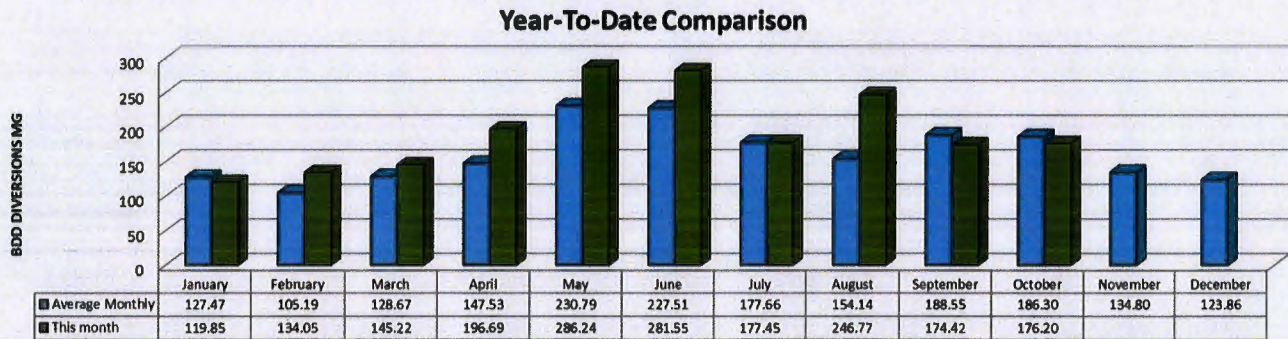




Date: November 4, 2021
To: Buckman Direct Diversion Board
From: Randy Sugrue, BDD Operations Superintendent
Subject: Update on BDD Operations for the Month of October 2021

ITEM:

1. This memorandum is to update the Buckman Direct Diversion Board (BDDDB) on BDD operations during the month of October 2021. The BDD diversions and deliveries have averaged, in Million Gallons Per Day (MGD) as follows:
 - a. Raw water diversions: 5.68 MGD.
 - b. Drinking water deliveries through Booster Station 4A/5A: 5.28 MGD.
 - c. Raw water delivery to Las Campanas at BS2A: 0.17 MGD.
 - d. Onsite treated and non-treated water storage: 0.23 MGD Average.
2. The BDD is providing approximately 67% percent of the water supply to the City and County for the month.
3. The BDD year-to-date diversions are depicted below:



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



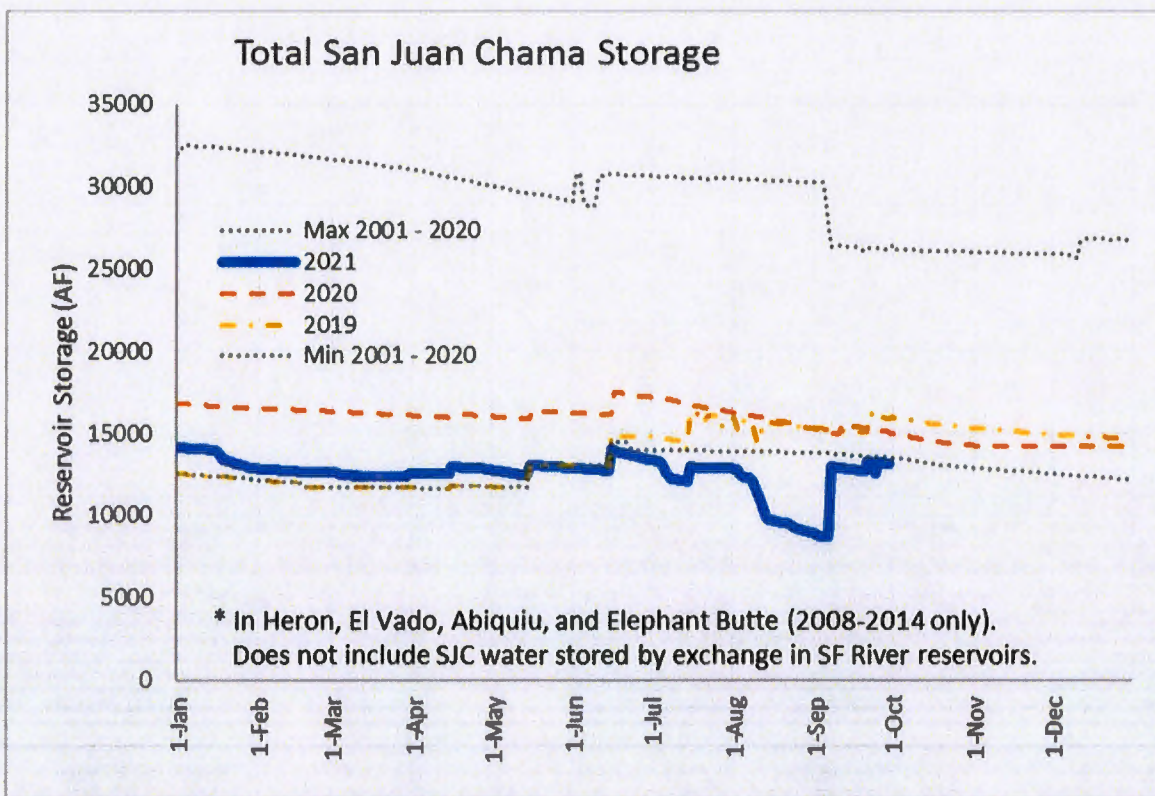
Regional Water Overview

Daily metered regional water demand for the month of October 2021 is approximately 9.0 MGD.

Rio Grande flows for October 2021 averaged approximately 375 CFS (cubic feet per second.)

CRWTP reservoir storage: Nichols: 69.7%/McClure: 19.2% (27.7% combined) Watershed Inflow: 1.1 MGD

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



ENSO Summary

October 18, 2021

ENSO Alert System Status: La Niña Advisory

La Niña conditions have developed.*

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

The tropical Pacific atmosphere is consistent with La Niña conditions.

La Niña is expected to continue with an 87% chance in December 2021-February 2022.



