



## **CONGRESO DE LAS ACEQUIAS**

### **DELEGATE MEETING AGENDA**

Friday, November 15, 2024, 3:00pm – 4:30pm

1. Call to Order
2. Roll Call of Delegates
3. Approval of 2023 Congreso Minutes
4. Report on 2023 Resolutions
5. Approval of 2024 Resolution
  - a. Resolution 2024-1. Regions Resolution
  - b. Resolution 2024-2. Creating the Plan de las Acequias
  - c. Resolution 2024-3. Acequia Budget Priorities for the 2025 Legislative Session
  - d. Resolution 2024-4. Urging the Creation of an Acequia Disaster Program
  - e. Resolution 2024-5. Supporting Amendments to the Community Governance Attorney Act to Include Organizations that Serve Acequias
  - f. Resolution 2024-6. Supporting Protections for Clean Water in New Mexico and Creation of a State-based Surface Water Permitting System (update to Resolution 2023-05)
  - g. Resolution 2024-7. Opposing the Removal of Water Protections in the Cannabis Regulation Act
  - h. Resolution 2024-8. Reform of the Acequia Infrastructure Funding Process
  - i. Resolution 2024-9. Supporting the Acequia and Community Ditch Education Program
  - j. Resolution 2024-10. Strongly Urging Compliance with State Law and Protection of Due Process in Water Leasing (Reaffirming 2023-3)
  - k. Resolution 2024-11. Equitable and Responsible Water Management in the Middle Rio Grande
  - l. Resolution 2024-12. Supporting Legislation that Increases Monetary Penalties for Illegal Uses of Water
  - m. Resolution 2024-13. Urging Reform of Audit Compliance for Small Political Subdivisions (updated from 2022)
  - n. Resolution 2024-14. Supporting Acequia Education in Schools and Universities and Developing Curriculum, Teacher Networks, and Youth Internships
6. Election of Concilio Members
7. Announcements and Information Items
8. Adjourn



**CONGRESO DE LAS ACEQUIAS**  
2023 DELEGATE MEETING MINUTES  
November 17, 2023

1. **Call to Order.** The meeting was called to order by Harold Trujillo, President.
2. **Roll Call of Regions.**

Tier 1

- Cow Creek Acequia Association - Luciana Tapia
- Embudo Valley Regional Acequia Association - Terrence Martinez
- Jemez River Basin Coalition of Acequias - Juanita Revack
- La Asociación de las Acequias del Valle de Mora – Harold Trujillo/Max Garcia/Pamela Garcia/Antonio Medina
- La Asociación de las Acequias Nortenas de Rio Arriba - Norman Vigil
- Las Nueve Acequias del Rio Grande - Alfredo Montoya
- Rio Chama Acequia Association - Tim Seaman
- Rio de las Gallinas Acequia Association - Michelle Varner
- Pojoaque Valley Acequia Association - Anthony Garcia
- Rio Quemado, Rio en Medio, Rio Frijoles, Rio Santa Cruz Ditch Association - Ron Gallegos/Brian Martinez/Mary Esther Lujan
- Rio Santa Barbara Unified Acequia Association- Carlos Abeyta/Clyde Gurule
- Association of Community Ditches of the San Jose - Leon Tafoya
- South Valley Regional Acequia Association - William Zamora
- Taos Valley Acequia Association - Robert Martinez
- Rio Vallecitos/Rio Tusas/Ojo Caliente Acequia Association - Luis Pena
- Upper Hondo Water Users Association - Prescillano Torrez
- Las Comadres Caucus - Sylvia Vergara

Tier 2

- Cerro - Rachel Leon
- Questa - Danny Garcia
- Las Huertas - Caroline Kennedy
- La Joya - Matthew Saiz
- North Valley - Mark Frauenglass
- Rio Mimbres - Danny Roybal
- Anton Chico/Dilia/Tecolotito - Jose Lucero
- Santa Fe - Phil Bove

A **quorum** of delegates was determined.

3. **Approval of Agenda.** Motion to approve the agenda as presented and seconded. Motion **PASSES**.

5. **Approval of Resolutions.**

- **Resolution 2023-01** – Definition of Regions Motion to approve from Danny Roybal, 2nd by Tim Seaman. Resolution **PASSES**.
- **Resolution 2023-02 Supporting the Ohkay Owingeh Water Rights Settlement** of the parties in the Rio Chama Stream System. Summary by Darel Madrid. Discussion to amend the word implementation with draft in the last sentence. Harold Trujillo and Yolanda Jaramillo highlight the principle of repartimiento in the process. Motion to approve resolution as amended by Carlos Abeyta, 2nd by William Zamora. Resolution **PASSES**.
- **Resolution 2023-03 Strongly Urging Compliance with State Law and Protection of Due Process in Water Leasing.** Summary by Paula Garcia and Harold Trujillo. Comments by Presiliano Torrez, Yolanda Jaramillo. Motion to approve by Presiliano Torres, 2nd by William Zamora. Resolution **PASSES**.
- **Resolution 2023-04 Supporting Inclusion of Acequias in State and Regional Water Planning.** Summary by Paula Garcia. Comments by Harold Trujillo. Motion to approve by Danny Roybal, 2nd by Sylvia Vergara. Resolution **PASSES**.
- **Resolution 2023-05 Supporting Protections for Clean Water in New Mexico and Creation of a State-based Surface Water Permitting System** Summary by Paula Garcia. Motion to approve by Danny Garcia, 2nd by Ella Arellano. Resolution **PASSES**.
- **Resolution 2023-06 Supporting Initiatives to Address Challenges Related to Acequias and Real Estate Transactions.** Summary by Paula Garcia. Comments by delegates. Discussion about easement, liens and inheritance as part of the guidance. Motion to amend by Anthony Garcia, 2nd by Yolanda Jaramillo. Amendment **PASSES**. President Trujillo asks for a vote on the resolution as amended. Resolution **PASSES**.
- **Resolution 2023-07 – Supporting Legislation that Increases Monetary Penalties for Illegal Uses of Water** Summary by Paula Garcia. Comments by Don Bustos, William Gonzalez. Sylvia Vergara, Max Garcia, Ron Gallegos. Motion to table by Ron Gallegos, 2nd by Danny Roybal. Resolution is **TABLED**. Discussion on how to improve the resolution.
- **Resolution 2023-08 Supporting the Inclusion of Acequia Funding to the Land of Enchantment Conservation Legacy Fund** Summary by Paula Garcia. Motion to approve by Danny Roybal, 2nd by Presiliano Torres. Resolution **PASSES**.

