of the BDD organization. The BDD positions serve specific functions of the organization. By contract, the City of Santa Fe serves as the Support Entity for the BDD and is compensated to provide support services. These include human resources, information technology, fleet maintenance and financial oversight. The positions associated with these functions are not included in the BDD organization and are not part of this evaluation. Table 3-1 provides a list of the job descriptions that were reviewed.

Table 3-1 BDD Job Descriptions

Classification	Grade	Revision Date	FSLA/ Union	Revisions Needed, yes/no
BDD Charge Operator	A23	6/5/12	Nonexempt/ AFSCME	Yes
BDD Operations Superintendent	M	12/16/14	Exempt/Nonunion	Yes
Automation & Security Systems Administrator	A25	3/26/14	Exempt/AFSCME	Yes
BDD AWT Operator	A22	6/19/12	Nonexempt/ AFSCME	Yes
BDD Equipment Repairman	A22	3/2/11	Nonexempt/ AFSCME	Yes
BDD Facilities Manager	P	5/28/13	Exempt/Nonunion	No
BDD Industrial Electrician	A23	3/2/15	Nonexempt/ AFSCME	Yes
BDD I & C Hardware & Software Technician	A24	11/20/10	Nonexempt/ AFSCME	Yes
BDD Journeyman Industrial Electrician	A24	3/2/15	Nonexempt/ AFSCME	Yes
BDD Laboratory Analyst	A22	5/10/10	Nonexempt/ AFSCME	Yes
BDD Journeyman Maintenance Mechanic	A23	7/9/13	Nonexempt/ AFSCME	Yes
BDD Maintenance Planner/Scheduler	A20	8/9/12	Nonexempt/ AFSCME	Yes
BDD Maintenance Superintendent	M	12/16/14	Exempt/ Nonunion	Yes
BDD Operator	A20-21	6/5/12	Nonexempt/ AFSCME	Yes
BDD Public Relations Coordinator	A20	9/10/13	Nonexempt/ AFSCME	Yes
BDD Regulatory Compliance Officer	A25	7/3/13	Nonexempt/ AFSCME	Yes
BDD Safety Officer & Training Administrator	A23	9/27/12	Exempt/ AFSCME	Yes

Since each job description either includes or should include references to required training and certification, all of them need to be revised to reflect this information. Updates to job descriptions will be required to support changes in the training and certification program. Job descriptions complement the goals and objectives of the training.

3.2.5 WorkKeys

WorkKeys is a job skill assessment system developed in the 1980s by ACT and used in the United States by businesses to measure workplace skills of employees and job applicants and by schools and colleges to help prepare students for the workplace. The BDD has used WorkKeys as part of the applicant screening process for new hires and promotional opportunities since 2010. WorkKeys profiles for twelve of the BDD jobs were developed in 2010. Since the profiles were created for new jobs, as opposed to existing jobs, a decision was made to set the WorkKeys scores for entry into the position only. WorkKeys scores for effective performance in the position were set to the same level since there was no history about the positions to draw from. Table 3-2 lists the positions, skills and skill levels used during the initial and all subsequent recruitment efforts for these positions.

Table 3-2 Existing WorkKeys Skill Levels by Position

Position/Title ⁽¹⁾	Skill Levels						
	RI	AM	BW	LI	TW	WO	AT
Chief Operator ⁽²⁾	6	7	4	6	6	4	5
Facilities Maintenance Superintendent	6	7	4	6	6	4	5
Fiscal Manager & Business Administrator ⁽³⁾	6	6	4	5	-	-	-
Regulatory Compliance Officer	6	7	7	4	5	-	-
Automation & Security Sys. Administrator	6	7	3	6	-	5	-
Safety Officer & Training Administrator	6	-	4	5	-	4	-
Charge Operator	6	7	-	5	-	4	-
AWT Operator	5	7	4	5	-	4	6
Operator	5	6	-	4	-	2	-
Journeyman Millwright/Mechanic ⁽⁴⁾	6	-	-	5	-	5	6
Journeyman Electrician	6	6	-	6	-	5	-
I&C Hardware & Software Electrician	5	6	-	6	-	5	-

RI=Reading for Information

TW=Teamwork

(1) Position/Title profiled by WorkKeys

AM=Applied Mathematics

WO=Workplace Observation

(2) New title Operations Superintendent

BW=Business writing

AT=Applied Technology

(3) New title BDD Financial Manager

LI=Locating Information

(4) New title Maintenance Mechanic

3.3 BDD Staff Interviews

The BDD Staff were asked to voluntarily participate in interviews during the data collection stage of this project. A total of eighteen staff were individually interviewed to get their perspectives on the BDD training and certification programs. A range of issues was covered to give each individual the opportunity to contribute valuable information. This section summarizes the information that was obtained during these interviews.

Table 3-3 Summary of Interviews

Topic: BDD Certification	
<p><i>Desired Attributes:</i></p> <ul style="list-style-type: none"> Attainable Based on process/subprocess Governed by a Policy Includes a skill demonstration component Role based Key areas of certification identified Credit for previous classes 	<p><i>Summary:</i></p> <p>Staff desire to have input to the development of pay opportunities, certification policy and the training program. The BDD staff want a well-defined, attainable certification program. Staff in non-operations positions are interested in pay-for-skill opportunities.</p>
Topic: Communication	
<p><i>Desired Attributes:</i></p> <ul style="list-style-type: none"> Effective communications Clear communication of policy changes Opportunity to provide input 	<p><i>Summary:</i></p> <p>Allow staff to provide input to decisions that affect them and more effective change of shift communications.</p>

Table 3-3 Summary of Interviews

Topic: Training	
<p><i>Desired Attributes:</i></p> <ul style="list-style-type: none"> Effective Sustainable Governed by a policy Satisfy certification requirements Supports pay for skill opportunities Accurate records A shorter (streamlined) program On the job training (classroom and hands-on) Does not interfere with plant operations Site specific Cost effective 	<p><i>Summary:</i></p> <p>Staff desire an effective training program for all positions that satisfies role-specific training needs and is specific to the BDD Facilities. Program requirements are clearly defined in a training policy. The training convenient at the plant and will satisfy the requirements specified in the certification policy for each position. The training will be applicable for new hires and well as existing employees. BDD employees who have system knowledge may serve as course developers and instructors.</p>
Topic: Training Content	
<p><i>Desired Attributes:</i></p> <ul style="list-style-type: none"> Levels: Basic, Intermediate, Advanced Roles: Operations, Maintenance, Administrative, Supervisory, Leadworker Applicable topics Demonstration of skills 	<p><i>Summary:</i></p> <p>The content of the training should pertain to the employee's position and level. And all employees want training for their positions. As much as possible it should be site specific for the most effective results. The training content should provide hands-on exercises need to demonstrate skill in a particular subject.</p>
Topic: Training Schedule	
<p><i>Desired Attributes:</i></p> <ul style="list-style-type: none"> Occurs on shift Does not interfere with plan operations Satisfies applicable deadlines 	<p><i>Summary:</i></p> <p>The schedule of training should accommodate training while an employee is on shift. The time for training should be built into the employees schedule and not interfere with his or her job responsibilities. The schedule should allow adequate time for the employee to complete training before the deadline for the training comes.</p>
Topic: SFCC Classes	
<p><i>Attributes:</i></p> <ul style="list-style-type: none"> Inflexible schedule Courses to general 	<p><i>Summary:</i></p> <p>The employees expressed frustration about the class schedule. There were comments about the content of the courses being to general and not specific to the BDD.</p>

Table 3-3 Summary of Interviews

Topic: Staffing and Recruitment	
<p><i>Desired Attributes:</i> Hire on an annual cycle Staffing levels Create entry-level operator position Change WorkKeys</p>	<p><i>Summary:</i> The recruitment and hiring of new staff might work better if it were done in conjunction with the budgeting and (SFCC) training cycle. Some staff commented on the need for more maintenance staff and an entry-level operator position. Some staff commented that WorkKeys is not relevant to the BDD jobs.</p>
Topic: Pay	
<p><i>Desired Attributes:</i> Inflexible when hiring from outside Union constraints Incentives for skills Career ladder and time table</p>	<p><i>Summary:</i> City policies and the Union contract limit flexibility and create difficulty when hiring from the outside. The 10% "bump" is limited to a lower percentage in certain circumstances. Staff recommend that incentives for demonstrated skills be considered. Staff want to build on the "grow your own" philosophy through a defined career ladder and time table that is attainable and equitable.</p>
Topic: Maintenance	
<p><i>Desired Attributes:</i> A maintenance plan Revamp the maintenance program (CMMS)</p>	<p><i>Summary:</i> The maintenance staff want a written maintenance plan that addresses policy and procedural aspects of the business processes associated with the maintenance department. The CMMS needs to be revamped so that it includes all the assets and work on all the assets can be managed.</p>
Topic: Other	
<p><i>Desired Attributes:</i> Proactive Public Relations Strategy</p>	<p><i>Summary:</i> The BDD is getting better at gaining exposure using PR, advertising and social media for positive messaging to the public.</p>

3.5 Related Review Findings

Review of the training and certification program provided important information about the issues that are currently impeding the effectiveness of the program. The following findings are noted for which recommendations will be provided in Section 4.

