



Lower Rio Grande Public Water Works Authority  
Sign In Sheet Page 1 of 1

Date: 9/20/17

Time: 9:30

Places: East mesa office

Event: Regular Board Meeting

Signature	Print Name, Title, Company or Agency Represented	Contact Information	Email Address
<del>Mike Muller</del>			
Mike Muller	MIKE MULLER LRG PWWA	970-302-7852	
Joeman Smith	KURMAN SMITH LRG PWWA	382 5982	Same
Martin Pillar	Pillar Engineering LLC	575-647-1927	martin@pillarpe.com
P. Charles	Patricia Charles LRG PWWA	575-233-5742 Ext 1021	patty.charles@lrgauthority.org
Angelica Meza	Angelica Meza LRG PWWA		
Jose R. Estru	Jose R. Estru LRG PWWA	618 0182	
Esperanza Holguin	Esperanza Holguin LRG PWWA Finance Manager	575 644-9543	Esperanza@lrg.com
Martin Lopez	MARTIN LOPEZ LRG PWWA	(575) 640-4320	Same
H. Vasquez	H. VASQUEZ VENCOR ENGINEER	(575) 571-3128	martin.lopez@lrgauthority.org
		575/642-7955	hvasquez@vencorllc.com

# LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY

## Minutes —REGULAR BOARD OF DIRECTORS MEETING

9:30 a.m. Wednesday, September 20, 2017 at our East Mesa Office, 9774 Butterfield Blvd, Butterfield Park, NM

Minutes are a DRAFT until approved & signed by the Board of Directors

- I. **Call to Order, Roll Call to Establish Quorum:** Chairman Mike McMullen called the meeting to order at 9:30 am and called roll. Mr. Raymundo Sanchez representing District #1 was absent, District #2 is Vacant, Mr. Joe Evaro representing District #3 was present, Mrs. Esperanza Holguin representing District #4 was present, Mr. Henry Magallanez representing District #5 was absent, Mr. McMullen representing District #6 was present, Mr. Furman Smith representing District #7 was present. Staff members present were General Manager Martin Lopez, Finance Manager Kathi Jackson, Projects Specialists Patricia Charles and Angie Meza. Also present were Hector Vasquez from Vencor Engineering and Martin Pillar from Pillar Engineering LLC.
- II. **Pledge of Allegiance:** Mr. McMullen led the Pledge of Allegiance.
- III. **Motion to approve the Agenda:** Item VIII A was postponed and item IX B moved up to VII. Mr. Smith made the motion to approve the agenda, Mr. Evaro seconded the motion. The motion passed with all in favor.
- IV. **Motion to approve the minutes of the August 16, 2017 Regular Board Meeting:** Mrs. Holguin made the motion to approve the August 16, 2017 minutes and Mr. Smith seconded the motion. The motion passed with all in favor.
- V. **Guest Presentations:** none
- VI. **Public Input:** none
- VII. **Motion to approve the Letter of Commitment with Cruces Equity Partners LLLP:** Mr. Martin Pillar from Pillar Engineering LLC stated that they needed to come back to the board due to a meeting they held with the residents of Berino, where changes were made to the site lay out. They added 2 additional lots, went from 63 initially to 65 lots currently. Mr. Smith wanted to know if adding these 65 new customers to the current system would create a problem or an overload. Mr. Lopez said that there would be no problem or overload to the system. Mr. Smith made the motion to approve the commitment with Cruces Equity Partners LLLP and Mrs. Holguin seconded the motion. The motion passed with all in favor.
- VIII. **Managers' Reports**
  - A. **General Manager:** Martin provided a written report and stood for questions. Martin explained that a customer requested that the sewer minimum include 2000 gallons like the water minimum. If the Board would consider this he could put it on the agenda for the next meeting. Mr. Smith, Mr. McMullen and Mrs. Holguin would like to leave services as they are. The board does not want to increase any fees. Martin and Kathi indicated that the new Billing Clerk is working out very well she already had some billing experience.
  - B. **Projects:** Martin indicated that Karen would not be attending this meeting due to the Water Trust Board training she had to attend. A written report was provided and Martin stood for questions. He indicated that he and Karen will be attending the NM Finance Authority Board Meeting in Santa Fe next Thursday. Martin mentioned that Veterans Road Project is on its way, we have finished work at Dos Amigos, Barrio Rd and Camino Santo.
  - C. **Operations:** Martin mentioned that Mike would not be attending the meeting. A written report was provided and Martin stood for questions. He said that the SCADA is pretty much complete. The Del Norte building had to be re-roofed in the East Mesa. Water usage has decreased by 4 million gallons, it the time of year.
  - D. **Finance:** Ms. Kathi Jackson did not have a written report because the Audit is in progress. But informed the board that LRGPWWA had \$365,000.00 in revenue and \$253,000.00 in expenses and ending balance of \$112,000.00 left. She mentioned that most of the Backflow testing is caught up. The next step is to start replacing those that need it with equipment that will be standardized. Then the commercial accounts will be evaluated to see which need to be replaced as well.

**IX. Unfinished Business**

- A. Appointment of Director for District 2** – this item may be postponed
- B. Motion to approve Agreement with Anthony Water and Sanitation District for Wastewater Billing and Collections:** Martin presented the Board with the agreement and mentioned that Anthony Water has approximately 60 customers on LRGPWWA system. We will do the billing for them for the sewer and retain 3% of the wastewater fees collected. Mr. Smith made the motion to approve the agreement between LRGPWWA and Anthony Water, Mrs. Holguin seconded the motion. The motion passed with all in favor.

**X. New Business**

- A. Termination of memberships for delinquent accounts:** postponed for next Board Meeting
- B. Motion to approve the Findings of the LRGPWWA Disposition Committee:** Martin mentioned that the Disposition Committee met at 9:15 am before the regular Board Meeting to discuss the disposition of the 2004 Dodge truck, this vehicle is no longer in use the blue book value is between \$860.00 - \$1,500.00 dollars. Mrs. Holguin made the motion to approve the disposition and Mr. Evaro seconded the motion. The motion passed with all in favor.

**XI. Other discussion and agenda items for next meeting at 9:30 a.m. Wednesday, October 18, 2017 at the East Mesa Office:**

- A. Have any Board Members participated in training? If so, please give us a copy of your certificate.** None of the Board Members had any trainings to report. Ms. Charles informed the Board Members that the website is updated with the current available training. She will post some new trainings for October 2017 in the next couple of weeks.

- XII. Adjourn:** Mrs. Holguin made the motion to adjourn the regular meeting of the LRGPWWA Board of Directors. Mr. Evaro seconded the motion. The motion passed with all in favor. Mr. McMullen declared the meeting adjourned at 10:39 am.

# LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY

## Meeting Notice & Agenda—REGULAR BOARD OF DIRECTORS MEETING

9:30 a.m. Wednesday, September 20, 2017 at our East Mesa Office, 9774 Butterfield Blvd, Butterfield Park, NM

Agendas are final 72 hours prior to the meeting and may be obtained at any LRGPWWA Office—call 575-233-5742 for information

- I. Call to Order, Roll Call to Establish Quorum: District #1 (Mr. Sanchez) \_\_\_\_, #2 (Vacant) \_\_\_\_, #3 (Mr. Evaro) \_\_\_\_, #4 (Mrs. Holguin) \_\_\_\_, #5 (Mr. Magallanez) \_\_\_\_, #6 (Mr. McMullen) \_\_\_\_, #7 (Mr. Smith) \_\_\_\_
- II. Pledge of Allegiance
- III. Motion to approve the Agenda with items VIII A and VIII B. (may be postponed)
- IV. Motion to approve the minutes of the August 16, 2017 Regular Board Meeting.
- V. Guest Presentations
- VI. Public Input—15 minutes are allotted for this item, 3 minutes per person
- VII. Motion to approve the Letter of Commitment with Cruces Equity Partners LLLP
- VIII. Managers' Reports
  - A. General Manager
  - B. Projects
  - C. Operations
  - D. Finance
- IX. Unfinished Business
  - A. Appointment of Director for District 2 – this item may be postponed
  - B. Motion to approve Agreement with Anthony Water and Sanitation District for Wastewater Billing and Collections
- X. New Business
  - A. Termination of memberships for delinquent accounts
  - B. Motion to approve the Findings of the LRGPWWA Disposition Committee
- XI. Other discussion and agenda items for next meeting at 9:30 a.m. Wednesday, October 18, 2017 at the East Mesa Office:
  - A. Have any Board Members participated in training? If so, please give us a copy of your certificate.
- XII. Adjourn

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aide or service to attend or participate in the hearing or meeting, please contact the LRGPWWA office at 575-233-5742, PO Box 2646, Anthony NM 88021 OR 215 Bryant St., Mesquite NM at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the LRGPWWA office if a summary or other type of accessible format is needed.