Buckman Direct Diversion Monthly SJC and Native Diversions

Oct-21							
In Acre-Feet							
Month	Total SJC + Native Rights	SP-4842 RG Native COUNTY	SD-03418 RG Native LAS CAMPANAS	SJC Call Total	SP-2847-E SJC Call CITY	SP-2847-N-A SJC Call LAS CAMPANAS	All Partners Conveyance Losses
JAN	378.548	42.119	0.000	336.429	336.429	0.000	3.456
FEB	408.601	191.550	0.000	217.051	217.051	0.000	2.229
MAR	442.832	442.832	0.000	0.000	0.000	0.000	0.000
APR	624.282	506.349	0.000	117.933	117.933	0.000	1.195
MAY	868.184	483.518	0.000	384.666	384.666	0.000	2.477
JUN	879.493	302.801	0.000	576.692	576.692	0.000	3.555
JUL	562.156	-17.518	0.000	579.674	579.674	0.000	2.767
AUG	758.665	-0.154	0.000	758.819	758.819	0.000	3.757
SEP	542.059	-49.305	0.000	591.364	591.364	0.000	2.930
OCT	485.015	-55.919	0.000	540.934	571.020	0.000	3.984
NOV	0.000	0.000	0.000	0.000	0.000	0.000	0.000
DEC	0.000	0.000	0.000	0.000	0.000	0.000	0.000
TOTAL	5,949.835	1,846.272	0.000	4,133.649	4,133.649	0.000	26.349

In Million Gallons

Month	Native COUNTY	Native Las Campanas	SJC TOTAL	SJC CITY	SJC Las Campanas	All Partners Diversions
JAN	13.720	0.000	108.306	108.306	0.000	122.026
FEB	62.394	0.000	69.875	69.875	0.000	132.269
MAR	144.245	0.000	0.000	0.000	0.000	144.245
APR	164.934	0.000	37.971	37.971	0.000	202.906
MAY	157.498	0.000	123.871	123.871	0.000	281.369
JUN	98.632	0.000	185.788	185.788	0.000	284.420
JUL	-5.706	0.000	186.765	186.765	0.000	181.059
AUG	-0.050	0.000	244.396	244.396	0.000	244.346
SEP	-16.060	0.000	190.470	190.470	0.000	174.409
OCT	-18.215	0.000	176.200	176.200	0.000	157.985
NOV	0.000	0.000	0.000	0.000	0.000	0.000
DEC	0.000	0.000	0.000	0.000	0.000	0.000
TOTAL	601.391	0.000	1,323.642	1,323.642	0.000	1,925.033



Buckman Direct Diversion Monthly SJC and Native Diversions

Dec-20	In Acre-Feet						
Month	Total SJC + Native Rights	SP-4842 RG Native COUNTY	SD-03418 RG Native LAS CAMPANAS	SJC Call Total	SP-2847-E SJC Call CITY	SP-2847-N-A SJC Call LAS CAMPANAS	All Partners Conveyance Losses
JAN	438.797	134.433	0.000	304.364	298.249	6.115	2.759
FEB	396.508	218.194	0.000	178.314	178.314	0.000	1.679
MAR	357.764	185.598	0.000	172.165	172.165	0.000	1.621
APR	372.408	187.945	0.000	184.463	122.188	62.275	1.737
MAY	641.374	529.897	0.000	111.477	111.477	0.000	0.889
JUN	637.220	509.818	0.000	127.402	1.618	125.784	1.017
JUL	784.520	0.000	0.000	784.520	784.520	0.000	3.663
AUG	886.856	12.503	0.000	874.354	839.919	34.435	4.214
SEP	762.357	0.000	0.000	762.357	682.674	79.683	3.556
OCT	593.109	0.000	0.000	593.109	539.638	53.472	5.845
NOV	390.743	353.481	0.000	37.261	37.261	0.000	0.345
DEC	392.394	355.317	0.000	37.077	37.077	0.000	0.377
TOTAL	6,654.050	2,487.186	0.000	4,166.864	3,805.100	361.764	27.701

In Million Gallons

Month	Native COUNTY	Native Las Campanas	SJC TOTAL	SJC CITY	SJC Las Campanas	All Partners Diversions
JAN	43.789	0.000	98.103	96.304	1.975	141.892
FEB	71.073	0.000	57.454	57.454	0.000	128.527
MAR	60.456	0.000	55.473	55.473	0.000	115.928
APR	61.220	0.000	59.435	39.440	20.101	120.655
MAY	172.605	0.000	35.812	35.812	0.000	208.417
JUN	166.065	0.000	40.927	0.520	40.407	206.992
JUL	0.000	0.000	252.754	252.754	0.000	252.754
AUG	4.073	0.000	281.681	271.072	11.113	285.754
SEP	0.000	0.000	245.686	219.960	25.726	245.686
OCT	0.000	0.000	191.019	174.109	17.252	191.019
NOV	115.140	0.000	12.008	12.008	0.000	127.148
DEC	115.738	0.000	11.937	11.937	0.000	127.676
TOTAL	810.158	0.000	1,342.289	1,226.843	116.574	2,152.447



City of Santa Fe, New Mexico

Memorandum



DATE: October 25, 2021

TO: Buckman Direct Diversion Board

VIA: Regina Wheeler, Public Works Director *RW*
Sam Burnett, Facilities Division Director

FROM: Caryn Grosse, Project Administrator Senior *CG*

ITEM AND ISSUE:

Update on Solar and Lighting Improvements at Buckman Direct Diversion Project, Caryn Grosse, clgrosse@santafenm.gov, 505-955-5938.

BACKGROUND AND SUMMARY:

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

Yearout evaluated a total of 39 sites - 22 facilities including Buckman Direct Diversion, and 17 pumping and booster stations, including BDD Booster Stations #1A and #2A, and the BDD Lift Station - to assess the feasibility of installing Solar Photovoltaic (PV) arrays, upgrading lighting and other energy efficiency measures, and retrofitting water conservation devices.

Yearout provided scope, conceptual design, costs, and payback for LED retrofit lighting, PV arrays, transformer replacements, water conservation, and building envelope improvements that met the City's criteria for feasibility. The Executive Summary from the IGA is attached in Exhibit 1. New Mexico Energy Minerals and Natural Resources Department provided third-party review of the IGA and has certified the findings and recommendations (Exhibit 2.)

Replacement of non-LED interior lighting with LEDs was recommended for the buildings at the Buckman Direct Diversion water treatment plant, as well as BDD Booster Stations #1A and #2A, and the BDD Lift Station. Facility Improvement Measures (FIMs) for LED lighting are shown below.

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

LED Lighting Scope of Work:

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

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

The addition of PV arrays is planned for both the BDD Booster Station #1A and the BDD Lift Station. Additional PV was considered for the BDD plant, however, further analysis indicated that a new array would likely cause the loss of the REC payments from the current array (approximately \$300K/year). PV should be considered for the plant after the current REC contract expires in 2031.

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

Note that the simple payback period was used to determine financial feasibility. The warranted life for PV panels is 20 years and expected life span is 39 years, so a 13 year payback indicates beneficial financial results. The financing payback period is 20 years.