- There are no intern or trainee positions from which to "grow our own" staff.
- Currently the 5th shift operators are used as "extra" operations staff with no specific duties. The intent of this was to have ten operations staff dedicated to the BDD for 24 hr/day, 7 days/wk coverage and six staff that were to be shared with the City. However, all of these positions have been dedicated to the BDD Facilities since the staff were hired to fill them.
- There is a clear need for additional positions including a Financial Administrator and a Warehouse/Procurement Specialist to better accommodate the work load in these areas.
- There are no clear paths for employees to advance to the superintendent and/or manager positions.
- There are no specifications for leadership and supervisory training within the program.
- There are no rules for obtaining funding or approval of training courses.
- Currently, the tuition reimbursement for education that is not formally defined as BDD required (4 year degrees, advanced degrees, etc) and is processed through the Support Entity. This dilutes the "City employees" training opportunities and many times, funds are depleted by the "City Employees"
- There are no rules for how to evaluate and accept external training for BDD staff who obtained education and experience prior to being hired.

4 RECOMMENDATIONS

4.1 Training Program Recommendations

To make training more available and effective for BDD staff, program governance documents must be developed and training curriculum must be updated. Classes must be available to staff on demand so that work and training schedules can be complimentary.

Training program alternatives include:

- A. **Internal Training Program:** Internal training affords the greatest scheduling and instructional flexibility. Using qualified internal trainers helps keep the training current and captures and leverages the institutional knowledge of the staff. This alternative would require that the current training materials be updated for the current instructional needs. External instructors may be adjunct to the program when special topics are needed to augment the program. This alternative is recommended.
- B. **Outsource the Training:** Outsourcing requires a lengthy procurement process, on-going contracts with vendors, schedule flexibility, additional cost. This alternative may be used on a limited basis if specialty training is required. This alternative is recommended on a limited basis.
- C. **No change:** If no changes are made to the program, the hiring and retention of employees will become increasingly difficult, the time allotted to complete the training will have to be extended and the cost of overtime needed to cover shifts for people who are in training will increase. This alternative is not recommended.

Recommendation 1: Develop a Training Policy. Develop a formally adopted training policy for the BDD Training Program to clearly and define the goals, objectives and requirements. A BDD Training Policy should include the following:

- A policy statement defining the goals and objectives of the training program.
- Define what training meets the requirements in the job descriptions and the BDD Pay Opportunities
- A list of the required training for each position.
- Training attendance policy.
- Requirements for training schedules.
- Training recordkeeping roles and responsibilities.
- Identify the official record keeper.
- Define rules for review, approval and acceptance of training.
- Assign responsibilities for developing training-related procedures such as how to request training.
- Assign responsibilities for training development and delivery.

- Requirements such as how frequent retraining is required; review and approval of training materials; frequency of training material updates; requirements for staff to serve as instructors, etc.
- Requirements for identifying and addressing emerging training needs.
- Address approval of and reimbursement for training obtained by BDD staff from third parties.
- Address acceptance criteria for training obtained prior to and outside of the BDD program.
- Define training budgeting and expenditures.

Recommendation 2: Develop a Training Plan. Develop a training plan annually that projects training needs for up to a year in advance and is used as a planning tool to make training available to staff. The training plan should be required by the training policy and should include the following information:

- A training plan (annual update).
- The purpose for the training.
- The prerequisites for the training.
- The training provider and instructor.
- A training schedule (annual, updated quarterly).
- BDD staff required to attend the training.
- Important deadlines for obtaining training.
- A list of required training classes by level and position (all positions).
- Bring classes in house using experienced BDD staff as instructors and outside vendors (as needed).
- Identify curriculum that will be updated or developed, including existing vendor training videos.

Recommendation 3 Revise the Curriculum: The curriculum must be revised to support the current needs of the BDD staff. To cost effectively build skills into their workforce and meet the training needs of new staff, the BDD should revamp the existing in-house cooperative education component and bring the SFCC certificate program training in house.

To make the internal training program a viable option, program requirements will need to be included in the BDD Certification Policy and Training Policy. BDD Job descriptions will need to be revised to reflect updated training, certification and pay opportunity requirements for each position. With revisions to their training curricula for internal delivery, the BDD can rapidly increase the availability of training to their staff. As the skill level of internal training resources increases, the need for external training resources will decrease along with the cost of training delivery. By moving to an internal training program the time and talents of existing staff may be used to provide training that supports skill development and increased workforce competence.

A new aspect of the training needed to support an internal certification program are the hands-on demonstration the skills necessary to safely and effectively perform specific tasks. Many tasks incorporate a combination of skill sets, most of which are learned through observation and practice in the workplace. Specific hands-on activities must be developed and implemented along with performance metrics and assessment criteria that will allow for fair and equitable proficiency assessment. The basis of proficiency assessment can be built upon a given set of core competencies beginning with basic skill levels and moving toward mastery. The skills and level of proficiency are in part determined through the WorkKeys profiling process. Other requirements are determined by analyzing the task from the perspective of skill pairing. The skills and proficiency levels for specific tasks can then be incorporated into the instructional materials and hands-on demonstration components of the program.

A large portion of the current BDD training can be reused and/or adapted to the current needs and new curriculum purchased or developed for leadership and supervisory training. Although it was necessary for outside vendors to develop and deliver the original training program, many of the current BDD staff have the institutional knowledge, skills and ability to be very effective trainers. Revisions to the curriculum will need to be coordinated with the certification requirements for each BDD position. The topic list presented in Table 4-1 provides the basis for creating an internal training program using updated versions of the existing curriculum and adding courses that do not currently exist.

Table 4-1 BDD Training Topic

BDD Internal Training Topic Area List	
Topic No.	Topic Area
1	BDD Project Overview
2	Raw Water Systems
3	Conventional Treatment
4	Advanced Treatment Systems
5	Finished Water Storage, Pumping and Delivery
6	Residuals Processing
7	Regulatory
8	Procedures (Safety and Emergency Preparedness)
9	SCADA and Automation
10	Information Systems
11	Facilities Support Systems
12	Maintenance
13	Management
14	Administration
15	Training and Instructional Support

4.2 Certification Recommendations

Certification and skill-based pay opportunities are a big part of what sets the BDD apart from other employers in the region. The BDD is in a unique position to be a utility workforce leader by using their skill-based pay model to continue to attract the best candidates. To be successful any certification program must be supported by effective training. The BDD employs a talented core group of staff who possess the skills and motivation to improve the entire organization.

Recommendation 4: Develop a Certification Policy. A certification policy for the governance of the BDD Certification Program will add clarity and state the goals, objectives and requirements for certification in all positions. A BDD Certification Policy should include the following:

- The definition of "BDD Certification", "basic", "advanced" and "leadworker" in the context of the BDD Certification Policy
- A policy statement regarding which positions require certification
- A listing of the certifications required for each level of each O&M position
- A policy statement to the effect that the employee is personally responsible (not the BDD) for satisfying their own training requirements.
- Definitions of such terms as "basic", "advanced" and "lead worker" for in-house certifications
- A listing of requirements for in-house certifications such as responsibility for development of procedures for how to conduct a skill demonstration test, how to request a skill test, requirements for skill testing, etc., since job knowledge without responsibility should not exclusively equate to a promotion in title or grade.
- A policy statement regarding the duration of time that a certification is good for and requirements for continuing education and/or retesting
- Requirements for how to request credit for education from an outside agency
- Requirements by position for WorkKeys entry level and effective performance scores
- Requirements by position for which skills must be demonstrated to advance from one level to the next
- A policy statement for expiration of credentials
- A policy statement for the types of testing (i.e. written, oral, hands-on) will be required
- A policy statement for acceptance of college credits
- Identify the official record keeper for individual certification transcripts
- Requirements for sign offs for demonstration of competency
- Requirements for the record keeper
- Requirements for managing certification transcripts

Recommendation 5: Develop Skill-Based Pay Opportunities for Maintenance Positions. Because of the highly complex features and increased amount of corrective work at the BDD facilities, specific skills are needed to meet the demands of the job. This does not change the current qualifications specified by the BDD job descriptions for maintenance positions. Pay opportunities must be fair and equitable, include training resources and recognition for demonstrating increased skills. To do this, the BDD should explore the possibilities for maintenance certification as a means to grow skills from within the organization in a program geared to providing a career path for trainees through mastery-level maintenance staff. This approach provides an objective, fair and equitable business model that is comparable to the career path for operations staff in the BDD organization.

