

I Hereby Certify That This Instrument Was Filed for  
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Of The Records Of Santa Fe County



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

**MINUTES OF THE**

**SANTA FE COUNTY**

**WATER POLICY ADVISORY COMMITTEE**

**January 9, 2014**

**Santa Fe, New Mexico**

This meeting of the Santa Fe County Water Policy Advisory Committee (WPAC) was convened at approximately 6:00 p.m. by Chair Charles Nylander on the above-cited date at the Santa Fe County Public Works Building Conference Room, 424 NM 599, Santa Fe, New Mexico.

A quorum was established as follows:

**Members Present:**

- Charles Nylander, District 2
- Shelley Winship, Northern Planning Area
- Consuelo Bokum, Buckman Direct Diversion Board
- Mukhtiar S. Khalsa, District 1
- Steve Rudnick, District 5
- Neal Schaeffer, District 4
- Sigmund Silber, Central Water Planning Area
- Rita Loy Simmons, District 3
- Gil Tercero, Mutual Domestic Water Consumers Assoc.
- Martha Trujillo, Acequia Association

**Member(s) Excused:**

- Bill King, Soil & Water Conservation
- [One vacancy]

**Staff Present:**

- Claudia Borchert, Public Utilities Division Director
- Paul Casaus, Public Utilities Department - GIS

**Others Present:**

- Alan Hook, City of Santa Fe Water Resource Assistant
- Shannon Jones, BDD Interim Facility Director

Chair Nylander advised the Committee of the passing of WPAC Member Bud Hagerman.

I Hereby Certify That This Instrument Was Filed for  
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Witness My Hand And Seal Of Office  
Geraldine Salazar  
Deputy *Marcelle Salazar* County Clerk, Santa Fe, NM

FILED 10/17/2014 11:47 AM  
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## II. Approval of Agenda

Upon motion by Mr. Schaeffer and second by Mr. Rudnick, the agenda was unanimously approved. [Ms. Simmons and Mr. Khalsa were not present for this action.]

## IV. Approval of Minutes: October 24, 2013

A series of corrections were offered. [Those corrections were incorporated and the corrected minutes filed with the County Clerk's Office.]

Ms. Trujillo moved to approve the October 24, 2013 minutes as corrected. Mr. Rudnick seconded and the motion passed by unanimous voice vote with Ms. Bokum abstaining.

[Ms. Simmons and Mr. Khalsa were not present for this action and arrived shortly thereafter]

## V. Action Items

- A. **Approval of 2014 WPAC Work Plan**
  - i. **BCC Resolution No. 2013-42**

Chair Nylander said Resolution 2013-42 set out a number of topics for the WPAC to work on and it was determined at the previous meeting that the top priority was to investigate and research regional authorities. Two copies of the work plan were provided: an abbreviated half-page [*Exhibit 1*] that could be presented to the BCC at the end of the month and a two-page work plan [*Exhibit 2*]. The corrected date for the BCC meeting was provided as January 28<sup>th</sup>.

The draft work plan assumes WPAC meeting on a quarterly basis with staff and member work occurring during the interim months. The next several months will focus on the ins and outs of the political subdivisions of the state and sounding out the concept of regional authority. It is anticipated that a white paper will be adopted as well as a draft resolution regarding the concept of regional water at the WPAC July meeting.

Chair Nylander said he spoke with Adam Leigland and County Commissioner Holian about whether they expected a draft resolution from the WPAC and the response was affirmative. He said by reaching out to the Commissioner and Mr. Leigland he was better able to prioritize. While there is a desire for the committee to comment on the Santa Fe County Growth Plan that is for future consideration.

He proposed two tasks in the work plan: the first half of the year to be spent working on the regional authority concept, the second half spent on task two, looking into aquifer storage and recovery alternatives for Santa Fe County and developing a policy paper and draft resolution on both tasks. The work plan can be amended throughout the year.

Claudia Borchert introduced herself and provided background on her past employment. Paul Casaus was introduced as the committee's new staff contact. Shannon Jones, Interim Facility

Director for Buckman Direct Diversion and Alan Hook, City of Santa Fe Water Resources Coordinator Assistance were introduced.

Ms. Bokum said it was important to determine the reasons to adopt a regional authority and what issues that adoption resolves. Chair Nylander agreed adding it was his expectation the presentation would address this.

Chair Nylander said there was no predisposition toward supporting/declaring a regional authority but it is important to understand what the authority can do.

Mr. Schaeffer said it was important that the Committee can articulate what it has to do – and he understood that to be researching and recommending replacement management of the current Buckman Direct Diversion. Chair Nylander said that is a goal within the white paper and recommendations. The proposed WPAC July draft resolution will speak directly to the Buckman Direct Diversion. The September 2013 draft resolution was initiated by the County in anticipation of the 2015 date.

Ms. Winship cautioned about being too narrow in the scope of Buckman and she noted there is potential for other water authorities to be formed within Santa Fe County or the immediate region.

Mr. Rudnick pointed out that Eldorado is essentially self-sufficient and including Eldorado in a regional scheme may be tricky. Ms. Simmons said Edgewood too is self-sufficient and in a different water basin.

Chair Nylander said there is really no threat of forcing an authority on smaller mutual domestics, and the committee will make recommendations that the parties wanting to use it will have to be in agreement.

A discussion occurred regarding the dates as proposed on the work plan and it was noted that the July 10<sup>th</sup> meeting looks particularly dense.

Mr. Schaeffer moved to grant the Chair authority to seek the BCC's approval of the Santa Fe County Water Policy Advisory Committee proposed 2014 work plan. Ms. Winship seconded and the motion passed without opposition.

## **VI. Discussion Items**

### **A. Overview of Regional Authority Concepts**

Chair Nylander presented 20 slides embedded with comments about the September 2013 BCC draft resolution and he distributed a draft sample bill [*Exhibit 3*] describing a regional authority and what enabling legislation would provide for the state.

The four conclusions of the September 2013 BCC draft resolution were that the BCC 1) supports the ultimate creation of an independent regional authority or authorities in the Santa Fe Basin to serve the City and the County, 2) supports a regional entity to succeed the current BDD project

manager, 3) urges all water service providers in Santa Fe County to consider the merits of a regional authority, and 4) encourages the Legislature to promulgate singular enabling legislation.

He noted that the regionalization of small water systems is a concept encouraged by NMED and the EPA because small systems are often economically unable to meet the requirements of the federal and state drinking water regulations.

Different forms of regionalization were outlined: collaboration between geographically proximate water systems sharing the same resource by combining administrative/managerial duties, optimizing treatment and conveyance through comprehensive planning and joint funding, and improving technical, managerial and financial (TMF) capacity by forming an authority. These are ways small systems can increase and improve their capacity. The Lower Rio Grande in Doña Ana County was an example of where five different mutual domestics interconnected/ collaborated to form a regional authority resulting in dramatic overhead cost reductions.

Water cooperatives, operate as a private membership based organization governed by a board of directors, i.e., Las Campanas, was another vehicle. These entities are not subject to PRC regulations nor eligible for Water Trust Board funding. They can reorganize as a mutual domestic and receive public funding.