Solar Scope of Work:

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

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

The original IGA contract was amended to add a due diligence phase during which interconnection applications were submitted to PNM for all PV arrays and Special Use Permits (SUPs) applications were submitted to US Forest Service. In February and March of 2021, agreements with all parties were executed, the IGA was accepted, financing was secured and the Energy Performance Contract (EPC) was executed.

Special Use Permits (SUPs) are required for the BDD Lift Station and Booster Station 1A arrays, as these facilities are located on Forest Service lands. Applications for these SUPs were submitted to the Forest Service in June 2020. An archeological literature review was submitted as well. The applications were combined into a single permit by the Forest Service and a Categorical Exclusion from NEPA for the SUP and approved in October 2021. The costs associated with applying for this permit, and for archeological

monitoring during the construction process, are being paid out of the project funds, however, Buckman Direct Diversion will be responsible for the annual land use fee of \$87.25 after 2021.

PV installation at BDD Booster Station 1A and the BDD Lift Station is currently expected to begin in late Spring 2022 and LED retrofits for BDD Main, Booster Station 1A and Booster Station 2A, and the BDD Lift Station are anticipated for Summer 2022 when all materials are secured for the installation.

The cost summary for BDD FIMs implementation, as a portion of the whole project, is attached in Exhibit 3. Expenses and payments for the BDD portion of the overall solar project are being tracked separately to ensure that BDD only pays for improvements at BDD and makes payments on those improvements.

Attachments

Exhibit 1: Executive Summary of the Investment Grade Audit

Exhibit 2: EMNRD Certification of Guaranteed Energy Savings

Exhibit 3: Project Summary by Group

YEAROUT ENERGY



City of Santa Fe

Investment Grade Audit (IGA) Report

Executive Summary



1.0 Executive Summary

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

The project specific objectives for this IGA include:

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

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

Table 1: Baseline Annual Cost Breakdown by Utility Type

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

Table 2: Baseline Annual Energy Consumption Breakdown by Utility Type

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

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

Table 3: GESPC Project Summary

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

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

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

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

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

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

Table 4: Facility Improvement Measures (FIM) Summary

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

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

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

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

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

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

State of New Mexico
Energy, Minerals and Natural Resources Department

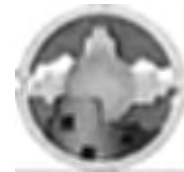
Exhibit 2

Michelle Lujan Grisham
Governor

Sarah Cottrell Propst
Cabinet Secretary

Todd E. Leahy, JD, PhD
Deputy Secretary

Louise N. Martinez, Director
Energy Conservation and Management Division



September 12, 2020

BY EMAIL: mayor@santafenm.gov

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

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

Dear Mayor Webber:

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

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

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

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

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

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

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

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

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

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

Sincerely,


Harold Trujillo, PE
Bureau Chief
ECMD Energy Technology & Engineering

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

Project Summary by Group

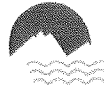
City of Santa Fe

September 24, 2020



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

Memorandum



Buckman Direct Diversion

Date: November 4, 2021

To: Buckman Direct Diversion Board

From: Nancy R. Long

Subject: U.S. Department of Agriculture Forest Service Special Use Permit for Solar Projects at BDD Booster Station 1A and BDD Lift Station

ITEM AND ISSUE:

Request approval of U.S. Department of Agriculture Forest Service Special Use Permit for solar projects at BDD Booster Station 1A and BDD Lift Station, for a twenty (20) year term with an annual fee of \$87.25.

BACKGROUND AND SUMMARY:

This permit has been issued for the purpose of constructing two ground-mounted solar photovoltaic (PV) systems: one at the BDD Booster Station 1A and the other at the BDD lift station, near the Rio Grande. Both facilities will be constructed and operated on National Forest System lands USFS land within the Santa Fe National Forest, Espanola Ranger District. The Board has previously received reports on these projects as part of a City initiated project for solar facilities at various sites. The Board approved a cost sharing agreement for the projects and an agreement with the City to allow for the installation of the solar facilities at the BDD site and for transfer of ownership of the facilities to the BDDDB upon completion.

At Booster Station 1A, the ground-mounted net metered solar PV system will have a capacity of 687.50 kW AC. The area required to develop the solar PV system is about 100,000 square feet (approximately 2 acres), which will be enclosed in a security fence. The solar PV system will be connected to the existing BDD facility through a 190-foot-long buried conduit.

At the Lift Station, the ground-mounted net metered solar PV system will have a capacity of 250 kW AC. The area required to develop the solar PV system is 35,428 square feet (about one acre), which will be enclosed in a security fence. The solar PV system will be connected to the existing BDD facility through a 165-foot-long buried electrical conduit.

To protect known cultural resources adjacent to the project area, 1) no mechanical disturbance should be permitted outside the proposed project footprint; 2) during project construction, vehicles and equipment are not allowed to enter the project from the east side of the Booster Station; 3) no parking of vehicles or staging of equipment will be permitted on the east side of the Booster Station.

The net metered solar PV systems will eventually reduce the electric utility expenses for the lift station and booster station and help meet the BDD's sustainability goals.

To accommodate the additional area required for the solar PV systems, a new Special Use Permit is required. The Special Use Permit is attached.

ACTION REQUESTED:

It is recommended that the BDDDB approve the U.S. Department of Agriculture Forest Service Special Use Permit for solar projects at BDD Booster Station 1A and BDD Lift Station.



Authorization ID: ESP104603
Contact Name: BUCKMAN DIRECT DIVERSION BOARD
Expiration Date: 12/31/2041
Use Code: 623

FS-2700-4 (VER. 03/17)
OMB 0596-0082

**U.S. DEPARTMENT OF AGRICULTURE
FOREST SERVICE
SPECIAL USE PERMIT**

Authority: FEDERAL LAND POLICY AND MGMT ACT, AS AMENDED October 21, 1976

BUCKMAN DIRECT DIVERSION BOARD of P.O. BOX 909 C/O MR. RICK CARPENTER PROJECT MANAGER - CITY OF SANTA FE SANTA FE NM 87504 (hereinafter "the holder") is authorized to use or occupy National Forest System lands in the SANTA FE NATIONAL FOREST, subject to the terms and conditions of this special use permit (the permit).

This permit covers 3 acres in the Sec. 36, T. 19 N., R. 7 E., NEW MEXICO PRINCIPAL MERIDIAN, ("the permit area"), as shown on the map attached as Appendix A. This and any other appendices to this permit are hereby incorporated into this permit.