Training is a key element of progression within a trade. Training for maintenance positions begins with the basic skill sets that each person must possess in order to effectively perform in a BDD maintenance position. To develop a career path model based on specific need-to-know criteria can be helpful in determining the training needs. Used as the basis for a progressive career path model along with additional criteria for targeted for each level and trade, the ultimate goal is to prepare maintenance technicians to efficiently and effectively perform maintenance tasks. Many excellent commercially-available sources of training materials exist to support basic and advanced maintenance training needs.

The certification model for maintenance technicians at BDD can be modeled from similar programs across the country. Included in these programs are the North Carolina AWWAWEA Maintenance Technologist Certification Program and the City of Atlanta Bureau of Wastewater Treatment and Collection, Division of Wastewater Treatment, who had twenty five of their maintenance staff trained and certified as Certified Water/Wastewater Maintenance Technician I (CWWMT-I) by the International Maintenance Institute. Use of the validated need to know criteria will support a four-level certification. With the implementation of pay bands associated with achievement of defined levels of competence, promotion within the BDD maintenance jobs would be based on known skill and job responsibilities objectives. It should be noted that job knowledge without responsibility should not exclusively equate to a promotion in title or grade.

4.3 WorkKeys Recommendations

Like most aspects of running a business, WorkKeys is intended to be a positive support mechanism for the BDD. However, as BDD's needs change it becomes necessary to update the components that support the organization's objectives. Therefore the following recommendations are made for updates to WorkKeys.

Recommendation 6: Re-profile the O&M Positions. It is recommended that each of the O&M positions be re-profiled and skill levels be verified for entry into the position and effective performance in the position. Re-profiling the O&M positions is being recommended to support the adaptation of the training curriculum, clarification of the "basic", "advanced" and "leadworker" training requirements and pay opportunities for operations and maintenance.

In the interim, if it is necessary to recruit staff for any of the above positions prior to re-profiling, it is further recommended that the following changes be made to each of the positions.

1. For BDD Financial Manager; Automation & Security Sys. Administrator; Safety Officer & Training Administrator; Charge Operator; Operator; Journeyman Electrician, and I&C Hardware & Software Technician. Set the skill level for entry into the position one step lower than the existing skill levels shown in Table 3-4.
2. For Chief Operator; AWT Operator and Maintenance Mechanic: Set the skill level for entry into the position one step lower than the existing skill level shown in Table 3-4 and eliminate the skill requirement for Applied Technology (AT).

4.4 Recommendations for Job Descriptions

Recommendation 7: Update Job Descriptions. As shown in table 3-1 above the BDD job descriptions require revisions to support changes in training and certification requirements once these are updated.

5 APPENDICES

Appendix A Training & Certification Program Requirements

5.1 Abbreviations

Abbreviation	Description
BDDB	Buckman Direct Diversion Board
BRWTP	Buckman Regional Water Treatment Plant
DB	Design Build
O&M	Operations and Maintenance
NMED	New Mexico Environment Department
SFCC	Santa Fe Community College

5.2 Bibliography

The documents reviewed for this project include:

1. Buckman Regional Water Treatment Plant Staff Development, Training and Certification Plan (DRAFT), CDM, August 20, 2010. This document includes the following: NMED operator need-to-know criteria; BDD Course outlines; essential job functions, and BDD Job Descriptions
2. BDD Pay Opportunities at Minimum Hire, 7/5/2014 (Pay-for-skill career ladder)
3. WorkKeys profile reports (12 positions)

Appendix A: Training & Certification Program Requirements

The training and certification program requires BDD employees to complete the training for their position within a time frame specified in the job description.

The current BDD Training Program consists courses offered by Santa Fe Community College (SFCC) and cooperative education courses. The SFCC courses for the Water Treatment Certificate and the Facilities Technology Certificate are shown in Table 3-1 and Table 3-2.

Table A-1 Water Treatment Certificate Courses

Santa Fe Community College Water Treatment Certificate Course List		
Course	Title	Semester Hours
WATR 111	Introduction to Water Treatment and Distribution Systems	2
WATR 112	Applied Math for Water Operators	4
WATR 160	Applied Chemistry for Water Treatment Operators	4
WATR 166	Microbiology for Water Treatment Operators	3
WATR 215	Permits, Regulations and Water Resource Management	3
WATR 220	Advanced Water Treatment Technologies	4
WATR 290	Certification Review	3
WATR 299	Cooperative Education	3

Table A-2 Facilities Technology Certificate Courses

Santa Fe Community College Facilities Technology Certificate Course List		
Course	Title	Semester Hours
FACT 113	Basic Blueprint Reading	2
FACT 114	Basic Electricity and Controls	2
HVAC 111	Introduction to HVAC-R Systems	2
ENVR 113	Instrumentation and Controls	3
MATH 115	Technical Math	3
PLMC 211	Water Supply Systems and Backflow Prevention	3
WATR 299	Cooperative Education	3

The cooperative education consists of a combination of classes that were provided by equipment and vendors, design engineers and other contractors during construction of the BDD Facilities. These classes were videotaped so that the materials could be reused. Table 3-3 shows a list of the thirteen training categories that comprise the cooperative education. Each of the topic areas consists of multiple sub topics.

Table A-3 Cooperative Education Course Categories

Certificate of Completion Topic List for Design Engineer and Equipment Vendor Training	
Course No.	Topic Area
BRWTP 001	BDD Project Overview
BRWTP 002	Raw Water Systems
BRWTP 003	Conventional Treatment
BRWTP 004	Advanced Treatment Systems
BRWTP 005	Finished Water Storage, Pumping and Delivery
BRWTP 006	Residuals Processing
BRWTP 007	Regulatory
BRWTP 008	Procedures (Safety and Emergency Preparedness)
BRWTP 009	SCADA and Automation
BRWTP 010	Information Systems
BRWTP 011	Facilities Support Systems
BRWTP 012	Maintenance
BRWTP 013	Management

The thirteen cooperative education categories in Table 3-3, above, are required to earn credit from SFCC for WATR 299 Cooperative Education. SFCC issues three semester-hours of transfer credit for the training provided by the design engineers and the equipment vendors. A list of this training is provided in Table A-4 below.

Table A-4 Design Engineer and Equipment Vendor Training

Cooperative Education Training	
<p>Diversion Structure and Raw Water Lift Station</p> <ul style="list-style-type: none"> Air Burst System Submersible Pumps - Sediment Pump Submersible Pumps - Sediment Decant Non-Clog Dry Pit Centrifugal Pumps Submersible Pump - Portable <p>Sediment Removal Facility and Booster Station 1A</p> <ul style="list-style-type: none"> Liquid-Solids Separator System Surge System Vertical Turbine Pumps Submersible Pumps - Sediment Decant <p>Booster Station 2A</p> <ul style="list-style-type: none"> Surge System Vertical Turbine Pumps <p>Flocculation/Sedimentation</p> <ul style="list-style-type: none"> Horizontal Paddle Flocculation System Parallel Plate Settler System Traveling Sludge Collection Equipment Submersible Pumps - Solids Transfer Flash Mix Pumps <p>Advanced Treatment Facility</p> <ul style="list-style-type: none"> Pressure Filter System Membrane Filtration System Oxygen Tanks and Vaporizers Ozone System Submersible Pump - O3 Drain Pump <p>Booster Station 4A/5A</p> <ul style="list-style-type: none"> Horizontal Fiberglass Pumps Surge System Vertical Turbine Pumps <p>Chemical Facilities</p> <ul style="list-style-type: none"> Chemical Metering Pumps Magnetic Drive Centrifugal Pumps Chemical Sump Pumps <p>Fire Detection and Alarm</p> <ul style="list-style-type: none"> Fire Detection and Alarm <p>Security</p> <ul style="list-style-type: none"> Security System Controls Security System Perimeter Closed-Circuit Television System 	<p>General Equipment</p> <ul style="list-style-type: none"> Fabricated Slide Gates Valves/Actuators - General PRVs/ARVs Centrifugal Sampling Pumps Submersible Sampling Pumps Submersible Pumps Surge System Monorail Hoists (cent/maint) Vertical Turbine Pumps <p>HVAC</p> <ul style="list-style-type: none"> HVAC Controls HVAC Equipment - Boilers HVAC Equipment - Air Handling Units HVAC Equipment - Cooling Units <p>Electrical</p> <ul style="list-style-type: none"> Adjustable Frequency Drives Motor Control Centers Low Voltage Switchgear Medium Voltage Switchgear Standby Diesel Engine Generator <p>Instrumentation and Controls</p> <ul style="list-style-type: none"> SCADA System Management SCADA System Programming SCADA System Operation SCADA System Maintenance Telemetry Systems CMMS Users CMMS Administration OMIS Users OMIS Administrators <p>Corrosion Protection</p> <ul style="list-style-type: none"> Corrosion Protection (Tanks) <p>Process</p> <ul style="list-style-type: none"> Overall Facilities and Process Overview Raw Water Facilities Primary Treatment Facilities Chemical Facilities Solids Facilities Overall Treatment Process Monitoring and Operations