Chair Nylander noted that the slides were lifted from the Utton Center/UNM Law "Water Matters" materials that are available for further perusal on line. He delineated different ways in which a utility can be managed.

Water and sanitation districts have statutory enabling legislation making them public utilities, governed by a board of directors who are elected by the taxpayers/electors within the district. A district has more power than a mutual domestic in that it can issue revenue bonds and is eligible for Water Trust Board funding and can require hookups to the systems.

Municipal and county utilities have very broad authorities and are eligible for public funding.

The three main entities in the state that have regulatory oversight and can provide technical assistance are NMED, NM Rural Water Association and the Rural Community Assistance Corporation (RCAC). The tribal systems in Santa Fe County are overseen by the Indian Health Services under the US Public Health Service.

Chair Nylander said he attended an event in Española where Governor Martinez announced her capital outlay initiative for water and wastewater in the amount of \$116 million and on the list of priorities for the proposed funding is the Santa Cruz Water Association, a small mutual domestic in the valley, for a uranium treatment system.

The NMED Rural Infrastructure Act can fund projects through a low interest loan up to \$2 million. NMED and NMFA manage the Drinking Water Revolving Loan Fund. The Water Trust Board application list is exceedingly long and there is not enough money to go around the state; the smaller systems struggle to get approval.

A discussion ensued about obtaining Water Trust Board funds. One of the noted attributes was the funding is approximately 80 percent grant and 20 percent loan. The Water Trust Board typically receives around \$150 million in requests and is able to disburse \$30 million.

Ms. Winship and Mr. Khalsa mentioned that the Water Trust Board has recently revamped the application process causing the elimination of many of the smaller systems. There was agreement that the requirements were valid and should be there but for a small system with a volunteer board the ability and expertise to initiate the requirements is challenging.

Mr. Tercero said the Agua Fria Community Water System Association recently was awarded \$700,000 from the Water Trust Board beating out many larger competitors. He said they had the help of an engineering firm with the application and technical issues. The association is contributing close to 40 percent of the project cost. The audit as required by the State Auditor cost around \$4,000. As a mutual domestic, Mr. Tercero said they have to comply with the State Procurement Code and the associated audit requirements. He agreed that these requirements make it difficult to run a mutual domestic with a volunteer board.

Chair Nylander said that water/wastewater utilities can also obtain special appropriations; US Department of Agriculture Rural Development provides loans and technical assistance. There is funding for infrastructure development on tribal land as well as a colonias (applicable to southern part of the state).

Chair Nylander said several regional authorities have been created through special legislation. The Utton Center/UNM Law conducted a special project that reviewed regional authorities with the goal of developing enabling legislation [*Exhibit 3*] which outlines the powers of a regional authority. The purpose of the act also allowed an organization to operate and construct wastewater systems, and to plan and develop regional water and wastewater facilities. He encouraged the committee members to acquaint themselves with the Utton draft bill which provides a conceptual sense of what a regional authority is. Smaller mutual domestics have commented on the complexities of the draft. The county where the mutual domestic resides would be instrumental in the initial board elections. Many of the smaller systems have said they do not want to deal with the counties – so as thorough as the draft bill is, it may not be a template for all parties.

#### **B. Proposed Scope, Schedule and Assignments 2014 WPAC Work Plan**

To enhance the WPAC's understanding of the regional authority concept, Chair Nylander proposed starting a running dialogue on research on the existing authorities – Albuquerque Bernalillo County Water Utility Authority, Lower Rio Grande Public Water Works Authority, El Valle Water Utility – to ascertain the advantages/disadvantages, process, etc.

Mr. Tercero remarked on the fact that many mutual domestic do not want to lose their autonomy and become part of the government. Agua Fria's water association has an extensive and unique relationship with Santa Fe County wherein it purchases water from the County. He offered to provide information on the development of that relationship and how it functions today.

Ms. Bokum commented on the value of understanding the different relationships of the existing water entities in the County. What those entities have, what is important to them, what they may want or not want to change, etc. She mentioned a bill introduced state senator Wirth to create a water entity that was met with an outcry of alarm. There needs to be a demonstrable value to moving into a regional authority.

Mr. Rudnick asked that boundaries be identified, which water groups are potentially within that boundary, size of those systems, all the statistics of the systems. Chair Nylander said the BCC's draft resolution asks that all water service providers in Santa Fe County consider the merits of a regional authority. He suggesting asking the local domestics what other forms they would want to assume and, echoing a comment previously made by Ms. Bokum, what problems that may solve.

Chair Nylander mentioned that cataloguing the issues and how they might be solved by coming together as a regional authority in different parts of the County will be useful – to show when a regional authority is useful and the circumstances that support that.

Ms. Simmons said she understood from a conference she recently attended that the Albuquerque Bernalillo County Water Utility Authority is not without problems. She discouraged a top-down management of a water system that previously had managed itself. She also mentioned her recent negotiations with a natural pipeline through her ranch property and compared it to the emotional response to the imposition of a water authority.

Mr. Schaffer said by collating gathered information the WPAC could determine if a regional authority would be a good idea for Santa Fe County or portions of the County. He was interested in talking with Jan-Willem Jensens on the topic.

Chair Nylander mentioned Karen Nichols from the Lower Rio Grande Authority as a good resource.

Mr. Tercero remarked that regardless of what it is called, it is a relationship between parties, quasi-governmental entities and governmental entities. Recommendations to the BCC should reflect a sound structure/relationship between the City and the County.

Ms. Borchert said the word "authority" may be too restrictive and perhaps using agreement or co-op may lend to a more productive dialogue. She noted the composition of this committee, created before she started working for the County, lacks representation from City staff or City residents and she is reaching out to the biggest partner, the City. She thanked Mr. Jones and Mr. Hook for attending.

Chair Nylander said Resolution 2013-42 expected this Committee to communicate with City elected officials.

Ms. Borchert said the WPAC will need to decide whether they want singular enabling legislation or perhaps enabling each area to create their its legislation.

Ms. Borchert spoke in favor of looking outside of New Mexico's water systems and she mentioned El Paso Water Utilities as one of the most progressive that she knows of. She recalled that Tampa, Florida has developed an interesting water authority.

Acknowledging it may be stretching the scope of the resolution, Ms. Borchert mentioned other natural resources or utilities that might benefit from a regional authority.

Chair Nylander said "regional authority" is a state-of-art term and while the Commission's directions are fairly broad, he understood the directive to this committee was to recommend whether it's a good concept that has application for different areas, Aamodt, Estancia Basin, etc. In conversation with City Water Resources Director Rick Carpenter he understood the BDD Board recently directed BDD staff to investigate an interim management entity. He agreed that communication with BDD and City staff was appropriate.

Ms. Bokum said it may be important for this committee to understand the BDD and the different water rights the County and City own.

Ms. Borchert said Santa Fe County and the City are partners in the Santa Fe Basin Studies with the Bureau of Reclamation.

The work plan was identified as follows:

G. Tercero: Outline the history and operations of the Agua Fria Mutual Domestic

S. Silber: Research the Albuquerque Bernalillo Regional Authority - What happened to Albuquerque's long-range water plan when the regional authority was created.