This permit issued for the purpose of:

The Buckman Direct Diversion Board (BDD) will construct two ground-mounted solar photovoltaic (PV) systems: one at the BDD Booster Station 1A and the other at the BDD lift station, near the Rio Grande. Both facilities will be constructed and operated on National Forest System lands USFS land within the Santa Fe National Forest, Espanola Ranger District.

At the Booster Station 1A, the ground-mounted net metered solar PV system will have a capacity of 687.50 kW AC. The area required to develop the solar PV system is about 100,000 square feet (approximately 2 acres), which will be enclosed in a security fence. The solar PV system will be connected to the existing BDD facility through 190-foot-long buried conduit.

At the Lift Station, the ground-mounted net metered solar PV system will have a capacity of 250 kW AC. The area required to develop the solar PV system is 35,428 square feet (about one acre), which will be enclosed in a security fence. The solar PV system will be connected to the existing BDD facility through 165-foot-long buried electrical conduit.

To protect known cultural resources adjacent to the project area, 1) no mechanical disturbance should be permitted outside the proposed project footprint; 2) during project construction, vehicles and equipment not allowed to enter the project from the east side of the Booster Station; 3) no parking of vehicles or staging of equipment should be permitted on the east side of the Booster Station.

TERMS AND CONDITIONS

I. GENERAL TERMS

A. AUTHORITY. This permit is issued pursuant to the FEDERAL LAND POLICY AND MGMT ACT, AS AMENDED October 21, 1976 and 36 CFR Part 251, Subpart B, as amended, and is subject to their provisions.

B. AUTHORIZED OFFICER. The authorized officer is the Forest Supervisor.

C. TERM. This permit shall expire at midnight on 12/31/2041, 20 years from the date of issuance.

D. CONTINUATION OF USE AND OCCUPANCY. This permit is not renewable. Prior to expiration of this permit, the holder may apply for a new permit for the use and occupancy authorized by this permit. Applications for a new permit must be submitted at least 6 months prior to expiration of this permit. Issuance of a new permit is at the sole discretion of the authorized officer. At a minimum, before issuing a new permit, the authorized officer shall ensure that (1) the use and occupancy to be authorized by the new permit is consistent with the standards and guidelines in the applicable land management plan; (2) the type of use and occupancy to be authorized by the new permit is the same as the type of use and occupancy authorized by this permit; and (3) the holder is in compliance with all the terms of this permit. The authorized officer may prescribe new terms and conditions when a new permit is issued.

E. AMENDMENT. This permit may be amended in whole or in part by the Forest Service when, at the discretion of the authorized officer, such action is deemed necessary or desirable to incorporate new terms that may be required by law, regulation, directive, the applicable forest land and resource management plan, or projects and activities implementing a land management plan pursuant to 36 CFR Part 215.

F. COMPLIANCE WITH LAWS, REGULATIONS, AND OTHER LEGAL REQUIREMENTS. In exercising the rights and privileges granted by this permit, the holder shall comply with all present and future federal laws and regulations and all present and future state, county, and municipal laws, regulations, and other legal requirements that apply to the permit area, to the extent they do not conflict with federal law, regulation, or policy. The Forest Service assumes no responsibility for enforcing laws, regulations, and other legal requirements that fall under the jurisdiction of other governmental entities.

G. NON-EXCLUSIVE USE. The use or occupancy authorized by this permit is not exclusive. The Forest Service reserves the right of access to the permit area, including a continuing right of physical entry to the permit area for inspection, monitoring, or any other purpose consistent with any right or obligation of the United States under any law or regulation. The Forest Service reserves the right to allow others to use the permit area in any way that is not inconsistent with the holder's rights and privileges under this permit, after consultation with all parties involved. Except for any restrictions that the holder and the authorized officer agree are necessary to protect the installation and operation of authorized temporary improvements, the lands and waters covered by this permit shall remain open to the public for all lawful purposes.

H. ASSIGNABILITY. This permit is not assignable or transferable.

I. TRANSFER OF TITLE TO THE IMPROVEMENTS.

1. Notification of Transfer. The holder shall notify the authorized officer when a transfer of title to all or part of the authorized improvements is planned.

2. Transfer of Title. Any transfer of title to the improvements covered by this permit shall result in termination of the permit. The party who acquires title to the improvements must submit an application for a permit. The Forest Service is not obligated to issue a new permit to the party who acquires title to the improvements. The authorized officer shall determine that the applicant meets requirements under applicable federal regulations.

J. CHANGE IN CONTROL OF THE BUSINESS ENTITY.

1. Notification of Change in Control. The holder shall notify the authorized officer when a change in control of the business entity that holds this permit is contemplated.

(a). In the case of a corporation, control is an interest, beneficial or otherwise, of sufficient outstanding voting securities or capital of the business so as to permit the exercise of managerial authority over the actions and operations of the corporation or election of a majority of the board of directors of the corporation.

(b). In the case of a partnership, limited partnership, joint venture, or individual entrepreneurship, control is a beneficial

ownership of or interest in the entity or its capital so as to permit the exercise of managerial authority over the actions and operations of the entity.

(c). In other circumstances, control is any arrangement under which a third party has the ability to exercise management authority over the actions or operations of the business.

2. Effect of Change in Control. Any change in control of the business entity as defined in paragraph 1 of this clause shall result in termination of this permit. The party acquiring control must submit an application for a special use permit. The Forest Service is not obligated to issue a new permit to the party who acquires control. The authorized officer shall determine whether the applicant meets the requirements established by applicable federal regulations.

II. IMPROVEMENTS

A. LIMITATIONS ON USE. Nothing in this permit gives or implies permission to build or maintain any structure or facility or to conduct any activity, unless specifically authorized by this permit. Any use not specifically authorized by this permit must be proposed in accordance with 36 CFR 251.54. Approval of such a proposal through issuance of a new permit or permit amendment is at the sole discretion of the authorized officer.

B. PLANS. All plans for development, layout, construction, reconstruction, or alteration of improvements in the permit area, as well as revisions to those plans must be prepared by a professional engineer, architect, landscape architect, or other qualified professional based on federal employment standards acceptable to the authorized officer. These plans and plan revisions must have written approval from the authorized officer before they are implemented. The authorized officer may require the holder to furnish as-built plans, maps, or surveys upon completion of the work.

C. CONSTRUCTION. Any construction authorized by this permit shall commence by 12/01/2021 and shall be completed by 12/31/2022.

III. OPERATIONS

A. PERIOD OF USE. Use or occupancy of the permit area shall be exercised at least 365 days each year.

B. CONDITION OF OPERATIONS. The holder shall maintain the authorized improvements and permit area to standards of repair, orderliness, neatness, sanitation, and safety acceptable to the authorized officer and consistent with other provisions of this permit. Standards are subject to periodic change by the authorized officer when deemed necessary to meet statutory, regulatory, or policy requirements or to protect national forest resources. The holder shall comply with inspection requirements deemed appropriate by the authorized officer.