Process (PRO) Series Training	
PRO 1.0	Project System and Subsystem Overview
PRO 2.0	SDWA and the BRWTP Training
PRO 3.0	Raw Water Diversion, Lift Station, Sediment Removal and Pumping Systems Operation
PRO 4.0	Pre-Sedimentation Process Training
PRO 5.0	Flash Mix, Flocculation and Sedimentation Systems Operation
PRO 6.0	Advanced Water Treatment Process Systems Operation
PRO 7.0	Treatment Residuals Thickening Process Operations
PRO 8.0	Treatment Residuals Dewatering Process Operations
PRO 9.0	Finished Water Storage, Final Treatment and Delivery
PRO 10.0	Electrical Systems
PRO 11.0	Instruments
PRO 12.0	Stormwater System
PRO 13.0	Water Sampling System
PRO 14.0	Security Systems
PRO 15.0	Solar Power Facility and PNM Power Supplies
PRO 16.0	Ancillary Systems (corrosion control, fiber optics, cellular repeating system, phone, radio systems, fire, HVAC, irrigation, plumbing etc.)
PRO 17.0	Automated control theory--Introduction to Terminology and Concepts
PRO 18.0	Automated Control of the BRWTP - Introduction to the SCADA System and all Control Loops
PRO 19.0	Hydraulics Concepts and BDD Systems
PRO 20.0	Chemicals
Leadership (LDR) Series Training	
LDR 1.0	BDD Organizational Goals and Objectives
LDR 2.0	Lead Workers and Communications Systems
LDR 3.0	Optimization and Budgeting
LDR 4.0	Community Awareness, Cost Accounting and Personal Behavior Requirements, Rules and Regulations



EMA, Inc.
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Gig Harbor, WA 98335

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fax: 253.858.5813
www.ema-inc.com

March 10, 2015

Charles M. Vokes
BDD Facilities Manager
Buckman Direct Diversion (BDD)
341 Caja del Rio Road
Santa Fe, NM 87506

RE: Project Scope for BDD Training Program Evaluation

Dear Mr. Vokes:

I am pleased to provide this proposal per your request for the evaluation of the Buckman Direct Diversion Board's Training Program. EMA's Project Manager, Steve Hoffman, is prepared to begin work on this important project at your request. I trust you will find this proposal acceptable. If so, we can begin work immediately.

Thank you for this opportunity to work with the BDDDB. If you have any questions, please do not hesitate to contact me at (253) 858-5887 office, (253) 606 6523 cell, or contact Steve Hoffman at (407) 580-8036.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy S. Payne".

Timothy S. Payne
Executive Vice President
EMA, Inc.

TRAINING PROGRAM EVALUATION

Background and Approach

The vision for the Buckman Regional Water Treatment Plant's training and internal certification program is to provide staff training that could set the standard for New Mexico and the Southwest. The program was designed to provide the newly hired BDD staff with the knowledge and skills to assume the operations and maintenance responsibilities of the new BDD facilities. The training was provided on-site on a full time basis over a period of 8 months prior to the staff taking over the facilities.

The training program consisted of three parts:

1. In-house training provided by the City and the design engineering firms,
2. Contractor Training provided under the Design Build contract, and
3. Santa Fe Community College (SFCC) courses consisting of basic and advanced operations and maintenance classes, as well as leadership training.

The intent of the original program was that employees hired subsequent to the plant start-up would be required to meet the same training, certification and licensing requirements as those hired prior to the plant start-up.

The BDD staff has been responsible for the operations and maintenance of the facilities for almost four years. The training and certification is being carried out according to the original program guidelines. This has caused confusion and issues including:

1. The program was designed as a full time program and has not been adapted for the added staff responsibilities of operating and maintaining the plant (i.e. new hires are not full time students).
2. The intent of the program was to allow the BDD to "grow its own" employees. The original program did not adequately incorporate this intent into the program. Examples are:
 - a. There are no intern or trainee positions.
 - b. There are no clear paths for employees to advance to the superintendent and/or the manager positions (one example would be – is a lead worker given credit for supervisory experience?).
 - c. The maintenance section position classifications and training does not provide clear paths for advancement, nor does it provide pay-for-skill paths.
3. There is no clear definition of the term "BDD certification."
4. There are no clear guidelines for leadership and supervisory training within the program.
5. There are no clear guidelines for funding and approval of training courses.
6. There are no clear guidelines on how to grandfather staff that is hired with the appropriate education and experience required within the training program.

To clear up the confusion and resolve these issues, the training program must be evaluated in the context of the current training and certification needs of the BDD staff. The evaluation should include reviews of governing documents such as essential job functions, job descriptions and the pay-for-skill career ladder. It should revisit the SFCC course offerings and schedule. The evaluation should consider revisions to the BDD internship requirements, which are part of the SFCC certificate programs developed for the BDD. The evaluation should also consider possible collaboration and training integration with the BDDDB's member agencies and the feasibility of offering training to other members of the community, such as customers and those with an interest in the water treatment field.

The following scope of work is intended to provide an evaluation of the training and certification program and recommendations for program updates that fit the current needs of the BDDDB without compromising the integrity of the original program.

Scope of Work

Task 1 – Kickoff Meeting

EMA will lead a kickoff meeting with BDD staff to set the direction for the project and will propose methods to address issues listed above. The kickoff meeting will be conducted at the Buckman Regional Water Treatment Plant. EMA will coordinate and conduct additional meetings and individual interviews, as required, to support the research and evaluation stage of this project. The format of meetings will include face-to-face, teleconference, WebEx, or a combination of these. Teleconferences and WebEx meetings will be held whenever possible.

Task 2 – Review of Training Program

EMA will review the current training needs, the training program and the governance documents to identify specific changes necessary for the training and certification program. Among the documents included in this review are: job descriptions for the BDD O&M positions; training and certification requirements; the pay-for-skill career ladder; position/subject class matrix; training schedule; cooperative education program and other in-house training; essential job function and need-to-know criteria for O&M positions; WorkKeys® profile reports for O&M positions and other training-related materials. The meeting and interviews held in Task 1 are another important source of information that will be used to perform a thorough program review.

Task 3 – Program Evaluation Report

EMA will prepare a draft program evaluation report. The report will provide the background of the situation and summarize findings and discoveries from the meetings and research performed by EMA in Tasks 1 and 2. The report will summarize current training needs for BDD O&M positions and provide recommendations for modifications to the training and certification program and supporting governance documents. Preparation of updated program governance documents, training and certification materials are not currently included in this scope, but may be added for an additional fee. Once this program evaluation report is published EMA will prepare for, schedule and lead a follow-up meeting with stakeholders to validate the report and address comments. Following this meeting, EMA will prepare and a final report.

Project Deliverables

The following deliverables are expected to be produced during this project.

- Meeting Agendas
- Meeting Summaries
- Draft Report
- Final Report

Assumptions

1. Steve Hoffman and Charles Vokes will coordinate stakeholder attendance at the kickoff meeting. To the greatest extent possible, additional face-to-face meetings and interviews with Steve Hoffman will occur while he is mobilized for the kickoff meeting. WebEx and teleconference meetings will be scheduled by Steve Hoffman and coordinated with Chuck Vokes, as needed, during the 3 weeks following the kickoff meeting.
2. Travel for EMA's project team is limited to the kickoff and report validation meetings. Steve Hoffman and Sharon Peters will lead the kickoff meeting. Steve Hoffman will lead the report validation meeting.