Si usted es una persona con una discapacidad que necesita un lector, amplificador, intérprete de lenguaje de signos o cualquier otra forma de ayudante auxiliar o servicio para asistir o participar en la audiencia o reunión, póngase en contacto con la oficina de LRGPWWA, 575-233-5742, PO Box 2646, Anthony, NM 88021 o 215 Bryant St., Mesquite, NM por lo menos una semana antes de la reunión o tan pronto como sea posible. documentos públicos, incluyendo el orden del día y actas, pueden proporcionarse en diferentes formatos accesibles. Póngase en contacto con la oficina LRGPWWA si es necesario un resumen u otro tipo de formato accesible.

# LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY

## Minutes—REGULAR BOARD OF DIRECTORS MEETING

9:30 a.m. Wednesday, August 16, 2017 at our Vado Office, 325 Holguin Rd., Vado, NM

Minutes are a DRAFT until approved & signed by the Board of Directors

- I. **Call to Order, Roll Call to Establish Quorum:** Chairman Mike McMullen called the meeting to order at 9:30 am and called roll. Mr. Raymundo Sanchez representing District #1 was absent, District #2 is Vacant, Mr. Joe Evaro representing District #3 was present, Mrs. Esperanza Holguin representing District #4 was present, District # 5 (vacant), Mr. Mike McMullen representing District #6 was present and Mr. Furman Smith representing District #7 was present. Staff members present were General Manager Martin Lopez, Projects Manager Karen Nichols, Finance Manager Kathi Jackson, and Projects Specialist Patricia Charles. Also present were Hector Vasquez from Vencor Engineering and John Holguin member of the community.
- II. **Pledge of Allegiance:** Mr. Mike McMullen led the Pledge of Allegiance.
- III. **Motion to approve the Agenda:** Items VIII A and VIII B were postponed. Mrs. Holguin made the motion to approve the agenda, Mr. Smith seconded the motion. The motion passed with all in favor.
- IV. **Motion to approve the minutes of the July 19, 2017 Regular Board Meeting:** Mr. Smith made the motion to approve the minutes and Mr. Evaro seconded the motion. The motion passed with all in favor.
- V. **Guest Presentations:** none
- VI. **Public Input:** none
- VII. **Managers' Reports**
  - A. **General Manager:** Mr. Martin Lopez provided a written report and stood for questions. He told the Board that one of our Sales Clerks resigned and went to another job. Interviews will be conducted on Thursday August 17, 2017. Mike Lopez is still conducting interviews for operators but has not made a decision yet on who will be hired. Mr. Mike Lopez will not be attending the Board meeting. He was meeting with the Contractor on the SCADA Project. Mr. Smith asked what the status of the Arroyo well was and what the cost was, Mr. Lopez told him that it was up and running but had taken some time because most vendors don't keep those particular parts in stock so they have to be ordered. He also said that the cost was around \$30,000.00, Ms. Kathi Jackson said she would have to compile the information and could have that information for the next meeting.
  - B. **Projects:** Ms. Karen Nichols provided a written report and stood for questions. She informed the Board that we are closing in on the Easements on the sewer project, it appears there will be one condemnation. She mentioned that Valle Del Rio is in progress, the Engineer responded and submitted a contract amendment to cover the construction period. She will be attending the Water Trust Board Application Cycle Training and will be applying for the Water Master Plan and the Berino Well Project. The training is going to be held at the same time as the September Board Meeting so she will not be attending the Board meeting. Veterans Road Project, preconstruction starts Thursday. Rene from Dona Ana County did not respond to emails regarding the permits needed. The last two pages of the report are the recommendations from the Water Audits. The actual audits are on the Directors webpage.
  - C. **Operations:** Mr. Mike Lopez was not present at meeting but did provide a written report and Mr. Martin Lopez stood for questions. Mr. Lopez mentioned that on the second page of the report showed a shortage in usage by 10 million gallons because of the rain we have had.

- D. Finance:** Ms. Kathi Jackson provided a written report and stood for questions. She mentioned that we took in \$334,000, total expenses were \$250,000 and we had \$83,000 for a rainy day. Mr. Smith asked what the income was on the two tanks with antenna's. Mr. Lopez said that the Blue tank had an internet company's antenna and produced income of approximately \$250 per month. The second water tank located at the truck stops had an AT&T antenna and generated \$12-\$13 thousand per year.

#### **VIII. Unfinished Business**

- A. Appointment of Director for Districts 2** – this item was postponed
- B. Motion to appoint Henry Magallanez as Director for District 5:** Mr. Lopez mentioned that Mr. Henry Magallanez had submitted a request to serve on the Board of Directors for LRGPWVA in District #5. He used to serve on the Mesquite Water Board before the merger. He owns Moy's Surveying Company and Consults with EBID part time. Mrs. Holguin made the motion to appoint Henry Magallanez as Board Member for District #5, Mr. Evaro seconded the motion. The motion passed with all in favor.
- i. Administer new Director Oath of Office:** General Manager Martin Lopez swore in Henry Magallanez, Board Member for District #5. Karen Nichols indicated that the Board now needs 4 Board Members in order to have quorum.
- C. Motion to approve Agreement with Anthony Water and Sanitation District for Wastewater Billing and Collections:** this item was postponed.

#### **IX. New Business**

- A. Motion to authorize End of Year function:** General Manager Martin Lopez informed the board that at least 6 months was needed to look for a location that could hold more than 25 people to include Staff and Board Members. He would like authorization to start the process and approval for the event. Mrs. Holguin made the motion to authorize the End of Year function, Mr. Evaro seconded the motion. The motion passed with all in favor.
- B. Motion to adopt Resolution FY2018-03 Authorizing and approving submission of a completed application to the New Mexico Finance Authority for a Central Operations Building:** Ms. Nichols informed the board that LRGPWVA is on the Priority list with Drinking Water State Revolving Loan Fund. After the RFP went out Wilson & Co. was selected and Vencor Engineering is the Sub Consultant. Larry McDonald with Wilson & Co. is finalizing documentation, application is due August 21, 2017. LRGPWVA will request approximately 6.4 million for the Central Operations Building. It will house most of the Staff and equipment except for the East Mesa office. It is planned for the 5 acre property off of Vado Drive. Mr. Smith made the motion to adopt resolution FY2018-03, Mr. Magallanez seconded the motion. The motion passed with all in favor.
- C. Motion to adopt Resolution FY2018-04 Authorizing and approving submission of completed application for financial assistance and project approval to New Mexico Finance Authority for a Local Government Planning Grant for an East Mesa PER:** Mr. Lopez indicated that Butterfield had water lines with asbestos and lines that were glued together. Organ is in good shape after the last project. Mountain View area has unknown lines. LRGPWVA wants to look at that whole area as one system. This is why the Preliminary Engineering Report is needed. Mrs. Holguin made the motion to adopt resolution FY2018-04, Mr. Smith seconded the motion. The motion passed with all in favor.
- D. Motion to adopt Resolution FY2018-05 Authorizing and approving submission of completed application for financial assistance and project approval to New Mexico Finance Authority for a Local Government Planning Grant for an East Mesa EID:** Mr. Lopez indicated that this resolution is a continuation of Resolution FY2018-04, there are two applications so we need two resolutions. Mr. Smith made the motion to adopt Resolution FY2018-05, Mr. Magallanez seconded the motion. The motion passed with all in favor.
- E. Motion to approve commitment of matching funds for East Mesa PER and EID planning grants:** Mr. Lopez said Planning Grants are typically \$50,000.00, LRGPWVA was awarded \$37,500.00. The difference will have to come from matching funds. Mr. Lopez indicated that there is money set aside in reserve for Project Development. Ms. Jackson asked what the amount of match funds would be. Ms. Nichols indicated that it would be the difference

between \$50,000 and \$37,500. Mrs. Holguin made the motion to approve commitment of matching funds for East Mesa, Mr. Smith seconded the motion. The motion passed with all in favor.