N. Schaeffer: Investigate the regulatory citations and determine the powers and authorities of a sanitation district versus a cooperative, etc., outlining the features and benefits

S. Rudnick: Talk with the Eldorado people to ascertain what would be gained by joining a regional authority and how they perceive their participation in such a system. Synthesize that information into an ideal situation.

Mr. Khalsa provided an example of the difficulties for mutual domestics in working with the County. Seeking funding through Santa Fe County resulted in the County requiring they get the infrastructure and that the mutual domestic retain its debt. That notion was met by a massive pushback. He surmised that the development of this Committee is a result of the local mutual domestics' response. Any structure the WPAC recommends must be sensitive to the systems already in place.

Ms. Simmons remarked that the entire County is taxed for wastewater and Edgewood is 60 miles away from that system and has been contributing tax dollars while having its own wastewater plant. Edgewood requested that Santa Fe County return the tax dollars and in return Edgewood was required to give Santa Fe County an ownership interest in the system.

- S. Winship: Contact Lower Rio Grande Public Water Works Authority General Manager Karen Nichols to determine whether the authority solved problems. Provide information about sanitary projects' pros and cons.
- M. Khalsa: Conduct an investigation and prepare a paper on Cuatro Villas' collaborative efforts with Santa Clara Pueblo and Chimayo and the agreements developed.
- M. Trujillo: Explore possible organizational vehicles that may be feasible for the Aamodt settlement area
- R. Simmons: Prepare a perspective of the southern region, number of systems, and whether they may be interested in becoming its own regional authority
- C. Bokum: Talk to BDD staff to provide an introduction and overview of the BDD project. Catalogue of issues and problems that have emerged from the City/County relationship.

Ms. Bokum clarified that the Buckman Direct Diversion has a pipeline and water treatment plant that delivers water out of the river to the City and the County. She said Buckman makes no decisions regarding service delivery, area and service types.

Chair Nylander said he would email his overview presentation and contact the members to discuss assignments. When papers are ready he would like to begin emailing the information.

## **VII. Information Items**

### **A. BCC Approval of Sustainable Land Development Code – SLDC**

Ms. Borchert said the SLDC, the follow-up to the Sustainable Growth Management Plan, was approved by the BCC on December 10<sup>th</sup> and codifies the components of the plan. The Code designates three zoning areas: high level of urban-type service down to a rural level where it is difficult for development in those areas. A zoning map is necessary before enactment commenced. Letters are being sent to the property owners.

With a few of the committee members stating their comments on the code were neither incorporated nor addressed, Ms. Borchert offered to find out if a new comment period has opened for the next adoption date and when the adopted version will be available.

## **VIII. Matters from the Committee**

Ms. Borchert said the County has two water sources, the BDD and the 2005 Water Resources Agreement with the City. In addition, the County has a few individual wells that serve County-owned facilities.

Ms. Winship said the Santa Fe Pojoaque Soil & Water Conservation District 4 Board of Supervisors is down to three members from five. This is a symptom of a small entity in that it is



hard to find people to volunteer to do the work. They are seeking representation from Eldorado and La Barbara. She offered to email the information to Chair Nylander for distribution.

Ms. Trujillo said she understood a special appropriation may be introduced through the State Auditor making funding available for the audit requirements.

**IX. Matters from the County**

Ms. Borchert apologized for the short notice and delivery of packet materials. She said Mr. Casaus will serve as the committee liaison.

Eldorado will be hosting a Green Café on January 25<sup>th</sup> “Climate Change and Water Resources in New Mexico” with Prof. David Gutzler of the University of New Mexico presenting.

Ms. Borchert reviewed the Utility Division’s work plan for 2014:


- Complete the customer annexation by changing out meters, installing radio-read registers and instituting a regular business billing cycle
- Fill staff positions and address wages that are not competitive
- Repair the Quill wastewater treatment plant before the incorporation of subdivisions on the south and east side of I-25
- Develop maintenance plan for inherited lines
- Train staff to do line repairs rather than hire contractors
- Develop an RFP for a utility plan – water supply and preliminary engineering report with a focus on SDA-1 (urban level zoning)
- Work through issues with mutual domestics that are absorbed by the County – Chupadero, Hyde Park, and Cañoncito
- Extend water line on Caja del Oro
- Address Las Lagunitas failing batch plants; an improvement district is being created to assess the issues and develop a waste system to pump the waste to Quill
- Take over the wastewater plants as part of the annexation

**X. Matters from the Public - None was presented.**

**XI. Adjournment**

Having completed the agenda and with no further business to come before this Committee, Chair Nylander declared this meeting was adjourned at approximately 9:00 p.m.

Approved by:

  
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Charles Nylander, Chair

Respectfully submitted by:  
  
Karen Patrick, Wordswork

2014 JAN 10 10:58 AM  
SANTA FE COUNTY  
CLERK RECORDED  
2014 JAN 10 10:58 AM



**SANTA FE COUNTY WATER POLICY ADVISORY COMMITTEE (WPAC)  
PROPOSED 2014 WORK PLAN**

**Task 1: Explore the concept of regional water/ wastewater authority(s) in New Mexico and prepare a White Paper, policy recommendations, and draft resolution for the Santa Fe County Board of County Commissioners (BCC) consideration**

<u>Date</u>	<u>Activity</u>
January 29, 2014	WPAC presentation of WPAC 2014 work plan to BCC for approval
July 29, 2014	WPAC presentation of White Paper, policy recommendations, and draft resolution regarding the regional authority concept to the BCC for approval

**Task 2: Investigate aquifer storage and recovery (ASR) alternatives and develop a White Paper, policy recommendations, and draft resolution for BCC consideration**

January 27, 2015	WPAC presentation of draft White Paper, policy recommendations, and draft resolution regarding aquifer storage and recovery to the BCC for approval
January 27, 2015	WPAC presentation of WPAC 2015 work plan to BCC for approval

**SANTA FE COUNTY WATER POLICY ADVISORY COMMITTEE (WPAC)  
PROPOSED 2014 WORK PLAN**

**Task 1: Explore the concept of regional water/ wastewater authority(s) in New Mexico and prepare a White Paper, policy recommendations, and draft resolution for the Santa Fe County Board of County Commissioners (BCC) consideration**

<u>Date</u>	<u>Activity</u>
January 9, 2014	WPAC meeting: <ol style="list-style-type: none"> <li>1) Review and approve proposed WPAC 2014 Work Plan</li> <li>2) Presentation and overview of Task 1 regarding regional authorities               <ol style="list-style-type: none"> <li>a. Discuss example of enabling New Mexico legislation</li> </ol> </li> <li>3) Committee assignments to research/develop White Paper</li> </ol>
January 28, 2014	WPAC presentation of proposed WPAC 2014 Work Plan to BCC for approval
January-April	Develop understanding of regional authority concept in preparation of White Paper <ol style="list-style-type: none"> <li>a. Research history of regional water authorities in New Mexico; powers, governance, boundaries, funding, etc.</li> <li>b. Contrast attributes with other similar political subdivisions in New Mexico with responsibilities for water and wastewater utilities.</li> </ol>
April 10, 2014	WPAC meeting: <ol style="list-style-type: none"> <li>1) Discussion of research results</li> <li>2) Identify follow-up activities</li> </ol>
April-July	Follow-up activities, including interface with existing regional authorities and area stakeholders <ol style="list-style-type: none"> <li>1) Hold discussions with New Mexico water authorities; local governments; Mutual Domestic Water Consumer Associations; water users, ratepayers, developers, etc.</li> <li>2) Prepare White Paper, policy recommendations, and draft resolution</li> </ol>
July 10, 2014	WPAC meeting: <ol style="list-style-type: none"> <li>1) Review and adopt draft White Paper, policy recommendations, and draft resolution regarding the regional authority concept</li> </ol>