Schedule

1. BDDDB issues Notice to Proceed (NTP).
2. Coordination and scheduling of kickoff meeting begins upon receipt of NTP.
3. Kickoff meeting at BRWTP within 2 weeks of NTP.
4. Follow up meetings, interviews and program document reviews complete within 3 weeks of kickoff meeting.
5. Draft report complete within 5 weeks of kickoff meeting.
6. Draft report validation meeting within 2 weeks of draft report delivery.
7. Final report within 2 weeks of the draft report validation meeting.

This project is anticipated to be completed within 11 weeks of the issuance of the NTP. This schedule is subject to change based on the schedule availability of stakeholders and the timeliness of meetings and document reviews.

Budget

The lump sum budget for this project is shown in Table 1:

Table 1: Project Budget

Subtask	Labor Hours	Labor	Other Directs	Total
1. Meetings	44	\$9,363.00	\$2,907.00	\$12,270.00
2. Program Review	35	\$7,440.00	\$0.00	\$7,440.00
3. Report	39	\$6,361.00	\$959.00	\$7,320.00
			Lump Sum Total	\$27,030.00

**BUCKMAN DIRECT DIVERSION BOARD
PROFESSIONAL SERVICES AGREEMENT
WITH EMA, INC.**

THIS AGREEMENT is made and entered into by and between the BUCKMAN DIRECT DIVERSION BOARD (the "BDDDB") and EMA, Inc. ("Contractor"). The date of this Agreement shall be the date when it is executed by the BDDDB Facilities Manager.

1. SCOPE OF SERVICES

Contractor shall provide professional services for the Buckman Regional Treatment Plant's Training Program Evaluation as described in Exhibit "A" attached hereto.

2. STANDARD OF PERFORMANCE; LICENSES

A. Contractor represents that it possesses the experience and knowledge necessary to perform the services described under this Agreement.

B. Contractor agrees to obtain and maintain throughout the term of this Agreement, all applicable professional and business licenses required by law, for itself, its employees, agents, representatives and subcontractors.

3. COMPENSATION

A. The BDDDB shall pay to Contractor in full payment for services rendered, a sum not to exceed twenty seven thousand and thirty dollars (\$27,030), plus applicable gross receipts taxes in accordance with the Fee Schedule provided in Exhibit "A" attached hereto.

B. Contractor shall be responsible for payment of gross receipts taxes levied by the State of New Mexico on the sums paid under this Agreement.

C. Invoices for services will be made on a monthly basis. Payment shall be made upon receipt and approval by the BDDDB of detailed statements containing a report of services completed. Compensation shall be paid only for services actually performed.

4. APPROPRIATIONS

This Agreement is contingent upon sufficient appropriations and authorization being made by the BDDDB for the performance of the Agreement. If sufficient appropriations and authorization are not made by the BDDDB, this Agreement shall terminate upon written notice being given by the BDDDB to Contractor. The BDDDB's decision as to whether sufficient appropriations are available shall be accepted by Contractor and shall be final.

5. TERM AND EFFECTIVE DATE

This Agreement shall be effective when signed by the BDDDB Facilities Manager and terminate on December 31, 2015, unless terminated sooner pursuant to Article 6 below.

6. TERMINATION

A. This Agreement may be terminated by the BDDDB upon 10 days written notice to Contractor. In the event of such termination:

(1) Contractor shall render a final report of the services performed up to the date of termination and shall turn over to the BDDDB original copies of all work product, research or papers prepared under this Agreement.

(2) If compensation is not based upon hourly rates for services rendered, the BDDDB shall pay Contractor for the reasonable value of services satisfactorily performed through the date Contractor receives notice of such termination, and for which compensation has not already been paid.

(3) If compensation is based upon hourly rates and expenses, then Contractor shall be paid for services rendered and expenses incurred through the date Contractor receives notice of such termination.

7. STATUS OF CONTRACTOR; RESPONSIBILITY FOR PAYMENT OF EMPLOYEES AND SUBCONTRACTORS

A. Contractor and its agents and employees are independent contractors performing professional services for the BDDB and are not employees of the BDDB. Contractor, and its agents and employees, shall not accrue leave, retirement, insurance, bonding, use of BDDB vehicles, or any other benefits afforded to employees of the BDDB as a result of this Agreement.

B. Contractor shall be solely responsible for payment of wages, salaries and benefits to any and all employees or subcontractors retained by Contractor in the performance of the services under this Agreement.

8. CONFIDENTIALITY

Any confidential information provided to or developed by Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by Contractor without the prior written approval of the BDDB.

9. CONFLICT OF INTEREST

Contractor warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. Contractor further agrees that in the performance of this Agreement no persons having any such interests shall be employed.

10. ASSIGNMENT; SUBCONTRACTING

Contractor shall not assign or transfer any rights, privileges, obligations or other interest under this Agreement, including any claims for money due, without the prior written consent of the BDDB. Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the BDDB.

11. RELEASE

Contractor, upon acceptance of final payment of the amount due under this Agreement, releases the BDDDB, the City of Santa Fe, Santa Fe County and, their officers, officials and employees, from all liabilities, claims and obligations whatsoever arising from or under this Agreement. Contractor agrees not to purport to bind the BDDDB to any obligation not assumed herein by the BDDDB unless Contractor has express written authority to do so, and then only within the strict limits of that authority.

12. INSURANCE

A. Contractor shall not begin the Professional Services required under this Agreement until it has: (a) obtained, and upon the BDDDB's request provided to the BDDDB, insurance certificates reflecting evidence of all insurance required herein; however, the BDDDB reserves the right to request, and Contractor shall submit, copies of any policy upon reasonable request by the BDDDB; (b) obtained BDDDB approval of each company or companies as required below; and (c) confirmed that all policies contain the specific provisions required. Contractor's liabilities, including but not limited to Contractor's indemnity obligations, under this Agreement, shall not be deemed limited in any way to the insurance coverage required herein. Maintenance of specified insurance coverage is a material element of this Agreement and Contractor's failure to maintain or renew coverage or to provide evidence of renewal during the term of this Agreement may be treated as a material breach of Agreement by the BDDDB.

B. Further, Contractor shall not modify any policy or endorsement thereto which increases the Board's exposure to loss for the duration of this Agreement.

C. At all times during the term of this Agreement, Contractor shall maintain insurance coverage as follows:

(1) **Commercial General Liability.** Commercial General Liability (CGL) Insurance must be written on an ISO Occurrence form or an equivalent form providing coverage at least as broad which shall cover liability arising from any and all bodily injury, personal injury or property damage providing the following minimum limits of liability.

General Annual Aggregate (other than Products/Completed Operation)	\$2,000,000
Products/Completed Operations Aggregate Limit	\$2,000,000
Personal Injury Limit	\$2,000,000
Each Occurrence	\$2,000,000

(2) **Automobile Liability.** For all of Contractor's automobiles including owned, hired and non-owned automobiles, Contractor shall keep in full force and effect, automobile liability insurance providing coverage at least as broad for bodily injury and property damage with a combined single limit of not less than \$2 million per accident. An insurance certificate shall be submitted to the BDDDB that reflects coverage for any automobile [any auto].

(3) **Professional Liability.** For Contractor and all of Contractor's employees who are to perform professional services under this Agreement, Contractor shall keep in full force and effect, Professional Liability insurance for any professional acts, errors or omissions. Such policy shall provide a limit of not less than \$2,000,000 per claim and \$2,000,000 annual aggregate. Contractor shall ensure both that: (1) the policy retroactive date is on or before the date of commencement of the first work performed under this

Agreement; and (2) the policy will be maintained in force for a period of three years after substantial completion of the project or termination of this Agreement whichever occurs last. If professional services rendered under this Agreement include work relating to environmental or pollution hazards, Contractors policy shall not contain exclusions for those activities.

(4) **Workers' Compensation.** For all of Contractor's employees who are subject to this Agreement and to the extent required by any applicable state or federal law, Contractor shall keep in full force and effect, a Workers' Compensation policy & Employers Liability policy. That policy shall provide Employers Liability Limits as follows:

Bodily Injury by Accident	\$500,000	Each Accident
Bodily Injury by Disease	\$500,000	Each Employee
Bodily Injury by Disease	\$500,000	Policy Limit

Contractor shall provide an endorsement that the insurer waives the right of subrogation against the Board, City of Santa Fe, Santa Fe County and their respective elected officials, officers, employees, agents, volunteers and representatives.