- F. Motion to adopt Resolution FY2018-06 Authorizing and approving submission of completed funding application to New Mexico Water Trust Board for the LRGPWWA South Valley Water Supply & Treatment Project:** Mr. Lopez mentioned that this application was originally submitted last year, but due to the funding constraints where the Governor pulled funds back, it has to be resubmitted this year. What is needed now is construction money. Mr. Smith made the motion to adopt Resolution FY2018-06, Mr. Magallanez seconded the motion. The motion passed with all in favor.
- G. Motion to adopt Resolution FY2018-07 Authorizing and approving submission of completed funding application to New Mexico Water Trust Board for the LRGPWWA Water Master Plan Project:** Mr. Lopez said this is a continuation of Resolution FY2018-06. Application needs to be resubmitted and will need additional money. This project is approximately 60% complete. Mr. Smith made the motion to adopt Resolution FY2018-07, Mrs. Holguin seconded the motion. The motion passed with all in favor.
- H. Motion to authorize issuing an RFP for Engineering Services for a PER and EID for the East Mesa Service Area:** Mr. Lopez indicated that this request is to initiate the process of selecting an Engineering Company to work on East Mesa proposed project for both the PER and EID. Mr. Smith made the motion to authorize issuing RFP, Mrs. Holguin seconded the motion. The motion passed with all in favor.
- I. Motion to approve proposed amendment to Cross Connection Prevention And Control Policy:** Mr. Lopez indicated that changes proposed to this policy would automatically trigger changes to Schedule of Rates & Fees and to Member Customer Policies. Mr. Lopez and Staff looked at the policies and wanted to make changes to the CCPCP. What was found was that some clients needed back flow equipment and some needed inspections to see if back flow equipment would be needed. Corrected pages were in the board packets and were highlighted in red. . Mrs. Holguin made the motion to approve the proposed amendments with an effective date of January 1, 2018, Mr. Evaro seconded the motion. The motion passed with all in favor.
- J. Motion to approve proposed amendment to Schedule of Rates & Fees:** Mr. Lopez indicated that an inspection fee of \$50.00 would be added. The annual testing fee would increase from \$75.00 to \$125.00. Corrected pages were in the board packets and were highlighted in red. Mr. Magallanez made the motion to approve the proposed amendment with an effective date of January 1, 2018, Mrs. Holguin seconded the motion. The motion passed with all in favor.
- K. Motion to approve proposed amendment to Member – Customer Policies:** Mr. Lopez indicated that the changes on this policy were to add the billing and payment information associated with the installation or inspection of the CCPCP devices. Corrected pages were in the board packet and were highlighted in red. Mrs. Holguin made the motion to approve the proposed amendment with an effective date of January 1, 2018, Mr. Evaro seconded the motion. The motion passed with all in favor.
- X. Motion to convene in closed session pursuant to NMSA 1978 10-15-1 H.7-threatened or pending litigation:**

  - A.** Mr. Lopez requested that the staff remain while in closed session. Mrs. Holguin made the motion to convene in closed session and Mr. Magallanez seconded the motion. Roll Call Vote: District #1 (Mr. Sanchez) was absent; #2 is Vacant; #3 (Mr. Evaro) voted yes; #4 (Ms. Holguin) voted yes; # 5 (Mr. Magallanez) voted yes; #6 (Mr. McMullen) voted yes; #7 (Mr. Smith) voted yes. The motion passed with 5 in favor and none opposed. The Board convened in closed session at 10:14 a.m.
  - B. Motion to reconvene in open session:** Mrs. Holguin made the motion to reconvene in open session at 10:26 a.m. and Mr. Magallanez seconded the motion. The motion passed with all in favor.
  - C. Statement by the Chair that the matters discussed in the meeting were limited only to those specified in the motion to closure:** Mr. McMullen made the statement that the matters discussed were limited only to those specified in the motion for closure.

**D. Action, if any, related to the matters discussed in closed session:** Mrs. Holguin made the motion to go back to the original board action regarding the 1.5 acre property In the Brazito area, Mr. Smith seconded the motion. The motion passed with all in favor.

**XI. Other discussion and agenda items for next meeting at 9:30 a.m. Wednesday, September 20, 2017 at the East Mesa Office:**

**A. Have any Board Members participated in training? If so, please give us a copy of your certificate:** Ms. Nichols asked board members if they had any new training certificates, none had any additional training.

**B. Do any Board members plan to attend the Infrastructure Conference?** Mrs. Holguin will be attending the NM Infrastructure Finance Conference on October 25-27, 2017.

**XII. Adjourn:** Mr. Magallanez made the motion to adjourn the meeting of the LRGPWWA Board of Directors. Mr. Evaro seconded the motion. The motion passed with all in favor. Mr. McMullen declared the meeting adjourned at 10:36 a.m.



**CRUCES EQUITY PARTNERS LLLP  
1155 S. TELSHOR SUITE B-1  
LAS CRUCES NM 88011**

Mr. Martin Lopez  
General Manager  
Lower Rio Grande Water Works Authority  
325 Holguin Road  
Vado, New Mexico 88072

August 18 2017

**Re: Letter of Commitment to provide water service to the Las Flores residential subdivision in Berino**

Dear Mr. Lopez,

In conjunction with our application for water service for the 63 lot Las Flores Subdivision, Cruces Equity Partners LLLP will provide a cash payment in lieu of water rights transfer. Cruces Equity Partners LLLP shall enter into a formal agreement with Lower Rio Grande Public Water Works Authority to provide water service after the subdivision has received approval from Dona Ana County.

It is understood that a water rights acquisition fee of \$1,600 per residential unit will be paid upon signed agreement between LRGWWA and Cruces Equity Partners LLLP.

Regards,

A handwritten signature in black ink, appearing to read "G. McPhie", followed by a period.

Greg McPhie  
Managing Member  
Cruces Equity Partners LLLP

**LRGPWWA**  
**Manager's Report**  
**September 20, 2017**

- NM Commissioner of Public Lands-Business Lease-Organ Wastewater Facility-contract has been finalized for a 5-year permit
- NMED Ground Water Bureau has renewed the Organ Wastewater Facility Discharge Permit for a 5-year period
- Valle Del Rio customers have asked that we participate in a community meeting to discuss internet service availability to their subdivision-possibility of installing antennas on water tank
- Customer has requested that the sewer minimum include 2,000 gallons like the water minimum
- Billing Clerk hired
- 2 Operations' laborers hired
- I authorized the water service to the south part of Vado to be shut off for a day in late August due to the Dona Ana County having a manhole collapse near lift station on Hwy 478/Hwy 189-Water was not turned off
- I authorized the water service to Berino proper to be shut off on September 2<sup>nd</sup> due to the Dona Ana County having a manhole collapse near lift station on Berino Road (Hwy 226)-Water was turned off for 8 hours
- Kathi discovered a property owned by Mesquite Water which has not be deeded to the LRGPWWA-attorney is working on documentation



# Doña Ana County



Doña Ana County Government Center • 845 N. Motel Blvd. • Las Cruces, NM 88007 • (575) 647-7200

September 12, 2017

**BILLY G. GARRETT**  
Doña Ana County Board of Commissioners  
Commissioner, District 1

Mr. Martin Lopez  
General Manager  
Lower Rio Grande  
Public Water Works Authority  
P.O. Box 2646  
Anthony, New Mexico 88021

Dear Mr. Martin Lopez,

Please find attached a brief report that summarizes capital investment needs for the 37 *colonias* of Doña Ana County. *Colonias* are communities with substandard living conditions that are located in close proximity to the U.S. border with Mexico.

The report with additional backup material is available online at:

[https://www.donaanacounty.org/colonias\\_infrastructure\\_report/](https://www.donaanacounty.org/colonias_infrastructure_report/)

Living conditions include safe and affordable housing, appropriate public facilities, good roads, basic utilities, flood protection, and other systems essential for the health, safety and general wellbeing of community residents.

More than half a billion dollars is needed for our county government to address its responsibilities as a public service provider in these communities. Additional funding is needed to support essential development by other entities.

Current programs are unable to address this problem. Funding levels are woefully insufficient and project requirements typically exclude low-income, rural communities—like *colonias*. We must also recognize that similar conditions exist in other border counties in New Mexico, as well as in California, Arizona, and Texas.

We need a fresh approach that tackles this issue on a systematic, long-term basis. The program must include all levels of government, cut across agency lines, and involve community residents in a meaningful way.