July 29, 2014 WPAC presentation of White Paper, policy recommendations, and draft resolution regarding the regional authority concept to the BCC for approval

**Task 2: Investigate aquifer storage and recovery (ASR) alternatives and develop a White Paper, policy recommendations, and draft resolution for BCC consideration**

July 10, 2014 WPAC meeting:

- 1) Develop understanding of ASR in preparation of White Paper
- 2) Committee assignments to research and develop White Paper

July-October Develop an understanding of ASR in Santa Fe County through research of regulations, documents, and reports, and interviews with water resource, earth science professionals, and regulators

October 9, 2014 WPAC meeting:

- 1) Discussion research results
- 2) Identify follow-up activities

October/December WPAC follow-up activities, likely including:

- 1) Investigate legal and regulatory requirements associated with aquifer storage and recovery, e.g. environmental, water rights, water quality, etc.
- 2) Determine sources and quantity/quality of water
- 3) Determine optimal geographical locations within Santa Fe County
- 4) Determine infrastructure and energy needs and approximate the cost of transporting source water to ASR locations
- 5) Conduct outreach with stakeholders
- 6) Prepare White Paper, policy recommendations, and draft resolution regarding ASR

January 8, 2015 WPAC meeting

- 1) Review and adopt draft White Paper, policy recommendations, and draft resolution regarding ASR

January 27, 2015 WPAC presentation of draft White Paper, policy recommendations, and draft resolution regarding ASR to the BCC for approval

January 27, 2015 WPAC presentation of WPAC 2015 work plan to BCC for approval

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**DISCUSSION DRAFT**

**AN ACT**

**RELATING TO SPECIAL DISTRICTS; PROVIDING FOR THE CREATION OF A REGIONAL WATER AND WASTEWATER AUTHORITY; ESTABLISHING POWERS AND DUTIES; ENACTING SECTIONS OF THE NMSA 1978.**

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:**

**Section 1. SHORT TITLE.**--This act may be cited as the "Regional Water and Wastewater Authority Act".

**Section 2. PURPOSE OF REGIONAL WATER AND WASTEWATER AUTHORITY.**--A regional water and wastewater authority may be created for the purpose of:

A. purchasing, acquiring, operating, establishing or constructing waterworks to supply water for domestic, commercial and industrial purposes by any available means to persons within and without the boundary of the authority;

B. purchasing, acquiring, establishing, operating or constructing wastewater systems for the treatment and disposal of sewage, or for the management of decentralized or on-site wastewater disposal systems; or

C. planning, developing, managing, maintaining or coordinating the development of regional water and wastewater facilities.

**Section 3. DEFINITIONS.**-- As used in this Act:

- 1           A. "authority" means a regional water and wastewater authority that is  
2 established pursuant to the Regional Water and Wastewater Authority Act; and  
3           B. "board" means the board of directors of an authority.  
4           C. "county special district commission" means a special district commission  
5 convened pursuant to the Special District Procedures Act, Sections 4-53-1 through 4-53-11  
6 NMSA 1978.  
7           D. "qualified elector" means any person whose affidavit of voter registration  
8 has been filed by the county clerk, who is registered to vote in a general election precinct  
9 established by the board of county commissioners that is wholly or partly within the boundary  
10 of the authority, and who resides within the boundary of the authority.  
11           E. "service area" means all lands within the boundary and all lands within one  
12 mile of the boundary of an authority.

13           **Section 4. REGIONAL WATER AND WASTEWATER AUTHORITY--**  
14 **CREATION.—**

- 15           A.     A regional water and wastewater authority may be established by:  
16                 1. petition to a county special district commission by at least fifty  
17                 (50) percent of the qualified electors of the proposed authority, or  
18                 2. petition to a county special district commission by one or more of  
19                 the following: a water and sanitation district, a mutual domestic water consumer  
20                 association, a water and natural gas association, a water user's association, a municipal  
21                 water and sewer utility, a county water and sewer utility, a metropolitan water board, a  
22                 municipal or county improvement district, a public improvement district, a cooperative  
23                 association, any investor-owned water work or any nonprofit corporation created for  
24                 the purpose of providing water or wastewater service.  
25           B.     The establishing petition shall describe the need for the creation of the  
26 authority and the boundary of the proposed authority in accordance with Section 9 herein.  
27           C.     The petition shall be submitted to the county special district

1 commission for review pursuant to sections 4-53-1 through 4-53-11 NMSA 1978. Prior to the  
2 hearing of the county special district commission, that commission shall notify the state  
3 engineer, the attorney general and the department of environment of the hearing to be held for  
4 creation of the authority by mailing notice addressed to the same, such notice to be deposited  
5 in the mail not less than ten days prior to the date set for the hearing, and the state engineer,  
6 the attorney general and the department of environment may appear and be heard at the  
7 hearing.

8 D. At any time after the filing of the petition for the organization of an  
9 authority and before the day fixed for the hearing on it, the owner of any taxable property  
10 within the proposed authority may file a petition with the county special district commission  
11 stating reasons why the property should not be included in the authority and requesting that the  
12 property be excluded from it. The petition shall be signed by the owner and verified and shall  
13 describe the property sought to be excluded. The county special district commission shall hear  
14 the petition and all objections to it at the time of the hearing on the petition for organization  
15 and shall determine whether the property should be excluded or included in the authority.

16 E. If the county special district commission approves the formation of  
17 the authority, the commission shall declare the authority organized, subject to any  
18 modifications or conditions designated by the commission, and appoint the initial board of  
19 directors.

20 F. Within thirty days after the declaration of the county special district  
21 commission establishing the authority, any person who is adversely affected by the formation  
22 of the authority may appeal to the district court questioning the validity of the formation  
23 proceedings.

24 1. Upon appeal, the district court shall set aside the county special  
25 district commission's action only if it is found to be:

- 26 a. arbitrary, capricious or an abuse of discretion,  
27 b. not supported by substantial evidence in the record, or

1 c. otherwise not in accordance with law.

2 2. After a hearing and a showing of good cause the appellant, a stay  
3 of the action being appealed may be granted pending the outcome of the judicial  
4 review.

5 3. If no appeal to the district court is filed within the thirty day appeal  
6 period, or if the district court renders judgment in favor of the authority, the formation  
7 of the authority shall be final.