D. **Cancellation.** Except as provided for under New Mexico law, all policies of insurance required hereunder must provide that the Board is entitled to thirty (30) days prior written notice (10 days for cancellation due to non-payment of premium) of cancellation or non-renewal of the policy or policies. Cancellation provisions in insurance certificates shall not contain the qualifying words "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives." In the event Contractors' insurance carriers will not agree to this notice requirement, Contractor will provide written notice to the Board within four working days of Contractors receipt of notice from its

insurance carrier(s) of any cancellation, nonrenewal or material reduction of the required insurance.

E. Insurer Requirements. All insurance required by express provision of this Agreement shall be carried only by responsible insurance companies that have rated "A-" and "VII" or better by the A.M. Best Key Rating Guide, that are authorized to do business in the State of New Mexico, and that have been approved by the BDDB. The BDDB will accept insurance provided by non-admitted, "surplus lines" carriers only if the carrier is authorized to do business in the State of New Mexico.

F. Deductibles. All deductibles or co-payments on any policy shall be the responsibility of Contractor.

G. Specific Provisions Required.

(1) Each policy shall expressly provide, and an endorsement shall be submitted to the Board, that the policy or policies providing coverage for Commercial General Liability must be endorsed to include as an Additional Insured, the Board, City of Santa Fe, Santa Fe County and their respective elected officials, officers, employees, agents, volunteers and representatives.

(2) All policies required herein are primary and non-contributory to any insurance that may be carried by the Board, City of Santa Fe, Santa Fe County and their respective elected officials, officers, employees, agents, volunteers and representatives, as reflected in an endorsement which shall be submitted to the BDDB.

(3) Contractor agrees that for the time period defined above, there will be no changes or endorsements to the policy that increase the BDDB's exposure to loss.

insurance carrier(s) of any cancellation, nonrenewal or material reduction of the required insurance.

E. Insurer Requirements. All insurance required by express provision of this Agreement shall be carried only by responsible insurance companies that have rated "A-" and "VII" or better by the A.M. Best Key Rating Guide, that are authorized to do business in the State of New Mexico, and that have been approved by the BDDDB. The BDDDB will accept insurance provided by non-admitted, "surplus lines" carriers only if the carrier is authorized to do business in the State of New Mexico.

F. Deductibles. All deductibles or co-payments on any policy shall be the responsibility of Contractor.

G. Specific Provisions Required.

(1) Each policy shall expressly provide, and an endorsement shall be submitted to the Board, that the policy or policies providing coverage for Commercial General Liability must be endorsed to include as an Additional Insured, the Board, City of Santa Fe, Santa Fe County and their respective elected officials, officers, employees, agents, volunteers and representatives.

(2) All policies required herein are primary and non-contributory to any insurance that may be carried by the Board, City of Santa Fe, Santa Fe County and their respective elected officials, officers, employees, agents, volunteers and representatives, as reflected in an endorsement which shall be submitted to the BDDDB.

(3) Contractor agrees that for the time period defined above, there will be no changes or endorsements to the policy that increase the BDDDB's exposure to loss.

14. NEW MEXICO TORT CLAIMS ACT

Any liability incurred by the BDDB in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et. seq. NMSA 1978, as amended. The BDDB and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

15. THIRD PARTY BENEFICIARIES

By entering into this Agreement, the parties do not intend to create any right, title or interest in or for the benefit of any person other than the BDDB and Contractor. No person shall claim any right, title or interest under this Agreement or seek to enforce this Agreement as a third party beneficiary of this Agreement.

16. RECORDS, DOCUMENT CONTROL AND AUDIT

A. Contractor shall conform with and participate in the Document Control policies of the BDDB or the City of Santa Fe. Contractor shall maintain, throughout the term of this Agreement and for a period of three years thereafter, all records that relate to the scope of services provided under this Agreement.

B. Detailed records that indicate the date, time and nature of services rendered shall also be retained for a period of three years after the term of this agreement expires. These records shall be subject to inspection by the City of Santa Fe, the Department of Finance and Administration and the State Auditor. The BDDB and the City of Santa Fe shall have the right to audit the billing both before and after payment to Contractor. Payment under this Agreement

shall not foreclose the right of the BDDB or the City of Santa Fe to recover excessive or illegal payments.

17. APPLICABLE LAW; CHOICE OF LAW; VENUE

Contractor shall abide by all applicable federal and state laws and regulations, and all ordinances, rules and regulations of the BDDB. In any action, suit or legal dispute arising from this Agreement, Contractor agrees that the laws of the State of New Mexico shall govern. The parties agree that any action or suit arising from this Agreement shall be commenced in a federal or state court of competent jurisdiction in New Mexico. Any action or suit commenced in the courts of the State of New Mexico shall be brought in the First Judicial District Court.

18. AMENDMENT

This Agreement shall not be altered, changed or modified except by an amendment in writing executed by the parties hereto.

19. SCOPE OF AGREEMENT

This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the services to be performed hereunder, and all such agreements, covenants and understandings have been merged into this Agreement. This Agreement expresses the entire Agreement and understanding between the parties with respect to said services. No prior agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

20. NON-DISCRIMINATION

During the term of this Agreement, Contractor shall not discriminate against any employee or applicant for an employment position to be used in the performance of services by Contractor hereunder, on the basis of ethnicity, race, age, religion, creed, color, national origin,

ancestry, sex, gender, sexual orientation, physical or mental disability, medical condition, or citizenship status.

21. SEVERABILITY

In case any one or more of the provisions contained in this Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby.

22. NOTICES

Any notices required to be given under this Agreement shall be in writing and served by personal delivery or by mail, postage prepaid, to the parties at the following addresses:

BDDDB: Charles Vokes, BDD Facilities Manager
Buckman Direct Diversion
801 San Mateo
Santa Fe, NM 87504

With a copy to: Nancy R. Long, Esq., BDDDB Counsel
Long, Komer & Associates, P.A.
P. O. Box 5098
Santa Fe, NM 87502-5098

CONTRACTOR: EMA, Inc
Attn: Timothy S. Payne
3101 Judson Street, First Floor
Gig Harbor, WA 98335

Any such notice sent by registered or certified mail, return receipt, shall be deemed to have been duly given and received seventy-two (72) hours after the same is so addressed and mailed with postage prepaid. Notice sent by recognized overnight delivery service shall be effective only upon actual receipt thereof at the office of the addressee set forth above, and any such notice delivered at a time outside of normal business hours shall be deemed effective at the opening of business on the next business day. Notice sent by facsimile shall be effective only

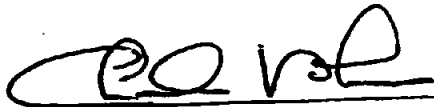
upon actual receipt of the original unless written confirmation is sent by the recipient of the facsimile stating that the notice has been received, in which case the notice shall be deemed effective as of the date specified in the confirmation. Any party may change its address for purposes of this paragraph by giving notice to the other party as herein provided. Delivery of any copies as provided herein shall not constitute delivery of notice hereunder.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth below.

[BALANCE OF PAGE INTENTIONALLY LEFT BLANK;

SIGNATURE PAGE FOLLOWS]

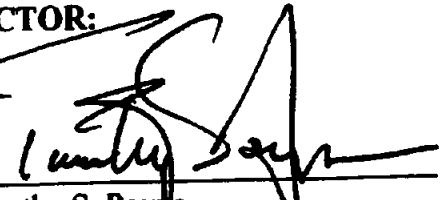
BUCKMAN DIRECT DIVERSION BOARD

By: 
Charles Vokes,
BDD Facilities Manager

Date: 7-28-2015

CONTRACTOR:

EMA, Inc.

By: 
Name: Timothy S. Payne
Title: Executive Vice President
Date: August 6, 2015

NM Taxation & Revenue
CRS # 0233116009

City of Santa Fe Business
Registration # 15-132885

APPROVED AS TO FORM:

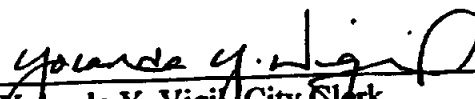

Nancy R. Long, BDDDB Counsel

APPROVED:

 8-20-2015
Oscar Rodriguez, City Finance Director

728000
Business Unit/Line Item

ATTEST:

 AM
Yolanda Y. Vigil, City Clerk
File Date: 8-25-15

"EXHIBIT A"

Scope of Work

Task 1 – Kickoff Meeting

EMA will lead a kickoff meeting with BDD staff to set the direction for the project and will propose methods to address issues listed above. The kickoff meeting will be conducted at the Buckman Regional Water Treatment Plant. EMA will coordinate and conduct additional meetings and individual interviews, as required, to support the research and evaluation stage of this project. The format of meetings will include face-to-face, teleconference, WebEx, or a combination of these. Teleconferences and WebEx meetings will be held whenever possible.