Funding is critical. Tax reform and increased public investment are essential if we are to bring all communities up to living standards. In addition, the process used to plan, design and build infrastructure must become more efficient, responsive, and creative. Most of all, the entire approach must fit the scale of the problem.

RECEIVED  
SEP 15 2017

September 12, 2017

For many years Doña Ana County has been a leader in efforts to improve *colonias*. Later this year, the County plans to host a public workshop that will explore ways of accelerating and expanding this work. I hope you will be able to attend.

More immediately, please consider what you could do to help with this challenge. The people who live in *colonias* are decent, hardworking, and resourceful. They have a right to live in communities that are safe, promote health, and meet other basic standards. Working together we can figure out a way to make that happen.

Sincerely,

A handwritten signature in blue ink, appearing to read "Billy G. Garrett", with a long horizontal flourish extending to the right.

Billy G. Garrett

September 2017



## CAPITAL INFRASTRUCTURE NEEDS FOR “COLONIAS” IN DOÑA ANA COUNTY, NEW MEXICO

### OVERVIEW

The purpose of this report is to outline the scale of infrastructure investment needed in the *colonias* of Doña Ana County, which is located in south-central New Mexico (Illustration #1).

“*Colonias*” are communities on the U.S side of the international border with Mexico that have been formally designated as lacking critical infrastructure. Most are unincorporated. Doña Ana County contains 37 such *colonias* (Illustration #2).

Missing or inadequate infrastructure includes paved roads, domestic water supply, sewer systems, flood protection, and public facilities. These conditions adversely impact the health and quality of life in *colonias*—especially of low-income families, the elderly and children.

Substandard conditions impede public safety, discourage economic investment, and limit job opportunities. Inadequate wastewater systems increase the risk of aquifer contamination, and insufficient storm-water systems expose entire communities to catastrophic loss.

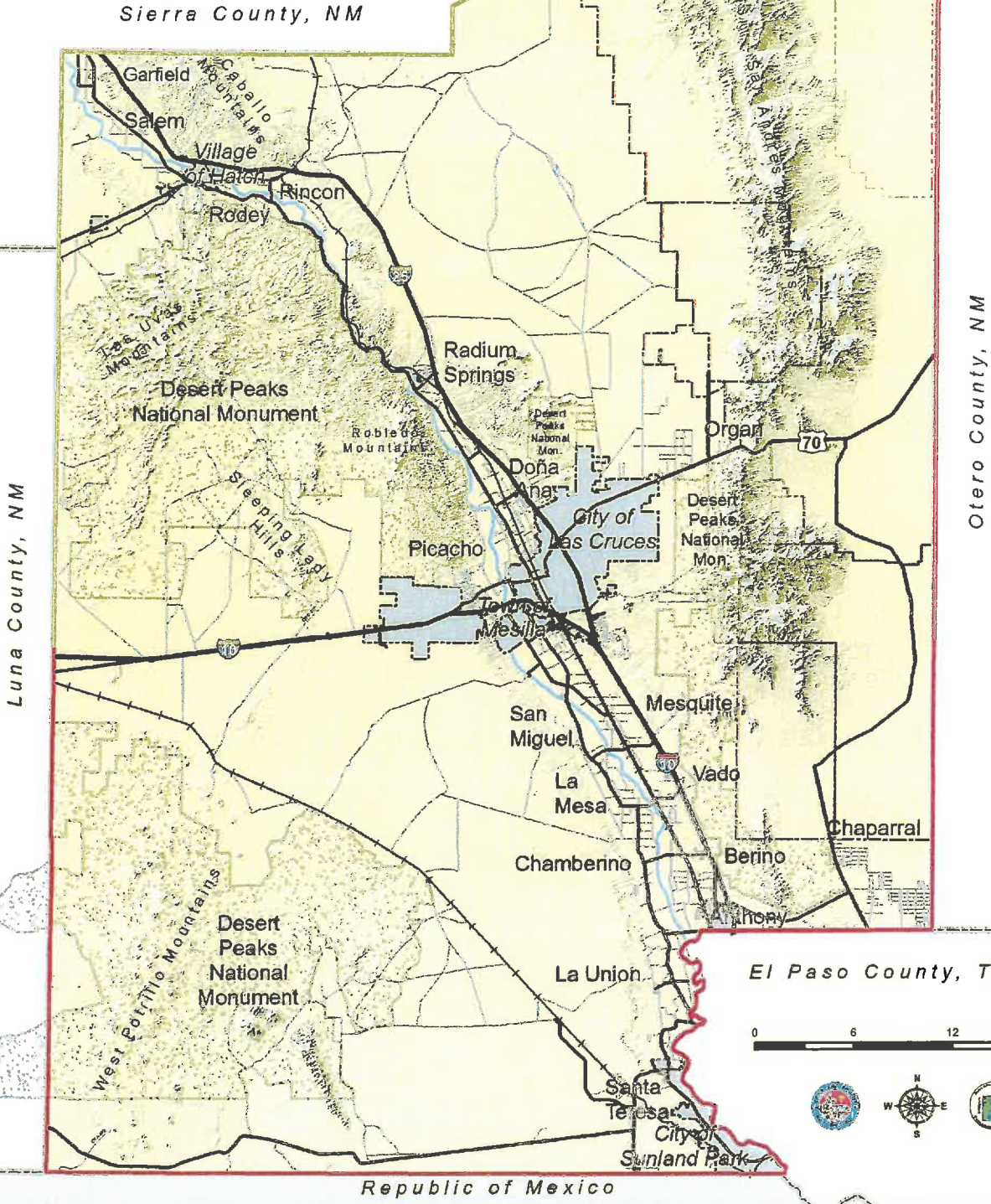
The County’s 5-year Infrastructure Capital Improvement Plan (ICIP) is often used as a measure of this need. In fact, projects included in the 2019-2023 ICIP address less than 7% of the work needed to bring these communities up to standard.

Current estimates indicate that the cost for all necessary infrastructure improvements for which Doña Ana County government is directly responsible is more than half a billion dollars.

### COUNTY INFRASTRUCTURE NEEDED IN COLONIAS

County Roads	\$ 81 million
Dam Repair & Upgrade	\$216 million (± \$24 million)
New Drainage Structures	\$133 million
Public Facilities	\$113 million
Wastewater System	\$ 34 million
Professional Services	\$ 29 million (5%)
<b>Total Estimate</b>	<b>\$606 million</b>

# Doña Ana County, NM



## CONTEXT

### LOCATION

Doña Ana County is located in south-central New Mexico and is bordered to the south by El Paso, Texas and the Mexican State Of Chihuahua. The New Mexico counties of Otero, Sierra and Luna lie to the east, north and west respectively. Doña Ana County encompasses 3,804 square miles—an area larger than the states of Delaware and Rhode Island combined.

### DEMOGRAPHICS

The population of Doña Ana County is about 209,000. The majority of the population is distributed along the Rio Grande corridor—a narrow band that runs approximately 90 miles north to south. Slightly less than one-half of the county population resides in 37 *colonias* and the surrounding rural area. The remaining population lives within one of five incorporated municipalities—including the City of Las Cruces, a charter city of 98,000 residents.

According to the US Census Bureau, the County's 2010-2014 median household income was \$38,426 with a 27.9% poverty rate.

### PLANNING

In 2003 the County Board of County Commissioners established the *Model Colonias Initiative* to focus local, state and federal resources on improving infrastructure and quality of life in the *colonias*. Master plans for a number of *colonias* were developed as part of this program.

In 2012 the County began work on "*Viva Doña Ana!*"—a regional planning initiative underwritten by a \$2 million grant from the Regional Sustainable Communities Program (HUD-EPA-DOT). Eleven other governmental and non-profit entities partnered with the County in this effort. The initiative was based on intensive public engagement. Residents of *colonias* and non-English speakers were specifically encouraged to participate in the process.

The initiative has produced an update to the County's Comprehensive Plan, a Unified Development Code, and a number of specialized plans for such issues as affordable housing, border economic development, and planning strategies for *colonias*. "*Viva Doña Ana!*" provides a broad framework for development of *colonias* within the context of the county as a whole.

### INFRASTRUCTURE CAPITAL IMPROVEMENT PLAN (ICIP)

On an annual basis the County adopts an amended 5-year infrastructure capital improvement plan and provides it to the State of New Mexico. The County's 2019-2023 ICIP includes 42 infrastructure improvement projects for *colonias* with an estimated cost of \$39.5 million.