8 **Section 5. BOARD--APPOINTMENT--ELECTION--VACANCIES--**

9 **REMOVAL.--**

10 A. A regional water and wastewater authority shall be governed by a board of  
11 directors. The board shall consist of five directors who reside within the boundary of the  
12 authority. The initial board of directors shall be appointed by the county special district  
13 commission. Members of the initial board shall serve until their successors are elected in  
14 accordance with the provisions of this section.

15 B. Board members shall be elected on a districted basis. Each director, at the  
16 time of election, must reside within the electoral district from which that director is elected.  
17 The boundaries of electoral districts shall be established by the initial board so that each  
18 district contains, as nearly as possible, substantially the same population based on the most  
19 recent federal census and otherwise according to law. Redistricting shall occur within two (2)  
20 years following any decennial census showing a disparity of greater than ten (10) percent  
21 between the populations of any two electoral districts. In addition, the board may at its  
22 discretion provide for redistricting upon any change in the authority's boundary resulting in a  
23 significant increase or decrease in the population of any electoral district.

24 C. During the next general election following the creation of an authority,  
25 five directors shall be elected by the qualified electors of the authority. Two directors shall  
26 serve an initial two-year term, and thereafter the directors elected to those positions shall serve  
27 a four-year term. Selection of the directors to serve an initial two-year term shall be made by



1 lot. The other three directors shall serve a term of four years. Thereafter, directors shall serve  
2 staggered terms of four years. Directors shall be limited to serving two consecutive four-year  
3 terms.

4 D. Elections shall be conducted by the clerk of the county in which the  
5 majority of the lands of the authority lie, and shall be governed by sections 1-24-1 through 1-  
6 24-4 NMSA 1978, and may be by paper ballot or by mail-in balloting.

7 E. If a seat on the board becomes vacant, the remaining members of the board  
8 shall, by a majority vote, appoint a qualified elector from the same electoral district to serve  
9 the remainder of the unexpired term.

10 F. The board may remove a director from the board for cause shown after  
11 notice and hearing, as provided by an established removal policy in the bylaws of the  
12 authority.

13 **Section 6. BOARD--ORGANIZATION--OFFICERS--DUTIES.--**

14 A. The board shall elect one of its members as chairperson of the board and  
15 shall elect a secretary and a treasurer of the board who may or may not be members of the  
16 board. A secretary or treasurer who is not a member of the board may not vote on matters  
17 before the board. The secretary and treasurer may be one person.

18 B. The secretary shall keep a record of all of the board's proceedings and all  
19 corporate acts, which shall be open to inspection to all members of the public.

20 C. The treasurer shall keep strict and accurate accounts of all money received  
21 by and disbursed for and on behalf of the authority, in permanent records. The treasurer shall  
22 file with the county clerk, at the expense of the authority, a corporate fidelity bond in a sum  
23 equal to twenty percent of the total revenue projected for the fiscal year in the authority's  
24 current budget, as approved by the department of finance and administration, conditioned on  
25 the faithful performance of the duties of the office.

26 D. Members of the board shall serve without compensation, except per diem,  
27 unless otherwise provided by the ordinance or petition creating the authority, until and unless a

1 majority of the full board adopts a board compensation policy. In no case shall the annual  
2 compensation of board members exceed fifty percent (50%) of the statutory salary for county  
3 commissioners of the county in which the majority of the lands of the authority lie.

4 E. The board shall meet once each month at a time and place to be designated  
5 by the board. Special meetings may be held upon notice to each member of the board and as  
6 often as the needs of the authority require.

7 F. Each member of the board shall complete board member training as  
8 determined by regulations of the department of environment.

9 **Section 7. BOARD--POWERS--DUTIES.--**

10 A. All powers, privileges and duties vested in or imposed upon the authority  
11 shall be exercised and performed by the board. The board may delegate its powers by  
12 resolution to an officer or agent of the board, with the exception of the following:

- 13 1. adoption of board policies and procedures;
- 14 2. ratification of acquisition of property;
- 15 3. initiation or continuation of legal action, except that initiation and  
16 filing of liens for unpaid rates and charges, suits for payment thereof, and discontinuance of  
17 service for failure to pay such rates and charges, may be delegated;
- 18 4. establishment of policies regarding fees, tolls, rates or charges; and
- 19 5. issuance of revenue bonds.

20 B. The board shall promulgate and adhere to policies and procedures that  
21 govern its conduct.

22 C. A director of the board having a financial interest or possible interest in the  
23 outcome of any policy, decision or determination before the board shall, within a reasonable  
24 time after such interest becomes apparent and in no case later than at the time of the taking of a  
25 vote on the issue in which the director has a financial interest or possible interest, disclose to  
26 the other directors, at a public meeting of the board, the nature of the financial interest or  
27

1 possible interest in the issue and the disclosure shall be recorded in the minute book of the  
2 board; provided, however, that a director's status as a ratepayer or customer of the authority  
3 shall not be deemed to constitute a financial interest or possible interest for the purposes of this  
4 section. Disclosure of such interest in any issue coming before the board shall disqualify the  
5 member from voting on the issue unless a majority of the remaining board members determine  
6 that the member who discloses such interest may in propriety vote on the issue.

- 7 D. In addition to all other powers conferred by the Regional Water and  
8 Wastewater Authority Act, the board may:
- 9 1. adopt bylaws;
  - 10 2. fix the time and place of meetings and the method of providing  
11 notice of the meetings;
  - 12 3. make and pass orders, resolutions, policies, rules and regulations  
13 necessary for the government and management of the affairs of the authority and the execution  
14 of the powers vested in the authority;
  - 15 4. maintain offices at a place as the board may designate; and
  - 16 5. appoint, hire and retain employees and agents.

17 **Section 8. POWERS OF AUTHORITY.**--An authority is a body politic and  
18 corporate, and a political subdivision of the state, subject to all statutory requirements thereof.  
19 In addition to other powers granted to the authority pursuant to the Regional Water and  
20 Wastewater Authority Act, the authority may:

- 21 A. have perpetual existence;
- 22 B. sue and be sued;
- 23 C. enter into contracts and agreements affecting the affairs of the authority;
- 24 D. borrow money and issue bonds in accordance with the provisions of this  
25 act;
- 26 E. refund any bonded indebtedness or revenue bonds of the authority;
- 27 F. acquire, dispose of or encumber real and personal property and any interest

1 in them, including leases, easements and water rights;

2 G. design, develop, construct, operate, maintain or contract for water and  
3 wastewater systems, sources and distribution, and pipelines to interconnect systems and  
4 sources and the authority's customers;

5 H. collect, treat and recover wastewater and apply for and receive return flow  
6 credits for such activity;

7 I. undertake regional water and wastewater planning, alone or with other  
8 water or wastewater service providers, including water plans as set forth in 72-1-9 NMSA  
9 1978;

10 J. promulgate an on-site wastewater management plan. For health and  
11 sanitary purposes, the board shall have the power to compel compliance with regulations and  
12 standards, no less stringent than those adopted by the department of the environment, relating  
13 to design, installation, maintenance, repair and removal of on-site wastewater treatment  
14 systems;

15 K. have and exercise the power of eminent domain and, in the manner  
16 provided by law for the condemnation of private property for public use with just  
17 compensation, take any property necessary for right-of-way and the use and placement of  
18 facilities within the boundary of the authority;

19 L. construct and maintain works and establish and maintain facilities across  
20 or along any public street or highway and through any vacant public lands which are the  
21 property of the state; construct works and establish and maintain facilities across any stream of  
22 water or watercourse; all in accordance with applicable state and federal permitting authority;

23 M. fix and from time to time increase or decrease water and sewer rates, fees  
24 or other charges for water delivery, wastewater disposal, or other services or facilities operated  
25 or made available by the authority.