Task 2 – Review of Training Program

EMA will review the current training needs, the training program and the governance documents to identify specific changes necessary for the training and certification program. Among the documents included in this review are: job descriptions for the BDD O&M positions; training and certification requirements; the pay-for-skill career ladder; position/subject class matrix; training schedule; cooperative education program and other in-house training; essential job function and need-to-know criteria for O&M positions; WorkKeys® profile reports for O&M positions and other training-related materials. The meeting and interviews held in Task 1 are another important source of information that will be used to perform a thorough program review.

Task 3 – Program Evaluation Report

EMA will prepare a draft program evaluation report. The report will provide the background of the situation and summarize findings and discoveries from the meetings and research performed by EMA in Tasks 1 and 2. The report will summarize current training needs for BDD O&M positions and provide recommendations for modifications to the training and certification program and supporting governance documents. Preparation of updated program governance documents, training and certification materials are not currently included in this scope, but may be added for an additional fee. Once this program evaluation report is published EMA will prepare for, schedule and lead a follow-up meeting with stakeholders to validate the report and address comments. Following this meeting, EMA will prepare and a final report.

Project Deliverables

The following deliverables are expected to be produced during this project.

- Meeting Agendas
- Meeting Summaries
- Draft Report
- Final Report

Assumptions

1. Steve Hoffman and Charles Vokes will coordinate stakeholder attendance at the kickoff meeting. To the greatest extent possible, additional face-to-face meetings and interviews with Steve Hoffman will occur while he is mobilized for the kickoff meeting. WebEx and teleconference meetings will be scheduled by Steve Hoffman and coordinated with Chuck Vokes, as needed, during the 3 weeks following the kickoff meeting.
2. Travel for EMA's project team is limited to the kickoff and report validation meetings. Steve Hoffman and Sharon Peters will lead the kickoff meeting. Steve Hoffman will lead the report validation meeting.

Schedule

1. BDDB issues Notice to Proceed (NTP).
2. Coordination and scheduling of kickoff meeting begins upon receipt of NTP.
3. Kickoff meeting at BRWTP within 2 weeks of NTP.
4. Follow up meetings, interviews and program document reviews complete within 3 weeks of kickoff meeting.
5. Draft report complete within 5 weeks of kickoff meeting.
6. Draft report validation meeting within 2 weeks of draft report delivery.
7. Final report within 2 weeks of the draft report validation meeting.

This project is anticipated to be completed within 11 weeks of the issuance of the NTP. This schedule is subject to change based on the schedule availability of stakeholders and the timeliness of meetings and document reviews.

BUDGETED FEE SCHEDULE

Table 1: Project Budget

Subtask	Labor Hours	Labor	Other Directs	Total
1. Meetings	44	\$9,363.00	\$2,907.00	\$12,270.00
2. Program Review	35	\$7,440.00	\$0.00	\$7,440.00
3. Report	39	\$6,361.00	\$959.00	\$7,320.00
			Lump Sum Total	\$27,030.00



City of Santa Fe
 Purchasing Office
 P.O. Box 909
 Santa Fe, NM 87504-0909
 www.santafenm.gov

PURCHASE ORDER
 Order Number: 15163289 - 000 - OP
 Print Date: 2015-09-21
 Approval Route: 7280000
 Page: Page 1 of 2
 Originator: SRODRIGUEZ

Vendor: 560335
 EMA INC

 2355 HIGHWAY 36 W
 SUITE 200
 ST PAUL MN 55113

Ship To: 7207410
 BUCKMAN DIRECT DIVERSION
 FND
 341 CAJA DEL RIO ROAD
 SANTA FE NM 87506

L	C	Description	Account	Qty	U	Unit	Extended	Request	Req# / Type
N	0	Item		Ord	M	Price	Cost	Date	
1	0	Training and Tuition	7280000.561200.7 75010		EA	\$0.00	\$29,343.08	09/21/15	20174782 - OR
		PSA#15-0847 to hire EMA to re-evaluate the current training program at BDD.							
		\$27,030 plus gross receipts tax \$2,213.08							

Order Total: \$29,343.08

INSTRUCTIONS TO VENDORS:
 - THE PURCHASE ORDER IS SUBJECT TO ALL TERMS AND CONDITIONS AS STATED ON THE REVERSE SIDE (Page 2) OF THIS DOCUMENT.

CITY CERTIFICATION & APPROVAL FOR PAYMENT:
 - I, or We, certify that the above articles were received in good condition after due inspection thereof, or the services were rendered as stated; that they were necessary and proper and that the amounts claimed are just and reasonable and that no part thereof

Robert Rodarte - Purchasing Officer or
 Shirley Rodriguez - Sr. Purchasing Agent
 (Orders greater than \$50,000 are invalid without an original signature)



City of Santa Fe
Purchasing Office
P.O. Box 909
Santa Fe, NM 87504-0909
www.santafenm.gov

PURCHASE ORDER
Terms and Conditions

INSTRUCTIONS TO VENDORS:

- ACCEPTANCE OF THIS PURCHASE ORDER WITH THE TERMS, CONDITIONS AND PRICES STATED IS A LEGAL CONTRACT. NO CHANGES, SUBSTITUTIONS, OR PRICE VARIANCE WILL BE ALLOWED WITHOUT PRIOR AUTHORIZATION FROM THE PURCHASING OFFICE.
- THE PURCHASE ORDER IS SUBJECT TO ALL TERMS AND CONDITIONS AS STATED ON THE REVERSE SIDE OF THIS DOCUMENT.
- THE PURCHASE ORDER NUMBER MUST APPEAR ON ALL INVOICES, PACKING SLIPS, BILLS OF LADING, ETC.
- DELIVERY OF MATERIALS OR SERVICES WILL NOT BE RECOGNIZED UNLESS SUPPORTED BY A PURCHASE ORDER.
- PURCHASE ORDER VALID FOR 90 DAYS ONLY, UNLESS OTHERWISE SPECIFIED.
- SUBMIT ALL INVOICES, STATEMENTS AND BILLINGS TO: CITY OF SANTA FE, ACCOUNTS PAYABLE, P.O. 909, SANTA FE, NEW MEXICO 87504-0909.

TERMS AND CONDITIONS:

General. This Agreement shall be governed by laws of the State of New Mexico. It constitutes the entire Agreement between Buyer and Supplier unless a separate written and signed contract exists. In cases of discrepancy between the purchase order and a contract, terms and conditions of a written and signed contract shall prevail. The terms and conditions herein shall prevail notwithstanding any variance with the terms and conditions of any order submitted by the Buyer.

Either party may terminate the Agreement at any time for failure of the other to comply with any of its terms and conditions.

Customer represents that he has authority to enter this Agreement.

Supplier shall not be responsible for failure to provide materials or render services due to strikes, flood, fire, and other causes beyond its control. Buyer shall be notified in writing upon occurrence of such conditions.

The term "with Agreement" as used herein includes any future written amendments, modifications, or supplements made in accordance herewith.

Cash Discounts. In the event that Buyer is entitled to a cash discount, the period of computations will commence on the date of delivery, or receipt of a correctly completed invoice, whichever is later. If an adjustment in payment is necessary due to damage, the cash discount period shall commence on the date final approval for payment is authorized. If a discount is part of the contract, but the invoice does not reflect the existence of a cash discount, Buyer is entitled to a cash discount with the period commencing on the date it is determined by Buyer that a cash discount applies.

Changes. Supplier will accept no changes to the specifications of this purchase order such as verbal instructions or red line drawings unless authorized in advance by Buyer's Purchasing Department. Buyer may make changes in the drawings and specifications on any item at any time. If such changes result in delay or additional expense to Supplier, an equitable adjustment of price and delivery schedules will be made.

Complete Agreement. The conditions of purchase stated herein and all statements on the reverse side hereof, including all insertions thereon by the Buyer constitute the complete agreement between the Buyer and Supplier concerning this purchase and any prior negotiations between the Buyer and Supplier or terms or conditions of sale set forth in the Supplier's quotation or order or sales acknowledgment shall not constitute a part of the agreement between the Buyer and Supplier concerning this purchase.

Compliance With Laws. Supplier represents and warrants that the performance of this order and the furnishing of goods called for shall be in accordance with the applicable standards, provisions, and stipulations of all pertinent Federal, State, or local laws, rules, regulations and ordinances.

Equal Employment Opportunity. The Equal Employment Opportunity clauses of Executive Order 11246 including all amendments thereto, relative to Equal Employment Opportunity and the implementing rules and regulations of the Department of Labor on Equal Employment Opportunity are incorporated herein by specific reference.