C. MONITORING BY THE FOREST SERVICE. The Forest Service shall monitor the holder's operations and reserves the right to inspect the permit area and transmission facilities at any time for compliance with the terms of this permit. The holder shall comply with inspection requirements deemed appropriate by the authorized officer. The holder's obligations under this permit are not contingent upon any duty of the Forest Service to inspect the permit area or transmission facilities. A failure by the Forest Service or other governmental officials to inspect is not a justification for noncompliance with any of the terms and conditions of this permit.

IV. RIGHTS AND LIABILITIES

A. LEGAL EFFECT OF THE PERMIT. This permit, which is revocable and terminable, is not a contract or a lease, but rather a federal license. The benefits and requirements conferred by this authorization are reviewable solely under the procedures set forth in 36 CFR 214 and 5 U.S.C. 704. This permit does not constitute a contract for purposes of the Contract Disputes Act, 41 U.S.C. 601. The permit is not real property, does not convey any interest in real property, and may not be used as collateral for a loan.

B. VALID EXISTING RIGHTS. This permit is subject to all valid existing rights. Valid existing rights include those derived under mining and mineral leasing laws of the United States. The United States is not liable to the holder for the exercise of any such right.

C. ABSENCE OF THIRD-PARTY BENEFICIARY RIGHTS. The parties to this permit do not intend to confer any rights on any third party as a beneficiary under this permit.

D. SERVICES NOT PROVIDED. This permit does not provide for the furnishing of road or trail maintenance, water, fire protection, search and rescue, or any other such service by a government agency, utility, association, or individual.

E. RISK OF LOSS. The holder assumes all risk of loss associated with use or occupancy of the permit area, including but not limited to theft, vandalism, fire and any fire-fighting activities (including prescribed burns), avalanches, rising waters, winds, falling limbs or trees, and other forces of nature. If authorized temporary improvements in the permit area are destroyed or substantially damaged, the authorized officer shall conduct an analysis to determine whether the improvements can be safely occupied in the future and whether rebuilding should be allowed. If rebuilding is not allowed, the permit shall terminate.

F. DAMAGE TO UNITED STATES PROPERTY. The holder has an affirmative duty to protect from damage the land, property, and other interests of the United States. Damage includes but is not limited to fire suppression costs and damage to government-owned improvements covered by this permit.

1. The holder shall be liable for all injury, loss, or damage, including fire suppression, prevention and control of the spread of invasive species, or other costs in connection with rehabilitation or restoration of natural resources resulting from the use or occupancy authorized by this permit. Compensation shall include but not be limited to the value of resources damaged or destroyed, the costs of restoration, cleanup, or other mitigation, fire suppression or other types of abatement costs, and all administrative, legal (including attorney's fees), and other costs. Such costs may be deducted from a performance bond required under clause IV.J.

2. The holder shall be liable for damage caused by use of the holder or the holder's heirs, assigns, agents, employees, contractors, or lessees to all roads and trails of the United States to the same extent as provided under clause IV.F.1, except that liability shall not include reasonable and ordinary wear and tear.

G. HEALTH AND SAFETY. The holder shall take all measures necessary to protect the health and safety of all persons affected by the use and occupancy authorized by this permit. The holder shall promptly abate as completely as possible and in compliance with all applicable laws and regulations any physical or mechanical procedure, activity, event, or condition existing or occurring in connection with the authorized use and occupancy during the term of this permit that causes or threatens to cause a hazard to the health or safety of the public or the holder's employees or agents. The holder shall as soon as practicable notify the authorized officer of all serious accidents that occur in connection with these procedures, activities, events, or conditions. The Forest Service has no duty under the terms of this permit to inspect the permit area or operations of the holder for hazardous conditions or compliance with health and safety standards.

H. ENVIRONMENTAL PROTECTION.

1. For purposes of clause IV.H and section V, "hazardous material" shall mean (a) any hazardous substance under section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601(14); (b) any pollutant or contaminant under section 101(33) of CERCLA, 42 U.S.C. 9601(33); (c) any petroleum product or its derivative, including fuel oil, and waste oils; and (d) any hazardous substance, extremely hazardous substance, toxic substance, hazardous waste, ignitable, reactive or corrosive materials, pollutant, contaminant, element, compound, mixture, solution or substance that may pose a present or potential hazard to human health or the environment under any applicable environmental laws.

2. The holder shall avoid damaging or contaminating the environment, including but not limited to the soil, vegetation (such as trees, shrubs, and grass), surface water, and groundwater, during the holder's use and occupancy of the permit area. Environmental damage includes but is not limited to all costs and damages associated with or resulting from the release or threatened release of a hazardous material occurring during or as a result of activities of the holder or the holder's heirs, assigns, agents, employees, contractors, or lessees on, or related to, the lands, property, and other interests covered by this permit. If the environment or any government property covered by this permit becomes damaged in connection with the holder's use and occupancy, the holder shall as soon as practicable repair the damage or replace the damaged items to the satisfaction of the authorized officer and at no expense to the United States.

3. The holder shall as soon as practicable, as completely as possible, and in compliance with all applicable laws and regulations abate any physical or mechanical procedure, activity, event, or condition existing or occurring in connection with the authorized use and occupancy during or after the term of this permit that causes or threatens to cause harm to the environment, including areas of vegetation or timber, fish or other wildlife populations, their habitats, or any other natural resources.

I. INDEMNIFICATION OF THE UNITED STATES. The holder shall indemnify, defend, and hold harmless the United States for any costs, damages, claims, liabilities, and judgments arising from past, present, and future acts or omissions of the holder in connection with the use or occupancy authorized by this permit. This indemnification provision includes but is not limited to acts and omissions of the holder or the holder's heirs, assigns, agents, employees, contractors, or lessees in connection with the use or occupancy authorized by this permit which result in (1) violations of any laws and regulations which are now or which may in the future become applicable; (2) judgments, claims, demands, penalties, or fees assessed against the United States; (3) costs, expenses, and damages incurred by the United States; or (4) the release or threatened release of any solid waste, hazardous waste, hazardous materials, pollutant, contaminant, oil in any form, or petroleum product into the environment. The authorized officer may prescribe terms that allow the holder to replace, repair, restore, or otherwise undertake necessary curative actions to mitigate damages in addition to or as an alternative to monetary indemnification.

J. BONDING. The authorized officer may require the holder to furnish a surety bond or other security for any of the obligations imposed by the terms and conditions of this permit or any applicable law, regulation, or order.