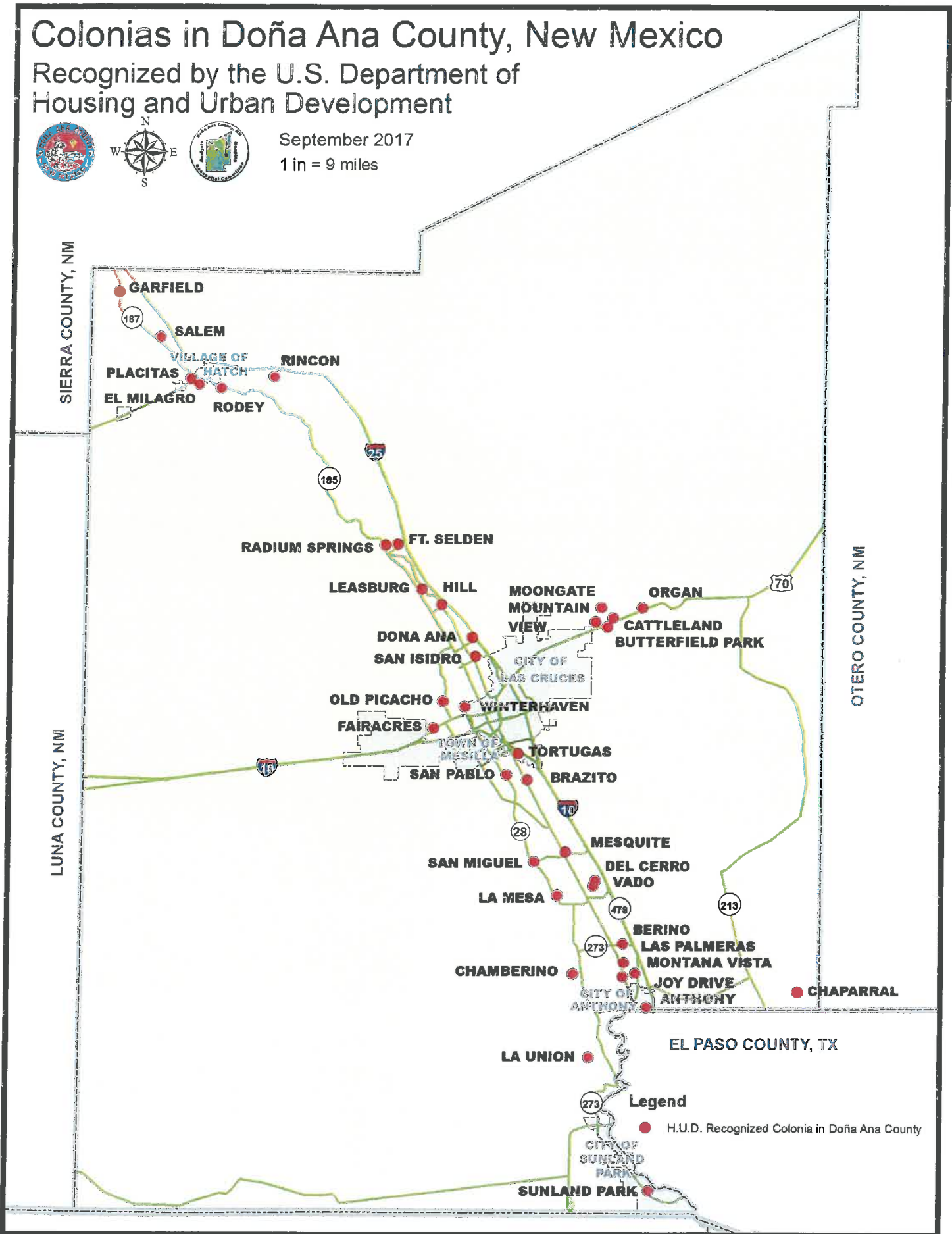
# Colonias in Doña Ana County, New Mexico

Recognized by the U.S. Department of Housing and Urban Development



September 2017

1 in = 9 miles



**Legend**  
 ● H.U.D. Recognized Colonia in Doña Ana County



On average, 8-12 projects are funded each year and removed from the ICIP. New projects are then added and priorities may be reordered. Some of these projects are directly or indirectly associated with *colonias*. The rest are essential for County services or as support for economic development.

Comparison of ICIP lists over the past decade indicates that the rate of project funding and implementation does not keep up with new needs nor does it begin to significantly reduce the backlog of existing deficiencies.

## FUNDING

### COUNTY FUNDING FOR COLONIAS

Two of the largest sources of County revenue are property taxes and gross receipts taxes (GRT). Property tax rates are dictated by the State's Taxation and Revenue Department, and have not kept up with the needs of County residents because state law (*Yield Control*) limits year-to-year increases. Of the 6.75% GRT rate in Doña Ana County, over 82% goes to the State of New Mexico leaving the County with about 17%—which are largely designated for specific programs other than infrastructure.

These sources cover the cost of maintenance and repair of County infrastructure as well as providing the local match for state and federal grants.

### STATE FUNDING FOR COLONIAS

State support for *colonias* infrastructure projects is available in one of two ways: through the Colonias Infrastructure Trust Fund (CITF) and direct appropriations in the State budget.

The CITF was established by the New Mexico Legislature in 2011 as a permanent source of funding for state grants dedicated to improving water and wastewater systems, solid waste disposal facilities, flood and drainage control, roads and housing infrastructure in *colonias*. From 2012 to 2015, the CITF has provided over \$20 million in support of 55 projects throughout Doña Ana County—or about \$4M per year. CITF grants are often combined with other funding sources to cover the cost of each project.

The other primary source of funding for capital projects is through direct appropriations requested by state legislators from the area or from the Governor. Funding is highly variable depending on fiscal conditions, and can be cut altogether as it was in FY 2016-17.

## FEDERAL FUNDING

Most current federal funding involves loans that the County is challenged to repay and that county residents cannot afford. Some programs, such as through the Corp of Engineers, also impose cost-to-benefit requirements that do not fit the low population density and low-income levels associated with *colonias*.

## FINANCIAL CHALLENGES

The current level of capital investment in *colonias* is grossly insufficient if these communities are to be made fully functional. The problem is intensified by modest population growth and associated demands on essential infrastructure.

In addition, according to the anti-donation clause in the New Mexico State Constitution, public funding cannot be used to improve deteriorated private roads that are common throughout *colonias* and are a major source of public concern.

Without major changes in the amounts of available funding—including expanded support for the professional services needed to properly design and oversee construction projects—government will have failed to carry out its fundamental obligation towards the residents of *colonias*, especially those living on low-incomes.

## INFRASTRUCTURE SYSTEMS

*The following section provides a brief overview of infrastructure systems in colonias for which Doña Ana County government is responsible. Each thumbnail sketch seeks to convey the scope of the issue as well as a reasonable cost estimate to complete all of the necessary work. Details are provided for the highest priority projects on the 2019-2023 ICIP list. (See: [https://www.donaanacounty.org/colonias\\_infrastructure\\_report/](https://www.donaanacounty.org/colonias_infrastructure_report/))*

## COUNTY ROADS

The County is responsible for approximately 1,324 miles of road throughout its jurisdiction. Of these, 554 are paved and 770 are unpaved. There are also approximately 963 miles of private roads that are not maintained by the County: 240 are unpaved and 723 are paved.

One hundred forty-four (144) miles of unpaved roads are located within the colonias of Doña Ana County. The County is responsible for maintenance of slightly less than half of these unpaved roads.

Unpaved roads contribute to dust pollution and related health problems. They may also become flooded and deeply rutted after summer thunderstorms, making travel in and out of a *colonia* difficult for first responders, home health care providers, school buses, and workers. Poor road conditions are, in general, a disincentive for business investment in the *colonias*.

The estimated cost to improve all public roads serving the *colonias* is \$81 million.

## **DRAINAGE AND FLOOD CONTROL**

Doña Ana County is located in the semi-arid Chihuahuan Desert in the Basin and Range Province of North America. The Rio Grande bisects the County diagonally from the northwest to southeast. Elevation in the County ranges from a low of around 3,700 feet up to around 8,900 feet above sea level. Rainfall averages 9.74 inches annually but can occur in torrential downpours (monsoon rain events) that can amount to over 3 inches in one event.