26 1. Until paid, all rates, tolls or charges constitute a perpetual lien  
27 on and against the property served, and any such lien may be foreclosed in the same

1 manner as provided by the laws of New Mexico for the foreclosure of real estate  
2 mortgages and shall not be subject to any limitations period, statutory or otherwise.

3 2. After giving notice, the board shall shut off or discontinue service  
4 for unauthorized connections, illegal connections, or connections for which rates, tolls,  
5 or other charges are delinquent in payment. The board may file suit in a court of  
6 competent jurisdiction to recover costs associated with an unauthorized, illegal or  
7 delinquent connection, including the cost of water delivered, charges for connection  
8 and disconnection, damages and attorney's fees.

9 3. The board shall prescribe and enforce rules by which properties  
10 shall be connected with and disconnected from the facilities of the authority, to  
11 include payment plans to avoid discontinuing service to delinquent accounts.

12 4. For health and sanitary purposes, the board shall have the power to  
13 compel the owners of inhabited property within the territory of an authority to connect  
14 their property with the water or wastewater system of the authority, and, upon a failure  
15 so to connect within sixty days after written notice by the board, the board may cause  
16 the connection to be made and a lien to be filed against the property for the expense  
17 incurred in making the connection; provided, however, that no owner shall be  
18 compelled to connect the owner's property with such system unless a service line is  
19 brought by the authority to a point within four hundred feet of the nearest lot line; and  
20 to compel the connection of any new development that lies partially or wholly within  
21 the service area of the authority to the authority's water or wastewater system pursuant  
22 to the authority's existing line extension policy; and

23 N. have and exercise all rights and powers necessary or incidental to or  
24 implied from the specific powers granted in this section. Such specific powers shall not be  
25 considered as a limitation upon any power necessary or appropriate to carry out the purposes  
26 and intent of the Regional Water and Wastewater Authority Act.

27 **Section 9. REGIONAL WATER AND WASTEWATER AUTHORITY-**

1 **TERRITORY AND EXCLUSIVE RIGHT TO PROVIDE SERVICE—JOINING AN**  
2 **AUTHORITY—COOPERATION WITH ADJOINING COUNTIES**

3 A. A regional water and wastewater authority shall have the exclusive right to  
4 provide water and wastewater services within its service area; provided that:

5 1. any entity providing water or wastewater services as of July 1,  
6 2007, to members or customers within the authority's service area may continue to  
7 serve such customers or members served as of that date, and

8 2. any extension of water or wastewater service by an entity described  
9 in subsection 1 of this section, that is planned and fully funded as of the date that the  
10 authority is created, and is completed within eighteen months of the same date, shall  
11 likewise be excluded from the authority's service area.

12 B. No authority shall provide water or wastewater services

13 1. within the boundaries of any municipality, except upon the specific  
14 written consent of the municipality;

15 2. within five miles of the boundary of any municipality, except upon  
16 the specific written consent of the municipality; nor

17 3. to any municipality's water or wastewater service customers that  
18 are located more than five miles outside the boundaries of the municipality, except  
19 upon the specific written consent of the municipality.

20 C. Areas annexed by a municipality after July 1, 2007, which are within the  
21 service area of an authority, shall remain part of the authority's service area.

22 **Section 10. INCLUSION**

23 A. Inclusion - The owners of real property may file with the board a petition,  
24 in writing, requesting inclusion of their property in the authority. The petition shall:

25 1. seek inclusion of territory contiguous with the boundary of the  
26 authority;

27 2. be signed by a majority of the qualified electors of the territory

1 proposed for inclusion;

2 3. be accompanied by a map that shows the external boundary of the  
3 territory proposed for inclusion and the relationship of such territory to the existing boundary  
4 of the authority.

5 B. The secretary of the board shall cause notice of filing of such petition to be  
6 mailed to all qualified electors of the territory proposed for inclusion and published in the  
7 county or counties in which the property is situated, which notice shall state the filing of such  
8 petition, names of petitioners, descriptions of lands mentioned and the prayer of said  
9 petitioners; giving notice to all persons interested to appear at the office of the board at the  
10 time named in said notice and show cause in writing, if any they have, why the petition should  
11 not be granted. The board shall at the time and place mentioned or at such time or times at  
12 which the hearing may be adjourned, proceed to hear the petition and all objections thereto,  
13 presented, in writing, by any person showing cause why said petition should not be granted.  
14 The failure of any person interested to show cause in writing shall be deemed and held and  
15 taken as an assent on his part to the inclusion of such lands in the authority as prayed for in the  
16 petition. If the petition is granted, the board shall make a resolution to that effect and file same  
17 with the county clerk, and said property shall thereupon be included in the authority.

18 C. Within thirty days after the filing of the resolution with the county clerk,  
19 any person owning land within the territory newly included in the authority may appeal to the  
20 district court questioning the validity of the inclusion.

21 1. Upon appeal, the district court shall set aside the county special  
22 district commission's action only if it is found to be:

- 23 a. arbitrary, capricious or an abuse of discretion,  
24 b. not supported by substantial evidence in the record, or  
25 c. otherwise not in accordance with law.

26 2. After a hearing and a showing of good cause the appellant, a stay  
27 of the action being appealed may be granted pending the outcome of the judicial

1 review.

2 3. If no appeal to the district court is filed within that thirty day  
3 period, or if the court renders judgment in favor of the authority, the inclusion shall be  
4 final.

5 D. The authority may accept a transfer of assets and liabilities following the  
6 legal dissolution of any entity formed pursuant to one the following statutes, subject to any  
7 other statutory requirements for such dissolution and transfer:

- 8 1. 73-21-1 NMSA 1978 (Water and Sanitation District)
- 9 2. 3-28-1 NMSA 1978 (Water and Natural Gas Association)
- 10 3. 73-5-1 NMSA 1978 (Water Users' Association)
- 11 4. 53-8-1 NMSA 1978 (Nonprofit Corporation)
- 12 5. 5-11-1 NMSA 1978 (Public Improvement District)
- 13 6. 62-2-1 NMSA 1978 (Investor-owned Waterworks)
- 14 7. 53-11-1 NMSA 1978 (Investor-owned Utility)
- 15 8. 53-4-1 NMSA 1978 (Cooperative Association)
- 16 9. 3-29-1 NMSA 1978 (Mutual Domestic Community Water  
17 Association)

18 E. The board may initiate proceedings to include territory contiguous with the  
19 authority by petitioning the county special district commission pursuant to sections 4-53-1  
20 through 4-53-11 NMSA 1978. Prior to the hearing of the county special district commission,  
21 the commission shall notify the state engineer, the attorney general and the department of  
22 environment of the hearing to be held for the inclusion of new territory to the authority by  
23 mailing notice addressed to the same, such notice to be deposited in the mail not less than ten  
24 days prior to the date set for the hearing, and the state engineer, the attorney general and the  
25 department of environment may appear and be heard at the hearing

26 F. At any time after the filing of the petition for the inclusion of territory to an  
27 authority and before the day fixed for the hearing on it, the owner of any taxable property



1 within the proposed authority may file a petition with the county special district commission  
2 stating reasons why the property should not be included in the authority and requesting that the  
3 property not be included in it. The petition shall be signed by the owner and verified and shall  
4 describe the property sought to be excluded from inclusion. The county special district  
5 commission shall hear the petition and all objections to it at the time of the hearing on the  
6 petition for inclusion and shall determine whether the property should be included in the  
7 authority.