V. RESOURCE PROTECTION

A. COMPLIANCE WITH ENVIRONMENTAL LAWS. The holder shall in connection with the use or occupancy authorized by this permit comply with all applicable federal, state, and local environmental laws and regulations, including but not limited to those established pursuant to the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 et seq., the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq., the Oil Pollution Act, as amended, 33 U.S.C. 2701 et seq., the Clean Air Act, as amended, 42 U.S.C. 7401 et seq., CERCLA, as amended, 42 U.S.C. 9601 et seq., the Toxic Substances Control Act, as amended, 15 U.S.C. 2601 et seq., the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. 136 et seq., and the Safe Drinking Water Act, as amended, 42 U.S.C. 300f et seq.

B. VANDALISM. The holder shall take reasonable measures to prevent and discourage vandalism and disorderly conduct and when necessary shall contact the appropriate law enforcement officer.

C. PESTICIDE USE.

1. **Authorized Officer Concurrence.** Pesticides may not be used outside of buildings in the permit area to control pests, including undesirable woody and herbaceous vegetation (including aquatic plants), insects, birds, rodents, or fish without prior written concurrence of the authorized officer. Only those products registered or otherwise authorized by the U.S. Environmental Protection Agency and appropriate State authority for the specific purpose planned shall be authorized for use within areas on National Forest System lands.

2. Pesticide-Use Proposal. Requests for concurrence of any planned uses of pesticides shall be provided in advance using the Pesticide-Use Proposal (form FS-2100-2). Annually the holder shall, on the due date established by the authorized officer, submit requests for any new, or continued, pesticide usage. The Pesticide-Use Proposal shall cover a 12-month period of planned use. The Pesticide-Use Proposal shall be submitted at least 60 days in advance of pesticide application. Information essential for review shall be provided in the form specified. Exceptions to this schedule may be allowed, subject to emergency request and approval, only when unexpected outbreaks of pests require control measures which were not anticipated at the time a Pesticide-Use Proposal was submitted.

3. Labeling, Laws, and Regulations. Label instructions and all applicable laws and regulations shall be strictly followed in the application of pesticides and disposal of excess materials and containers. No pesticide waste, excess materials, or containers shall be disposed of in any area administered by the Forest Service.

D. ARCHAEOLOGICAL-PALEONTOLOGICAL DISCOVERIES. The holder shall immediately notify the authorized officer of all antiquities or other objects of historic or scientific interest, including but not limited to historic or prehistoric ruins, fossils, or artifacts discovered in connection with the use and occupancy authorized by this permit. The holder shall follow the applicable inadvertent discovery protocols for the undertaking provided in an agreement executed pursuant to section 106 of the National Historic Preservation Act, 54 U.S.C. 306108; if there are no such agreed-upon protocols, the holder shall leave these discoveries intact and in place until consultation has occurred, as informed, if applicable, by any programmatic agreement with tribes. Protective and mitigation measures developed under this clause shall be the responsibility of the holder. However, the holder shall give the authorized officer written notice before implementing these measures and shall coordinate with the authorized officer for proximate and contextual discoveries extending beyond the permit area.

E. NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT (NAGPRA). In accordance with 25 U.S.C. 3002(d) and 43 CFR 10.4, if the holder inadvertently discovers human remains, funerary objects, sacred objects, or objects of cultural patrimony on National Forest System lands, the holder shall immediately cease work in the area of the discovery and shall make a reasonable effort to protect and secure the items. The holder shall follow the applicable NAGPRA protocols for the undertaking provided in the NAGPRA plan of action or the NAGPRA comprehensive agreement; if there are no such agreed-upon protocols, the holder shall as soon as practicable notify the authorized officer of the discovery and shall follow up with written confirmation of the discovery. The activity that resulted in the inadvertent discovery may not resume until 30 days after the forest archaeologist certifies receipt of the written confirmation, if resumption of the activity is otherwise lawful, or at any time if a binding written agreement has been executed between the Forest Service and the affiliated Indian tribes that adopts a recovery plan for the human remains and objects.

F. PROTECTION OF THREATENED AND ENDANGERED SPECIES, SENSITIVE SPECIES, AND SPECIES OF CONSERVATION CONCERN AND THEIR HABITAT.

1. Threatened and Endangered Species and Their Habitat. The location of sites within the permit area needing special measures for protection of plants or animals listed as threatened or endangered under the Endangered Species Act (ESA) of 1973, 16 U.S.C. 1531 et seq., as amended, or within designated critical habitat shall be shown on a map in an appendix to this permit and may be shown on the ground. The holder shall take any protective and mitigation measures specified by the authorized officer as necessary and appropriate to avoid or reduce effects on listed species or designated critical habitat affected by the authorized use and occupancy. Discovery by the holder or the Forest Service of other sites within the permit area containing threatened or endangered species or designated critical habitat not shown on the map in the appendix shall be promptly reported to the other party and shall be added to the map.

2. Sensitive Species and Species of Conservation Concern and Their Habitat. The location of sites within the permit area needing special measures for protection of plants or animals designated by the Regional Forester as sensitive species or as species of conservation concern pursuant to FSM 2670 shall be shown on a map in an appendix to this permit and may be shown on the ground. The holder shall take any protective and mitigation measures specified by the authorized officer as necessary and appropriate to avoid or reduce effects on sensitive species or species of conservation concern or their habitat

affected by the authorized use and occupancy. Discovery by the holder or the Forest Service of other sites within the permit area containing sensitive species or species of conservation concern or their habitat not shown on the map in the appendix shall be promptly reported to the other party and shall be added to the map.

G. CONSENT TO STORE HAZARDOUS MATERIALS. The holder shall not store any hazardous materials at the site without prior written approval from the authorized officer. This approval shall not be unreasonably withheld. If the authorized officer provides approval, this permit shall include, or in the case of approval provided after this permit is issued, shall be amended to include specific terms addressing the storage of hazardous materials, including the specific type of materials to be stored, the volume, the type of storage, and a spill plan. Such terms shall be proposed by the holder and are subject to approval by the authorized officer.

I. CLEANUP AND REMEDIATION.

1. The holder shall immediately notify all appropriate response authorities, including the National Response Center and the authorized officer or the authorized officer's designated representative, of any oil discharge or of the release of a hazardous material in the permit area in an amount greater than or equal to its reportable quantity, in accordance with 33 CFR Part 153, Subpart B, and 40 CFR Part 302. For the purposes of this requirement, "oil" is as defined by section 311(a)(1) of the Clean Water Act, 33 U.S.C. 1321(a)(1). The holder shall immediately notify the authorized officer or the authorized officer's designated representative of any release or threatened release of any hazardous material in or near the permit area which may be harmful to public health or welfare or which may adversely affect natural resources on federal lands.