The Doña Ana County Flood Commission is responsible for stormwater management throughout much of the county. This includes twenty-four (24) recognized dams that provide flood hazard mitigation to *colonias*. Most of these structures are at or beyond their design life. For these structures to remain functional each will require an estimated \$8-10 million in repairs and upgrades: a total of \$216 million (plus or minus \$24 million).

The Doña Ana County Flood Commission has also completed seven (7) drainage master plans, has three under development, and a number more yet to be initiated. These plans include protective measures for a number of *colonias*. The estimated cost to construct improvements identified in the drainage master plans is approximately \$133 million. This amount is in addition to the dam improvement program outlined previously.

Implementation of some flood control projects will require modification of drainage structures that are owned by the Elephant Butte Irrigation District (EBID) or the International Boundary and Water Commission (IBWC). Funding needed for this work is not included in the estimates contained in this report.

## **COUNTY WASTEWATER UTILITY**

In the early 1990s the Doña Ana County began a wastewater program for the unincorporated village of Doña Ana in cooperation with the City of Las Cruces. Since then, the County has constructed five wastewater treatment plants, appurtenant collection lines, and lift stations. In 2012 one of the wastewater treatment plants and related facilities was transferred to the Camino Real Regional Utility Authority (CRRUA)—a joint venture created by the County and the City of Sunland Park.

The County currently maintains four wastewater treatment plants, 121 miles of collection lines and 29 lift stations serving approximately 3,000 connections, of which about 98% are residential. These connections represent approximately 10% of the unincorporated population of the County.

The County is seeking funding to add additional collection lines and lift stations to serve Chaparral, the largest *colonia* in Doña Ana County, and other small *colonias* in the County's South Valley. System revenues, including a subsidy from the County's general fund, support operations and maintenance but are insufficient for system expansion. The cost to build out the system and make necessary improvements is estimated at \$34 million.

## **PUBLIC FACILITIES**

Many public safety programs are housed in facilities distributed throughout the unincorporated sections of the County. New fire stations and law enforcement sub-stations are planned for several *colonias*. These facilities would serve each community as well as its surrounding area.

Construction of or improvements to community centers, and expansion of recreational facilities such as parks and walking paths are also desperately needed. Community centers are important locations for senior meals, educational programs, and youth activities.

Recreational facilities are integral to preventing chronic illnesses such as diabetes and hypertension—both of which are prevalent in rural communities. Development of these public facilities has been constrained by operational and maintenance requirements for which no reliable revenue sources have been identified.

In the interest of providing a comprehensive overview of infrastructure needs for *colonias* in Doña Ana County, we estimate that investments averaging \$75,000 in public facilities in 15 of the larger *colonias* would begin to address many of the needs in this arena.

## **OTHER CAPITAL NEEDS**

The pressing nature of road improvements, flood protection, environmentally safe wastewater disposal, and public facilities tends to overshadow other *colonia* needs. However, investments are also needed in:

- Affordable housing,
- Public transit,
- Storm water drainage, and
- Broadband.

While the County may have a supportive role in development of the preceding systems, primary responsibility rests with other entities.

Similarly, except as noted above, the County is not responsible for:

- Domestic water supply, and
- Wastewater collection or treatment

The Caminio Real Regional Utility Authority (CRRUA) provides domestic water supply and wastewater treatment in the fast growing southern portion of Doña Ana County. Their systems are relatively antiquated and are in need of significant upgrading, replacement and expansion.

Associations of domestic water users supply most of the domestic water to unincorporated areas of Doña Ana County—including many *colonias*. Each of these quasigovernmental entities is responsible for pursuing infrastructure development funds on their own.

Cost estimates for the preceding types of infrastructure are not included in this report.

## **PRIVATE ROADS**

Improvement and maintenance of privately owned roads are the most challenging problem for most residents of *colonias*. In addition to health and safety concerns, deteriorated private roads damage vehicles, depress property values, and contribute to the broadly held perception that all levels of government are intentionally ignoring these communities.

County government is prohibited from work on private roads by the “anti-donation” clause in the state constitution. With a few specific exceptions, this clause does not allow any use of state funds—directly or indirectly—to benefit private groups or individuals.

Private roads in *colonias* were typically created prior to regulations that require infrastructure as a condition of subdivision development. Rather than create a dedicated public right-of-way, every parcel adjacent to a roadway included an easement that allows traffic across the property and holds property owners responsible for maintenance of their section of the road.

While this approach may have reduced the capital needed to buy a lot, the practice left many *colonia* residents with responsibilities that they do not have the financial capacity to address.

In response to this situation, the County Commission has accepted the transfer of a few private roads—and the associated maintenance responsibility—at no cost to the property owners. This policy was suspended in 2015 pending resolution of questions about which private roads should be added to the county system and how large a road system the County could maintain.

The estimated cost to improve the non-County maintained (private) roads in the *colonias* is approximately \$84 million.

## SHIFTING THE PARADIGM

Approximately 90,000 people live in Doña Ana County's 37 *colonias*. Many of these places are more than a century old. They are strong communities of multi-generational, hard-working people. They persevere in spite of substandard infrastructure that is completely unacceptable elsewhere in the county. This report outlines the types and magnitude of investment that are needed to address these deficiencies.

Significant investment is needed to address deficient infrastructure in Doña Ana County's 37 *colonias*. The current approach to infrastructure development is entirely inadequate if the public roads, water supply, wastewater systems, and public facilities in these communities are to be brought up to acceptable standards.

As a nation, sufficient wealth exists to ensure that rural residents can live in safe, affordable and supportive communities. Tax policy and public programs—at all levels—must ensure that the fundamental responsibility of government for *colonias* is fully understood, acknowledged and met.

Resolution of this issue will not be quick or easy. However, a responsible solution is possible if approached with sufficient political will and practical considerations. Based on the experience of Doña Ana County, the following ideas are offered as a guide to increased investment in *colonia* infrastructure:

- Develop a comprehensive, long-term strategy equal to the size of community needs.
- Aim for nothing less than sustained progress on an annual basis.
- Secure active buy-in and increased financial support at all levels of government:
  - Urge creation of a Federal initiative for *colonias* based on multi-agency partnerships & substantial appropriations.
  - Increase annual appropriations to the Colonias Infrastructure Development Fund
  - Revitalize Doña Ana County's "Colonias Initiative."
- Expand the County's capacity to develop and complete projects in a timely, responsive, and cost-effective manner.
- Actively engage residents, the private sector, and non-governmental organizations in *colonias* projects.

In recognition of these vital but marginalized communities, this report concludes with the recommendation that 2018 be declared the "Year of the Colonia." Working together—elected officials, County employees, community leaders, residents, and all other interested entities—will find the capacity to make *colonias* of Doña Ana County safer, healthier, and better places for those who live there.

--END--

**LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY  
PROJECTS REPORT – 09/20/17**

**LRG-11-02.2 – Mesquite-Brazito Sewer Project** – Bohannon Huston, Inc. – LOC-Design Stage – NMFA PG/SAP funded Planning, \$30k 2014 SAP, \$540,608 2014 CITF (10% Loan), USDA-RD Loan \$357,000 @ 3.250%, Grant \$1,194,919, Colonias Grants of \$6,356,474 & \$119,407 Two lift station land tracts are still in various stages of acquisition with one tract pending condemnation. Permits have been acquired. USDA comments have been addressed. BHI has coordinated with EPEC, and any line extensions to new facilities and resulting agreements will be completed after loan closing.

**LRG-17-01 – Mesquite-Brazito Sewer Project 2** – Bohannon Huston, Inc. – Planning Stage – USDA-RD Application \$15,030,780 – PER has been complete and submitted to USDA-RD along with all application documents.

**LRG-11-03 – Interconnect & Looping Project** – see 12-01 Authority PER

**LRG-11-05 – South Valley Water Supply & Treatment Project WTB #252**– Bohannon Huston - Design stage - \$750,000 WTB – 10% Loan 10% Match: Design work is complete, and I will prepare to apply to Colonias Infrastructure and WTB in the next funding cycle since those funding sources will not require changes to planning documents. I am attending a training session on 9/20/17 for the WTB application, and online application has been prepared and is in review prior to submittal.

**LRG-17-01 – Water Master Plan – WTB #252 – Bohannon Huston:** Online WTB application has been prepared and is in review prior to submittal. I am attending a training session on 9/20/17 for the WTB application.