Liens, Claims, and Encumbrances. Supplier warrants and represents that all the goods and materials ordered herein are free and clear of all liens, claims, or encumbrances of any kind.

Non-Discrimination. In accordance with Executive Order 11246 as amended, Supplier agrees not to discriminate against any client, employee, or applicant for services because of race, creed, color, national origin, sex, sexual orientation, or age with regard to, but not limited to, the following: employment upgrading, promotion or transfer, recruitment or recruitment advertising, lay-offs or terminations, rates of pay or other forms of compensation, selection for training. It is further understood that any Supplier who is in violation of this clause may be barred from receiving awards of any purchase order from Buyer unless a satisfactory showing is made that discriminatory practices have terminated and that a recurrence of such acts is unlikely.

Packing. No charges will be allowed for special handling, packing, wrapping, bags, containers, reels, etc., unless otherwise specified.

Price Protection Period. Unless otherwise provided, the equipment and materials stated herein will not be subject to any price increase from the date on which his order is accepted by Supplier to the requested delivery date of the Buyer. If the Supplier's established price for any item upon the date of delivery shall be lower than the price shown on this order, then the Buyer shall have the benefit of such lower price.

Rejection. All goods or materials purchased herein are subject to approval by Buyer. Any rejection of goods or materials resulting because of nonconformity to the terms and specifications of the contract, whether held by Buyer or returned, will be at Supplier's risk and expense.

Shipping Instructions. Unless otherwise specified, all goods are to be shipped prepaid, F.O.B. destination. Where specific authorization is granted to shipping goods F.O.B. shipping point, Supplier agrees to repay all shipping charges and route by cheapest common carrier. The Buyer reserves to right to refuse any C.O.D. shipments.

Title	Pay Opportunity	Requirements (Grow Your Own)	Pay						
			Minimum	@ 10% for B	@ 10% for A	Midpoint	Maximum	New MIN	
BDD Process Operator	C	NMED Water Systems Level I license and WorkKeys threshold score (A20) and attain pay opportunity B by 4/30/2011 (UP OR OUT - EXTERNAL or RETREAT - INTERNAL)	15,9728	17,5704	19,3274	\$22,2309	\$28,4890	N8	16,6400
	B	NM Water Systems Level II certification and BDD Training and Certification (A21)				\$24,3522	\$31,1340	N9	17,6435
	A	NMED Water Systems Level II/III certification, WorkKeys threshold score and BDD Basic and Advanced Training and Certification (A21)			19,3274	\$24,3522	\$31,1340		
BDD AWT Operator - (Requires vacancy at this level.)	C	NMED Water Systems Level III or IV certification and WorkKeys threshold score (A22) and attain pay opportunity B by 4/30/2011 (UP OR OUT - EXTERNAL or RETREAT - INTERNAL)	19,3274			\$26,6858	\$34,0442	N10	18,7021
	B	NM Water Systems Level III or IV license and BDD Basic and Advanced Training and Certification		21,2601		\$26,6858	\$34,0442		
	A	NMED Water Systems Level IV certification and BDD Basic and Advanced Training and Certification w/ BDD Leadworker Certification (A22)			23,3862	\$26,6858	\$34,0442		
	A	NMED Level IV certification and BDD Basic and Advanced Training and Certification and Associates Degree in Water Technology (or comparable degree) (A23)			23,3862				
BDD Charge Operator - (Requires vacancy in this position.)	C	NM Water Systems Level III or IV certification, WorkKeys threshold score (A23) and attain pay opportunity B by 4/2011 (UP OR OUT - EXTERNAL or RETREAT - INTERNAL)	21,2600			\$29,2525	\$37,2449	N11	21,0112
	B	NM Water Systems Level IV certification, BDD Basic and Advanced Training and Certification and BDD Leadworker Certification (A22)		23,3860		\$29,2525	\$37,2449		
	A	NM Water Systems Level IV certification and BDD Training, BDD Leadworker Certification and Associates Degree in Water Resources (or comparable degree) (A23) see Senior A above			25,7246	\$29,2525	\$37,2449		

ROMERO, FRANCISCO A.

From: LITZENBERG, ERIK J.
Sent: Thursday, December 06, 2018 9:33 PM
To: All City Employees
Subject: Info on Classification & Compensation Study

Good evening everyone, I'm writing to share information about the 2017-2018 Classification and Compensation Study with all of you, answer a few questions, and dispel a few myths and rumors.

People are the most important piece of making government work. Our classification and compensation system—which defines the different job titles in an organization and how much those types of jobs will pay—is all about how we manage job classifications and pay employees in a manner that is fair, strategic, and competitive within a given market.

The Classification and Compensation study compares our classifications and compensation levels to a number of cities in the region, to tell us exactly where we stand and help us address fairness, bring employees into line with market value for their positions, and establish a long-term strategy that contributes to our goal to be the most family-friendly, user-friendly, and eco-friendly City in the country.

If you've been here a while, you know the City has conducted these studies before, and they haven't always led to any real changes. But they are really helpful, and this administration is committed to seeing this process through and getting to a better way of organizing our job titles and pay structures.

The City was compared against Albuquerque, Colorado Springs, Denver, Farmington, Las Cruces, Los Alamos County, the State of New Mexico, Phoenix, Rio Rancho, and Santa Fe County.

Here's what we found: *Needs to be compared to Advanced Treatment Facility, not traditional, as it's compared in Comp in Class study!*

1. The City has far too many classifications. Classifications matter because they drive compensation, help ensure pay fairness, and create simple, clear career paths. They group similar jobs together, ensuring that new employees are paid fairly for similar work that requires similar backgrounds, education, and expertise. Under the current system, someone doing a similar job to you, with similar background and experience, might be making a lot more (or a lot less) than you because they are in a different classification. That's not fair or equitable, and we now have the data to fix it. This report recommends reorganizing the classifications to reduce the number from over 475 to 330. This is a major step forward to rationalize, professionalize, and streamline our human resources system.

2. City pay is actually pretty competitive with the market overall, although some positions lag behind. On average, City pay across all the different jobs is about 1% lower than comparable markets. That means some jobs are ahead of the market value, and some are behind, and a bunch are right on target. If you just look at the jobs that are below market value, they are about 11% lower than comparable markets if you average them out. It's going to cost about \$1.5 million annually to get just that group of folks caught up to market competitiveness. While the jobs are fairly spread out, it won't surprise you to know that lots of them are the types of jobs where we're having trouble keeping people: transit operators, lifeguards, police, etc. That money hasn't been set aside yet, so that's a decision that the Governing Body will have to make during the next budget session, and the administration will negotiate with the appropriate representatives where the collective

bargaining agreements come into play.

3. Pay ranges (the difference between the minimum and the maximum pay for each position) are too different across different jobs. The average market pay range spread—or the difference between the minimum and the maximum pay for any given positions—should be about 50%. At the City that pay range spread ranges from a low of 18% to a high of 86%. The report recommends the average of 50%.

As I said, these are imbalances that we're committed to correcting.

So what does it mean for you?

As we receive and evaluate all of the sections of the study over the next few days, we will post the actual study results and data tables on the City website or share them by e-mail. Copies of the parts of the study that we have already received have been shared with department directors and can be viewed.

Next week, staff will present the report and recommendations as an information-only agenda item at the December 12th City Council meeting. We're recommending that the Governing Body prioritize increasing the pay in positions that are below market value starting with the jobs where we're having the most trouble retaining people. To implement, amend, or adjust the recommendations will require the Governing Body to consider:

- Allocation of the needed funding,
- A vote in favor of the reclassification plan, and
- Votes in favor of re-negotiated union contracts for the many City employees represented by one of the three unions.

In addition to appropriation and approval by the Governing Body, any changes in compensation levels and the classification plan have to be negotiated with the three labor unions of the City employees, so it's unlikely we'll see the changes go into effect before July of 2019 when the next budget starts.

While it doesn't mean immediate and automatic raises, it does mean that for the first time in a long time, the City is answering hard questions about its pay structures and making real attempts at correcting those problems. It will take time and investment to right the ship, and the Governing Body will be the ones who set that strategy. When we do, it will mean that pay at the City gets more objective, more fair, and more rational. Career paths should be clear, and make it easier for you to advance through the ranks of your classification based on your performance and service.

Our goal is the best-run City in America. Asking and answering tough questions about how well or how poorly the organization has been run is the necessary step we have to take to deliver on that promise. That's what this study, and our response to it, is all about.

Take care-

Erik Litzenberg
City Manager
City of Santa Fe