8 G. If the county special district commission approves the inclusion of  
9 territory in the authority, the commission shall declare the new boundary of the authority.

10 H. Within thirty days after the declaration of the county special district  
11 commission establishing the new boundary of the authority, any person who is adversely  
12 affected by the inclusion of territory in the authority may appeal to the district court  
13 questioning the validity of the inclusion.

14 1. Upon appeal, the district court shall set aside the county special  
15 district commission's action only if it is found to be:

- 16 a. arbitrary, capricious or an abuse of discretion,  
17 b. not supported by substantial evidence in the record, or  
18 c. otherwise not in accordance with law.

19 2. After a hearing and a showing of good cause the appellant, a stay  
20 of the action being appealed may be granted pending the outcome of the judicial  
21 review.

22 3. If no appeal to the district court is filed within that thirty day period, or if  
23 the court renders judgment in favor of the authority, the inclusion shall be final

24 **Section 11. SALE OF ASSETS**

25 A. An authority may sell or otherwise dispose of all or any part of its water rights,  
26 real property or permanent facilities only upon the affirmative vote of a two-thirds majority of  
27 the qualified electors voting in an election called for the purpose of determining whether to sell

1 or otherwise dispose of such property. Any such proposed sale or other disposition and the  
2 determination to hold an election thereon shall be authorized by resolution adopted by the  
3 affirmative vote of not less than a majority of all members of the board of directors.

4 B. Sale or disposal of any other property of the authority may be authorized by a  
5 majority vote of the board of directors.

6 C. The elections described in subsection A shall be conducted by the county clerk  
7 pursuant to sections 1-24-1 through 1-24-4 NMSA 1978, and may be by paper ballot or by  
8 mail-in balloting.

9 **Section 12. REVENUE BONDS—AUTHORITY TO ISSUE—PLEDGE OF**  
10 **REVENUES—LIMITATION ON TIME OF ISSUANCE.--**

11 A. Revenue bonds may be issued by the authority for acquiring real and  
12 personal property needed for an authority project, including the purchase of water rights, for  
13 constructing, extending, enlarging, bettering, repairing or otherwise improving a water or  
14 wastewater project or for any combination of those purposes. The authority may pledge  
15 irrevocably any or all of the net revenues from the operation of the water or wastewater system  
16 for payment of the interest on and principal of the revenue bonds.

17 B. Except for the purpose of refunding previous revenue bond issues, the  
18 authority may not sell revenue bonds payable from pledged revenues after the expiration of  
19 two years from the date of the resolution authorizing the issuance of the bonds. However, any  
20 period of time during which a particular revenue bond issue is in litigation shall not be counted  
21 in determining the expiration date of that issue.

22 C. The authority shall not impair the rights of any holders of bonds or other  
23 obligations payable from the net revenues of the water or wastewater system previously issued  
24 or incurred by the authority.

25 D. If required by the terms, covenants and provisions of revenue bonds or  
26 other obligations previously issued by the authority, all additional bonds or other obligations  
27 issued or incurred by the authority pursuant to the Regional Water and Wastewater Authority

1 Act shall contain any required terms, covenants or provisions required to avoid impairment of  
2 the previously issued or incurred bonds or other obligations.

3 **Section 13. USE OF PROCEEDS OF REVENUE BOND ISSUE.**—It is unlawful to  
4 divert, use or expend any money received from the issuance of revenue bonds for any purpose  
5 other than the purpose for which the revenue bonds were issued.

6 **Section 14. REVENUE BONDS—TERMS.**—Revenue bonds:

7 A. may have interest, appreciated principal value or any part thereof payable  
8 at intervals or at maturity as may be determined by the authority;

9 B. may be subject to prior redemption at the authority's option at such time or  
10 times and upon such terms and conditions with or without the payment of such premium or  
11 premiums as may be determined by the authority;

12 C. may mature at any time or times not exceeding forty years after the date of  
13 issuance;

14 D. may be serial in form and maturity or may consist of one bond payable at  
15 one time or in installments or may be in such other form as may be determined by the  
16 authority;

17 E. shall be sold for cash at above or below par and at a price that results in a  
18 net effective interest rate that does not exceed the maximum permitted by the Public Securities  
19 Act; and

20 F. may be sold at public or negotiated sale.

21 **Section 15. EXEMPTION FROM TAXATION.**—The bonds authorized by the  
22 Regional Water and Wastewater Authority Act and the income from the bonds shall be exempt  
23 from all taxation by the state or any political subdivision of the state.

24 **Section 16. RESOLUTION AUTHORIZING REVENUE BONDS.**—

25 A. At a regular or special meeting called for the purpose of issuing revenue  
26 bonds, the authority may adopt a resolution that:

27 (1) declares the necessity for issuing revenue bonds; and

1 (2) authorizes the issuance of revenue bonds by an affirmative vote of  
2 a majority of all members of the authority.

3 B. Revenue bonds and the resolution authorizing their issuance shall be  
4 subject to approval by the state board of finance.

5 **Section 17. REVENUE BONDS NOT GENERAL OBLIGATIONS—**  
6 **AUTHENTICATION.—**

7 A. Revenue bonds or refunding revenue bonds issued as authorized in the  
8 Regional Water and Wastewater Authority Act are:

9 (1) not general obligations of the state or other political subdivision  
10 of the state; and

11 (2) collectible only from the pledged revenues of the water or  
12 wastewater system, and each bond shall state that it is payable solely from the pledged  
13 revenues of the water or wastewater system and that the bondholders may not look to any  
14 other fund of the state or political subdivision of the state for the payment of the interest and  
15 principal of the bond.

16 B. The bonds shall be executed by the chairperson of the board and may be  
17 authenticated by the secretary of the board or any public or private transfer agent or registrar  
18 or its successor, which shall be named or otherwise designated by the board. The bonds may  
19 be executed as provided under the Uniform Facsimile Signature of Public Officials Act.

20 **Section 18. REVENUE BONDS—MANDATORY RATES FOR THE WATER**  
21 **OR WASTEWATER SYSTEM—MANDAMUS—IMPAIRMENT OF PAYMENT.—**

22 A. The authority shall establish rates for services rendered by the water or  
23 wastewater system to provide revenue sufficient to meet the following requirements, and such  
24 rates shall remain in effect until the bond issue is liquidated. Revenue shall be sufficient to:

25 (1) pay all reasonable expenses of operation of the water or  
26 wastewater system;

27 (2) pay all interest on the water or wastewater system revenue bonds

1 as it comes due; and

2 (3) provide a sinking fund adequate to discharge the revenue bonds as  
3 they mature.