**LRG-17-02 – Central Office Building:** DWSRLF was submitted. We are ranked #13 out of 16 on the Draft Fundable Priority List for NM DWSRLF, and that this project is considered ineligible for subsidy (grant) or zero interest, but interest rate would be 2%, and they would fund up to about \$5 million. USDA-RD has Community Facility loan funds available at about 3%, but it would require a feasibility study costing around \$70,000 in order to apply. We will be meeting with the architect again to scale back the project from the current \$6 million estimated cost.

**Forty-Year Water Plan – CE&M – complete – needs update for new mergers after Brazito combine & commingle:** pending NM-OSE comments/approval. Currently only includes the initial five systems.

**LRG-15-01 – System-wide Information Technology Standardization - SCADA - \$130,000 NM SAP & \$90,000 NM SAP – Molzen Corbin Associates:** Project is substantially complete. Molzen is preparing a punch list, and I&C Solutions is taking care of some additional SCADA work that we requested.

**LRG-13-03 – Valle Del Rio Water System Project** – RFP/Planning/Design Stage - \$1,197,708 DWSRLF funding - \$898,281 principal forgiveness – 299,427 loan repayment – Souder, Miller & Associates: SMA has addressed NMED-CPB comments and project is out to bid. Pre-bid meeting will be held 9/21/17, 10 am at our La Mesa Office, and bid opening will be 2 pm on 10/10/17, also at La Mesa. Contract amendment with SMA for construction phase work has been executed and approved.

**LRG-14-01 – Waterline Extension Project (incl. Veterans Road) – Design/Build - \$882,430 CITF incl. 10% Loan – Parkhill, Smith & Cooper - Monthly Project Update:** Progress May 2017: Bid awarded to J29 Enterprises in July Board Meeting; Contract was awarded as Base Bid plus Additive Alternate No.1 at a cost of \$614,165.00; Pre-Construction Meeting held August 10, 2107; Notice to Proceed issued August 14, 2107; Construction began August 17, 2017; Contractor mobilized and completed the installation of the 6-inch water line along Dos Amigos Road; Due to inability to reach agreement with land owner on Jacquez Road, Additive Alternate No.1 was removed from the contract and Additive Alternate No.2 was added under Change Order No.1; Contractor continues to install water services along Dos Amigos and will begin installation of waterline on Barrio Road.

**LRG-17-03 – Planning Documents for East Mesa Water System Improvements Project – RFP & Funding Applications** – Applications have been submitted to NMFA for local government planning grants, one for a PER and one for an EID, and these are on the NMFA Board’s September agenda.

**Other projects:**

**Infrastructure Capital Improvements Plan 2019-2023:** ICIP is complete and has been submitted to NMFA. Final approval was received 8/8/17.

**Documents Retention & Destruction** – Sorting of old association documents for storage or destruction is ongoing, and staff is implementing approved retention/destruction schedules for LRGPWWA documents. Delivery of documents from the East Mesa Office for sorting and storage or shredding is still pending. Bin has not been sent out for shredding in the past month, but is nearly full.

**Website and Email** – Notices and Board Minutes pages are current. Other updates are ongoing. Board Training information on the Directors Only page was updated.

**Training** – Patty and I have attended a Census Workshop on August 22, and she attended two EFC Webinars: Public Notification and Energy Management in Water Supply & Distribution

**Lower Rio Grande Water Users Organization** – nothing new to report

**EBID Surface Water Plant:** - We have provided documentation for their resubmission of NMED permit application.

**As Needed Engineering Services:** Currently we have 2 active Task Orders: 1. Bohannon Huston, Inc. for development of construction cost estimates for replacing the pipeline in the Hwy. 70 crossing in Organ was issued 4/24/17 and 2. Vencor GIS Phase 3 issued on 9/13/17.

**Water Audit:** Data spreadsheet has been set up for calendar 2017.



## Lower Rio Grande PWWA

### Operators Report

September 20, 2017

#### System Problems and Repairs.

- Backflow inspections are current.(Mesquite District)
- The wetland demolition continues.
- We had 7 New Water Services that were installed.
- For the month of July, we were issued 389 work and service orders.
- For the month of August, we were issued 455 work and service orders.
- Arroyo well is back in service and running well.
- The new SCADA project is moving along smoothly, they are just finishing up some punch list items.
- The new water extension project has begun in the Bosque area.
- We had two water breaks at the Alto De Los Flores Area.
- The county had a manhole fail on Berino Road and Martin and I decided to shut off the water to help them make repairs.

**NMED:** Half of our Monthly Bac-T-Samples were taken for the month of September and all samples were negative.

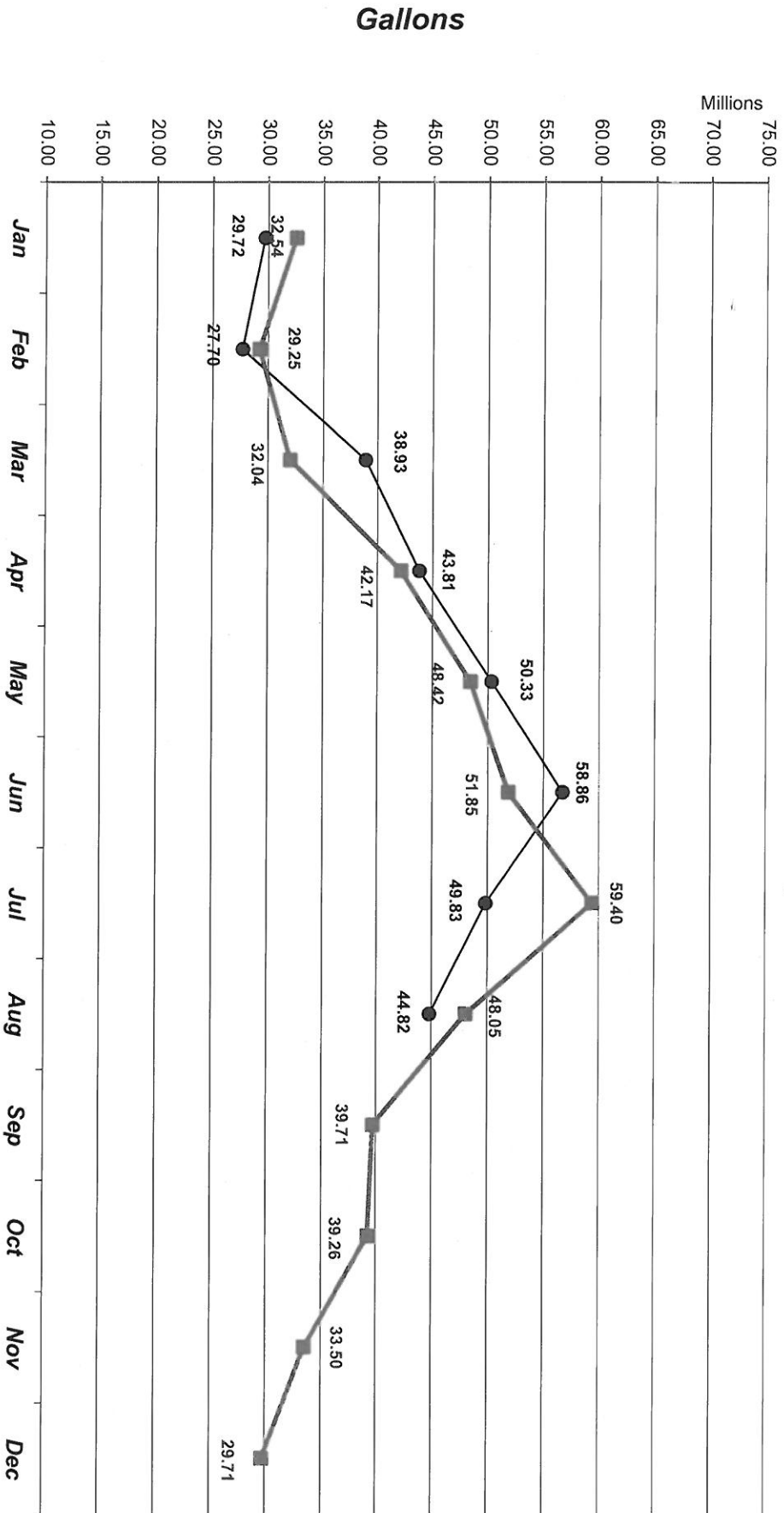
**Mesquite district Wetlands:** Demo continues.