2. Except with respect to any federally permitted release as that term is defined under Section 101(10) of CERCLA, 42 U.S.C. 9601(10), the holder shall clean up or otherwise remediate any release, threat of release, or discharge of hazardous materials that occurs either in the permit area or in connection with the holder's activities in the permit area, regardless of whether those activities are authorized under this permit. The holder shall perform cleanup or remediation immediately upon discovery of the release, threat of release, or discharge of hazardous materials. The holder shall perform the cleanup or remediation to the satisfaction of the authorized officer and at no expense to the United States. Upon revocation or termination of this permit, the holder shall deliver the site to the Forest Service free and clear of contamination.

VI. LAND USE FEE AND DEBT COLLECTION

A. **LAND USE FEES.** The holder shall pay an initial annual land use fee of \$87.25 for 2021, and thereafter on January 1st.

B. **MODIFICATION OF THE LAND USE FEE.** The land use fee may be revised whenever necessary to reflect the market value of the authorized use or occupancy or when the fee system used to calculate the land use fee is modified or replaced.

C. FEE PAYMENT ISSUES.

1. **Crediting of Payments.** Payments shall be credited on the date received by the deposit facility, except that if a payment is received on a non-workday, the payment shall not be credited until the next workday.

2. **Disputed Fees.** Fees are due and payable by the due date. Disputed fees must be paid in full. Adjustments will be made if dictated by an administrative appeal decision, a court decision, or settlement terms.

3. **Late Payments**

(a) **Interest.** Pursuant to 31 U.S.C. 3717 et seq., interest shall be charged on any fee amount not paid within 30 days from the date it became due. The rate of interest assessed shall be the higher of the Prompt Payment Act rate or the rate of the current value of funds to the United States Treasury (i.e., the Treasury tax and loan account rate), as prescribed and published annually or quarterly by the Secretary of the Treasury in the Federal Register and the Treasury Fiscal Requirements Manual

Bulletins. Interest on the principal shall accrue from the date the fee amount is due.

(b) Administrative Costs. If the account becomes delinquent, administrative costs to cover processing and handling the delinquency shall be assessed.

(c) Penalties. A penalty of 6% per annum shall be assessed on the total amount that is more than 90 days delinquent and shall accrue from the same date on which interest charges begin to accrue.

(d) Termination for Nonpayment. This permit shall terminate without the necessity of prior notice and opportunity to comply when any permit fee payment is 90 calendar days from the due date in arrears. The holder shall remain responsible for the delinquent fees.

4. Administrative Offset and Credit Reporting. Delinquent fees and other charges associated with the permit shall be subject to all rights and remedies afforded the United States pursuant to 31 U.S.C. 3711 et seq. and common law. Delinquencies are subject to any or all of the following:

(a) Administrative offset of payments due the holder from the Forest Service.

(b) If in excess of 60 days, referral to the United States Department of the Treasury for appropriate collection action as provided by 31 U.S.C. 3711(g)(1).

(c) Offset by the Secretary of the Treasury of any amount due the holder, as provided by 31 U.S.C. 3720 et seq.

(d) Disclosure to consumer or commercial credit reporting agencies.

VII. REVOCATION, SUSPENSION, AND TERMINATION

A. REVOCATION AND SUSPENSION. The authorized officer may revoke or suspend this permit in whole or in part:

1. For noncompliance with federal, state, or local law.
2. For noncompliance with the terms of this permit.
3. For abandonment or other failure of the holder to exercise the privileges granted.
4. With the consent of the holder.
5. For specific and compelling reasons in the public interest.

Prior to revocation or suspension, other than immediate suspension under clause VII.B, the authorized officer shall give the holder written notice of the grounds for revocation or suspension and a reasonable period, typically not to exceed 90 days, to cure any noncompliance.

B. IMMEDIATE SUSPENSION. The authorized officer may immediately suspend this permit in whole or in part when necessary to protect public health or safety or the environment. The suspension decision shall be in writing. The holder may request an on-site review with the authorized officer's supervisor of the adverse conditions prompting the suspension. The authorized officer's supervisor shall grant this request within 48 hours. Following the on-site review, the authorized officer's supervisor shall promptly affirm, modify, or cancel the suspension.

C. APPEALS AND REMEDIES. Written decisions by the authorized officer relating to administration of this permit are subject to administrative appeal pursuant to 36 CFR Part 214, as amended. Revocation or suspension of this permit shall not give rise to any claim for damages by the holder against the Forest Service.

D. TERMINATION. This permit shall terminate when by its terms a fixed or agreed upon condition, event, or time occurs

without any action by the authorized officer. Examples include but are not limited to expiration of the permit by its terms on a specified date and termination upon change of control of the business entity. Termination of this permit shall not require notice, a decision document, or any environmental analysis or other documentation. Termination of this permit is not subject to administrative appeal and shall not give rise to any claim for damages by the holder against the Forest Service.

E. RIGHTS AND RESPONSIBILITIES UPON REVOCATION OR TERMINATION WITHOUT ISSUANCE OF A NEW PERMIT. Upon revocation or termination of this permit without issuance of a new permit, the holder shall remove all structures and improvements, except those owned by the United States, within a reasonable period prescribed by the authorized officer and shall restore the site to the satisfaction of the authorized officer. If the holder fails to remove all structures and improvements within the prescribed period, they shall become the property of the United States and may be sold, destroyed, or otherwise disposed of without any liability to the United States. However, the holder shall remain liable for all costs associated with their removal, including costs of sale and impoundment, cleanup, and restoration of the site.

VIII. MISCELLANEOUS PROVISIONS

A. MEMBERS OF CONGRESS. No member of or delegate to Congress or resident commissioner shall benefit from this permit either directly or indirectly, except to the extent the authorized use provides a general benefit to a corporation.

B. CURRENT ADDRESSES. The holder and the Forest Service shall keep each other informed of current mailing addresses, including those necessary for billing and payment of land use fees.

C. SUPERIOR CLAUSES. If there is a conflict between any of the preceding printed clauses and any of the following clauses, the preceding printed clauses shall control.

D. CULTURAL RESOURCES PROTECTION. The holder, contractor, or lessee shall be responsible for the protection from damage of all identified cultural resources within the area which may be affected by their actions. In addition, the holder, contractor, or lessee shall be liable for all damage or injury to the identified cultural resources caused by their actions. The holder, contractor, or lessee shall immediately notify the agency Project Administrator if any damage occurs to any cultural resource and immediately halt work in the area in which damage has occurred until approval to proceed has been granted by the Project Administrator after consultation with the Forest Archeologist. All provisions of the Region 3 Cultural Resources Damage Assessment Handbook are incorporated by reference herein.