4 B. In the event the authority fails or refuses to establish rates for the water or  
5 wastewater system as required in this section, any bondholder may apply to the district court  
6 for a mandatory order requiring the authority to establish rates that will provide revenues  
7 adequate to meet the requirements of this section.

8 C. Any law that authorizes the pledge of any or all of the pledged water or  
9 wastewater system revenues to the payment of any revenue bonds issued pursuant to the  
10 Regional Water and Wastewater Authority Act or that affects the pledged revenues of the  
11 water or wastewater system, or any law supplemental to or otherwise appertaining to that act,  
12 shall not be repealed or amended or otherwise directly or indirectly modified in such a manner  
13 as to impair adversely any such outstanding revenue bonds, unless the outstanding revenue  
14 bonds have been discharged in full or provision has been fully made for payment of the bonds.

15 **Section 19. REVENUE BONDS--REFUNDING AUTHORIZATION.--**

16 A. The authority may issue refunding revenue bonds for the purpose of  
17 refinancing, paying and discharging all or any part of outstanding bonds or other obligations  
18 payable from the net revenues of the water or wastewater system previously issued or incurred  
19 by the authority.

20 B. The authority may pledge irrevocably for the payment of interest and  
21 principal on refunding bonds the pledged revenues of the water or wastewater system.

22 C. Bonds for refunding and bonds for any purpose permitted by the Regional  
23 Water and Wastewater Authority Act may be issued separately or issued in combination in one  
24 series or more.

25 **Section 20. REFUNDING BONDS--ESCROW--DETAIL.--**

26 A. Refunding bonds issued pursuant to the Regional Water and Wastewater  
27 Authority Act shall be authorized by resolution. Any bonds that are refunded pursuant to the  
28 provisions of this section shall be paid at maturity or on any permitted prior redemption date in  
29 the amounts, at the times and places and, if called prior to maturity, in accordance with any

1 applicable notice provisions, all as provided in the proceedings authorizing the issuance of the  
2 refunded bonds or otherwise appertaining to the bonds, except for any such bond that is  
3 voluntarily surrendered for exchange or payment by the holder or owner.

4 B. Provision shall be made for paying the bonds refunded at the time or times  
5 provided in Subsection A of this section. The principal amount of the refunding bonds may  
6 exceed the principal amount of the refunded bonds and may also be less than or the same as  
7 the principal amount of the bonds being refunded so long as provision is duly and sufficiently  
8 made for the payment of the refunded bonds.

9 C. The proceeds of refunding bonds, including any accrued interest and  
10 premium appertaining to the sale of refunding bonds, shall either be immediately applied to the  
11 retirement of the bonds being refunded or be placed in escrow in a commercial bank or trust  
12 company, which possesses and is exercising trust powers and which is a member of the federal  
13 deposit insurance corporation, to be applied to the payment of the principal of, interest on and  
14 any prior redemption premium due in connection with the bonds being refunded; provided that  
15 such refunding bond proceeds, including any accrued interest and any premium appertaining  
16 to a sale of refunding bonds, may be applied to the establishment and maintenance of a reserve  
17 fund and to the payment of expenses incidental to the refunding and the issuance of the  
18 refunding bonds, the interest on the bonds and the principal of the bonds or both interest and  
19 principal as the authority may determine. Nothing in this section requires the establishment of  
20 an escrow if the refunded bonds become due and payable within one year from the date of the  
21 refunding bonds and if the amounts necessary to retire the refunded bonds within that time are  
22 deposited with the paying agent for the refunded bonds. Any such escrow shall not necessarily  
23 be limited to proceeds of refunding bonds but may include other money available for its  
24 purpose. Any proceeds in escrow pending such use may be invested or reinvested in bills,  
25 certificates of indebtedness, notes or bonds that are direct obligations of or the principal and  
26 interest of which obligations are unconditionally guaranteed by the United States of America  
27 or in certificates of deposit of banks that are members of the federal deposit insurance

1 corporation, the par value of which certificates of deposit is collateralized by a pledge of  
2 obligations of or the payment of which is unconditionally guaranteed by the United States of  
3 America, the par value of which obligations is at least seventy-five percent of the par value of  
4 the certificates of deposit. Such proceeds and investments in escrow together with any interest  
5 or other income to be derived from any such investment shall be in an amount at all times  
6 sufficient as to principal, interest, any prior redemption premium due and any charges of the  
7 escrow agent payable therefrom to pay the bonds being refunded as they become due at their  
8 respective maturities or due at any designated prior redemption date or dates in connection  
9 with which the authority shall exercise a prior redemption option. Any purchaser of any  
10 refunding bond is in no manner responsible for the application of the proceeds thereof by the  
11 authority or any of its officers, agents or employees.

12 D. Refunding bonds may bear such additional terms and provisions as may be  
13 determined by the authority and the refunding bonds are not subject to the provisions of any  
14 other statute except as may be incorporated by reference in the Regional Water and  
15 Wastewater Authority Act.

16 **Section 21. REFUNDING REVENUE BONDS—TERMS.**—Refunding revenue  
17 bonds:

18 A. may have interest, appreciated principal value or any part thereof payable  
19 at intervals or at maturity as may be determined by the authority;

20 B. may be subject to prior redemption at the authority's option at such time or  
21 times and upon such terms and conditions with or without the payment of premium or  
22 premiums as may be determined by the authority;

23 C. may mature at any time or times not exceeding forty years after the date of  
24 issuance;

25 D. may be serial in form and maturity or may consist of a single bond payable  
26 in one or more installments or may be in such other form as may be determined by the  
27 authority; and

1                   E. shall be exchanged for the bonds and any matured unpaid interest being  
2 refunded at not less than par or sold at public or negotiated sale at, above or below par and at a  
3 price that results in a net effective interest rate that does not exceed the maximum permitted by  
4 the Public Securities Act.

5                   **Section 22. REFUNDING REVENUE BONDS—RESOLUTION.**—At any regular  
6 or special meeting called for the purpose of issuing refunding revenue bonds, the board by a  
7 majority vote of all the members of the authority may adopt a resolution authorizing the  
8 issuance of the refunding revenue bonds.

9                   **Section 23. PUBLIC REGULATION COMMISSION JURISDICTION.**—

10                   A. An authority organized under the provisions of the Regional Water and  
11 Wastewater Authority Act is not subject to the jurisdiction of the public regulation commission  
12 or the terms and provisions of the Public Utility Act except as provided in Subsection B of this  
13 section.

14                   B. The authority may elect by resolution adopted by its board to become  
15 subject to the jurisdiction of the public regulation commission and to the terms and provisions  
16 of the Public Utility Act; provided, however, that in no event shall Sections 62-9-1 through  
17 62-9-7 NMSA 1978 apply to any authority making such an election.

18                   **Section 24. EFFECTIVE DATE.**—The effective date of the provisions of this act is  
19 July 1, 2007.

20

2025 RELEASE UNDER E.O. 14176