**Mesquite and Organ Sewer Reports.** Both Organ and Mesquite wastewater reports were sent to NMED on August 1<sup>st</sup>.

**Chlorine:** No problems.

**Reports:** NMED, State Engineers, and the water conservation reports have been sent.

# Lower Rio Grande PWWA Water Production Report



2017 Production    
  2016 Production

**AGREEMENT BETWEEN THE LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY AND THE ANTHONY WATER AND SANITATION DISTRICT FOR PROVISION OF WASTEWATER BILLING SERVICES**

**THIS AGREEMENT** is entered into on this \_\_\_\_ day of \_\_\_\_\_, 2017 between the LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY, a New Mexico political subdivision-special district (“Authority”) and the ANTHONY WATER AND SANITATION DISTRICT, a political subdivision of the State of New Mexico (“District”).

**WHEREAS**, the Authority or (“water provider”) is a member-owned community water system, independent public body and political subdivision of the State created under NMSA 1978 § 73-26-1 et seq. (2009) doing business as a water and wastewater utility in southern Doña Ana County; and

**WHEREAS**, the District or (“wastewater provider”) is a quasi-municipal corporation and governmental subdivision of the State of New Mexico created, organized and operating under the Water and Sanitation District Act NMSA 1978 §73-21-7 et. seq. (1941); and

**WHEREAS**, the District has created, organized and is operating a water and wastewater system under various New Mexico statutes and has adopted ordinances pertaining thereto; and

**WHEREAS**, the Authority has created, organized and is operating a water and wastewater system under various New Mexico statutes and has adopted ordinances pertaining thereto; and

**WHEREAS**, the Authority provides water service to some of the District’s wastewater customers and the purpose of this Agreement is to have the water provider add the wastewater providers customers into its water billing and collection system so that the water service provider will bill and collect for wastewater providers services and disburse the proceeds as herein provided.

**NOW, THEREFORE**, the Parties, in consideration of the premises set forth above and of the mutual covenants set forth below, hereby enter into this Agreement upon the following terms and conditions:

**TERMS AND CONDITIONS**

1. **Agreement.** The water provider agrees to bill, collect and disburse proceeds for wastewater services of the wastewater provider for those wastewater customers served water by the water provider.
2. **Customers. Wastewater** customers billed by the water provider shall be governed by the water provider’s policies regarding payments, due dates, and cutoff provisions.
3. **Water Provider Compensation, Billing, and Payment:** Water provider shall monthly:
  - (A) Retain three (3%) percent of the wastewater fees collected;
  - (B) Retain all late fees and service charges that accrue on the accounts;

- (C) Remit payment to the Wastewater Provider the wastewater revenue collected during the prior thirty days less the fees described in Paragraph 3(A) above.
- (D) Provide a report and payment to the wastewater provider for billing and collection for the previous billing cycle.

The rates and charges set forth in Paragraph 3(A) are effective up on execution of this Agreement. Parties may annually seek renegotiation of the three (3) percent water provider administrative fee.

4. **Notification of Customer Base:** Within thirty (30) days of the date of this Agreement the Parties shall notify those wastewater customers of the new billing and payment procedures under this Agreement

5. **Return Flow Credits:** Return flow credits, if any, associated with water placed in the District's Wastewater Collection System from customers residing in the Authority's water service areas may be claimed by the Authority consistent with its policies and agreements with other entities.

6. **Operation and Maintenance, Repair and Replacement:** The wastewater provider accepts ownership and is responsible for wastewater deposited into its system by its customers and shall be obligated to operate, maintain, repair, replace and expand its wastewater system without recourse against the water provider.

7. **Separate Independent Operations Not Affected:** Nothing in this Agreement shall affect the rights or obligations of either party to operate independently of the other, however each will share with the other such records as are helpful in administering this Agreement.

8. **Duration of Agreement:** This Agreement shall be perpetual unless terminated in accordance with Paragraph 9.

9. **Termination:** This Agreement may be terminated by either party by providing written notice of termination to the other party six (6) months in advance.

10. **Insurance:** Each party shall separately maintain insurance as required by law.

11. **Dispute Resolution:** In the event a dispute arises related to this Agreement the Parties agree that, prior to filing any court action related to this Agreement, they will use the services of a mediator. The mediator shall either be certified as a mediator or shall have experience as a mediator. In the event the Parties have not agreed to a mediator within three (3) days of written notice to the other regarding the dispute, then a list of five (5) potential mediators will be obtained from the Court or other professional association, and the Parties shall use a striking process until a mediator is agreed upon. If both Parties agree in writing, they may use the mediation process set-forth in the New Mexico Mediation Procedures Act (§§ 44-7B-1 through 44-7B-6). Each party shall be responsible for its respective mediation costs.

12. **Liability:**

- (A) Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, §§ 41-4-1 *et seq.*, NMSA 1978, as amended, and any other New Mexico sovereign immunity statute.
- (B) Provided they are acting within the course and scope of their employment or authority, no elected or appointed official, employee, servant or agent of a party shall be held personally liable under this Agreement or any extension of or renewal thereof.

13. **Governing Law and Venue:** This Agreement shall be interpreted under laws of the State of New Mexico. Venue for any suit related to this Agreement shall lie in the District Court of Doña Ana County, New Mexico.

14. **Scope of Agreement:** This Agreement contains the entire understanding of the parties concerning the subject matter hereof. No prior understandings, whether verbal or written, between the parties or their agents are enforceable unless included in this Agreement.

15. **Severability:** It is hereby declared to be the intention of the Parties that the articles, sections, and sub-sections of this Agreement are severable, and if any article, section or subsection of this Agreement shall be declared unconstitutional or illegal by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or illegality shall not affect any of the remaining sections, subsections and articles of this Agreement, since the same would have been entered into by the Parties without such invalid portion.

16. **Third Party Beneficiary:** It is specifically agreed between the parties that this Agreement is not intended by the parties or by any provisions of the Agreement to create in any member(s) of the public, including customer(s) of either party, status as a third party beneficiary of the Agreement, or to authorize anyone not a party to the Agreement to maintain a suit(s) for wrongful death(s), injury(ies) to person(s), damage(s) to property(ies), or any other cause(s) of action whatsoever pursuant to the provisions of this Agreement.

17. **Notices:** All notices to be given under this Agreement shall be given by regular mail, return receipt requested or by personal delivery to:

AWSD  
Superintendent  
1155 N. 4th St.  
Anthony, NM 88021

LRGPWWA  
General Manager  
325 Holguin Rd.  
Vado, NM 88072

18. **Amendment:** This Agreement may be amended with the consent of the parties, but said amendment must be in writing and approved by the governing body of each party.

19. **Successors and Assigns:** The Parties hereby agree that the terms of this Agreement and any amendment thereto shall extend to and be binding upon their successors, assigns, and transferees.

20. **Signatory Representation:** The Authority and the District represent that the signatories to this Agreement have been officially authorized by their respective Boards to sign the Agreement.

21. **Effective Date:** This Agreement shall become effective upon the date of signature of the last party to sign.

In witness whereof, the Parties have executed this Agreement on the dates indicated below.

**LOWER RIO GRANDE PUBLIC  
WATER WORKS AUTHORITY**

\_\_\_\_\_  
Michael McMullen-Chairman

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Esperanza Holguin-Secretary

**ANTHONY WATER & SANITATION DISTRICT**

\_\_\_\_\_  
Jose Terrones, Superintendent

Date: \_\_\_\_\_

\_\_\_\_\_  
Yolanda Alvarez – Chairperson

\_\_\_\_\_  
Ron Gillette – Board member

\_\_\_\_\_  
Veronica Rodriquez – Board member

ATTEST:

\_\_\_\_\_  
Victor Chavarria, Board Secretary



# **LOWER RIO GRANDE**

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## **Public Water Works Authority**

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### **Findings of the LRGPWWA Disposition Committee**

As per NM Statute 13-6-1, we the undersigned find that the listed vehicles are no longer in usable condition and we wish/plan to sell them by way of negotiated sale.

<b>Vehicle/Equipment</b>	<b>VIN or Serial Number</b>	<b>Mileage or Hours</b>
2004 Dodge truck	VIN# 1D7GL12KX4S659410	127880

\_\_\_\_\_  
Mike McMullen

\_\_\_\_\_  
Date

\_\_\_\_\_  
Furman Smith

\_\_\_\_\_  
Date

\_\_\_\_\_  
Joe Evaro

\_\_\_\_\_  
Date