E. NATIVE AMERICAN GRAVE PROTECTION AND REPATRIATION. Pursuant to the Native American Grave Protection and Repatriation Act (NAGPRA) 25 USC 3002(d); 43 CFR Part 10.4, if any human remains, funerary objects, sacred objects, or objects of cultural patrimony are discovered during the course of ground disturbing activity, the holder will immediately cease activity in the area of the discovery and will make a reasonable effort to protect the remains and objects. The holder will provide immediate telephone notification of the discovery to the Forest Service and will follow up with written confirmation to the authorized officer. The holder will not resume the activity that resulted in the discovery until the authorized officer gives written approval. Approval to resume the activity, if otherwise lawful, will be given thirty (30) days after certification by the authorized officer of the holder's written confirmation of the discovery, or at any time that a written binding agreement is executed between the Forest Service and the affiliated tribes adopting a recovery plan for the remains and objects.

THIS PERMIT IS ACCEPTED SUBJECT TO ALL ITS TERMS AND CONDITIONS.

BEFORE ANY PERMIT IS ISSUED TO AN ENTITY, DOCUMENTATION MUST BE PROVIDED TO THE AUTHORIZED OFFICER OF THE AUTHORITY OF THE SIGNATORY FOR THE ENTITY TO BIND IT TO THE TERMS AND CONDITIONS OF THE PERMIT.

ACCEPTED:

**ANNA HANSEN
BDD BOARD CHAIRPERSON**

HOLDER NAME, PRECEDED BY NAME AND TITLE OF PERSON SIGNING ON BEHALF OF HOLDER, IF HOLDER IS AN ENTITY	SIGNATURE	DATE
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APPROVED:

**DEBBIE CRESS
FOREST SUPERVISOR**

NAME AND TITLE OF AUTHORIZED OFFICER	SIGNATURE	DATE
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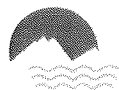
According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-0082. The time required to complete this information collection is estimated to average one hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and, where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call toll free (866) 632-9992 (voice). TDD users can contact USDA through local relay or the Federal relay at (800) 877-8339 (TDD) or (866) 377-8642 (relay voice). USDA is an equal opportunity provider and employer.

The Privacy Act of 1974 (5 U.S.C. 552a) and the Freedom of Information Act (5 U.S.C. 552) govern the confidentiality to be provided for information received by the Forest Service.

Memorandum



Buckman Direct Diversion

Date: October 27, 2021

To: Buckman Direct Diversion Board

From: Rick Carpenter, BDD Facility Manager

Kyle Harwood, BDD Legal Counsel

Re: Extension to BDD Board LANL MOU

Item and Issue:

The current BDD Board LANL MOU expires December 1, 2021 and negotiations with LANL are ongoing to establish a new MOU based upon the principles and framework agreed upon by the Board.

Background:

The background regarding the series of BDD Board - LANL MOUs has been previously provided.

The current BDD Board LANL MOU expires December 1, 2021 after being extended for 1 year last year, and there is a provision for extension of the current MOU.

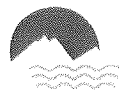
Recommendations:

BDD staff and consultants will continue to discuss with LANL staff a new replacement MOU for consideration by the BDD Board.

BDD staff and consultants recommend exercising the option to extend the current MOU until March 15, 2022.



Memorandum



Buckman Direct Diversion

Michael Mikolanis
Manager
Environmental Management
Los Alamos Field Office
P.O. Box 1663, MS M984
Los Alamos, New Mexico 87545
cc: John Evans, counsel
Cheryl Rodriguez, program manager

November 5, 2021

Re: Extension of the Memorandum of Understanding between the U.S. Department of Energy and the Buckman Direct Diversion Board Regarding Notification and Water Quality Monitoring

On November 20, 2017 the BDD Board executed the current MOU with Doug Hintze, Manager, Environmental Management, Los Alamos Field Office. The MOU has a provision that allows for the extension of the MOU for an optional three (3) year period (see Article I. Period of Agreement, Modification or Termination).

In November, 2020 the BDD Board and DOE extended the MOU for one (1) calendar year from December 1, 2020 to December 1, 2021. The Parties now desire to provide an additional extension from December 1, 2021 to March 15, 2022. This extension will not preclude the Parties' ability to agree to further extensions as contemplated by Article I (up to three (3) years).

Upon the advice of counsel, the Parties' signature below by the BDD Board Chairperson and the Manager, Environmental Management, Los Alamos Field Office will extend the November 20, 2017 MOU until March 15, 2022.

Buckman Direct Diversion Board

Anna Hansen, BDD Board Chairperson

Date

Department of Energy

Michael Mikolanis, Manager
Environmental Management, Los Alamos Field Office

Date

This Memorandum of Understanding expires on March 15, 2022.



Michael Mikolanis, Manager
U.S. Department of Energy, Office of Environmental Management
Los Alamos Field Office
1200 Trinity Drive, Suite 400
Los Alamos, New Mexico 87544

cc: John Evans, Counsel, Environmental Management, Los Alamos Field Office
Cheryl Rodriguez, Program Manager, Environmental Management, Los Alamos Field Office

November 5, 2021

Re: Extension of the Memorandum of Understanding between the U.S. Department of Energy and the Buckman Direct Diversion Board Regarding Notification and Water Quality Monitoring

On November 20, 2017, the BDD Board and Doug Hintze, Manager, Environmental Management, Los Alamos Field Office executed a Memorandum of Understanding between the U.S. Department of Energy and the Buckman Direct Diversion Board Regarding Notification and Water Quality Monitoring (MOU). The MOU has a provision that allows for the extension of the MOU for an optional three (3) year period (see Article I. Period of Agreement, Modification or Termination).

On November 19, 2020, the BDD Board and DOE extended the MOU from December 1, 2020 to December 1, 2021. The Parties now agree to extend the MOU to February 9, 2022. This extension will not preclude the Parties' ability to agree to further extensions as contemplated by Article I (up to three (3) years).

Upon the advice of counsel, the Parties' signature below by the BDD Board Chairperson and the Manager, Environmental Management, Los Alamos Field Office extend the November 20, 2017 MOU until February 9, 2022.

Buckman Direct Diversion Board

Anna Hansen, BDD Board Chairperson

Date

Department of Energy

Michael Mikolanis, Manager
Environmental Management, Los Alamos Field Office

Date