6. **Election of Concilio.** Harold Trujillo thanked the Concilio members for their service. Alfredo Montoya presented a slate of three nominations, Don Bustos, Stephen Trujillo and Luis Pena. Motion to accept the three nominees by Alfredo Montoya. Harold Trujillo asked for additional nominations from the floor. There were none. Motion to cease nominations and approve by acclamation by Alfredo Montoya, 2nd by Darel Madrid. **ALL ELECTED**.
7. **Information Items and Announcements-** Paula Garcia reviewed the election process and welcomed the newest member, Luis Pena. Recognition of Antonio Medina’s service to the Concilio.
8. **Adjourn.** President Trujillo recessed the meeting.

## Resolutions Report - Progress on resolutions adopted in 2023

Date of Report: October 2024

Resolution Topic	Progress in 2024
1. Regions Resolution	
2. Ohkay Owingeh support for settlement	NMAA has sent a letter of support to be entered into the Senate record.
3. Water Leasing	OSE publicly announced there would be a rulemaking on water leasing in 2024. Nothing has been released yet. NMAA has communicated with OSE about our ongoing concern. Some PAs were approved in 2024 and NMAA brought them to the attention of the AG.
4. Water Planning	NMAA has met with ISC and has secured commitment to have an Acequia Water Planning Working Group. The group has not convened yet.
5. Clean Water	NMAA supported funding to establish a surface water permitting program. It was funded with \$7 million for NMED. NMAA has a representative on the Surface Water Advisory Panel, which is advising on legislation and rulemaking.
6. Real Estate Transactions	NMAA has submitted a proposal to UC Boulder for a group of students to conduct research, write findings, and develop policy recommendations.
7. Enforcement of penalties	THIS WAS NOT APPROVED – The resolution would have supported legislation increasing penalties for OSE enforcement orders. There were concerns about the OSE misusing this power against acequias.
8. Acequias in the Legacy Fund	This resolution supported adding acequias to the Legacy Fund through legislation. No actions have been taken on this item but it is ripe for a 60 day session.

## **Congreso de las Acequias**

Saturday, November 16, 2024

### **RESOLUTION 2023-01 – DEFINITION OF REGIONS**

BE IT RESOLVED by the Congreso de las Acequias that the following are defined for purposes of determining types of representation on the Congreso as provided for in the bylaws passed December 8, 2001 and updated December 6<sup>th</sup>, 2008.

#### **Type 1 Regions**

Cow Creek Regional Acequia Association  
El Rito Acequia Association  
Embudo Valley Regional Acequia Association  
Gallina/Capulin Acequia Association  
Gila Basin Irrigation Commission  
Jemez River Basin Coalition of Acequias  
La Asociación de las Acequias del Valle de Mora  
La Asociación de las Acequias Norteñas del Rio Arriba  
Las Nueve Acequias del Rio Grande  
Rio de Chama Acequia Association  
Rio de las Gallinas Acequia Association  
Pojoaque Valley Regional Acequia Association  
Rio Quemado, Rio en Medio, Rio Frijoles, Rio Santa Cruz Stream System Ditch Association  
Rio Santa Barbara Unified Acequia Association  
Association of Community Ditches of the Rio San Jose  
Rio Vallecitos, Rio Tusas, Ojo Caliente Acequia Association  
San Juan Agricultural Water Users Association  
South Valley Regional Acequia Association  
Taos Valley Acequia Association  
Upper Hondo Water Users Association

#### **Type 2 Regions**

Carnuel/Tijeras/San Antonio  
Cerro  
Estancia Valley  
La Cienega  
Las Huertas  
La Joya  
Nacimiento  
North Valley  
Rio Costilla  
Rio Pueblo  
Rio Las Trampas  
El Valle/Ojo Sarco  
Rio Sapello  
Rio Mimbres  
Upper Rio Pecos  
El Valle (Villanueva/Ribera)  
Tecolote  
Dilia/La Loma/Anton Chico/Tecolotito  
Puerto de Luna  
Questa  
Santa Fe  
San Cristobal  
Santa Teresita  
San Francisco  
Tesuque  
Truchas  
Tularosa

## **Resolution 2024-2 Creating the Plan de las Acequias\***

Whereas, we recognize the historic and profound role of acequias within our communities as institutions of culture, tradition, water governance, and self-determination;

Whereas, we acknowledge the work and contributions of acequia leaders past and present who have kept traditions alive and maintained continuity in acequia communities and helped to build the acequia movement through raising consciousness, enacting policy reforms protecting water, and building capacity to advocate for social justice,

Whereas, the roles of acequia officials are shifting as a reflection of the changing place of agriculture in modern society and the requirements of being a political subdivision of the state,

Whereas, acequias face unique challenges in regards to keeping the acequia flowing and thriving, particular with regard to the climate crisis and development pressures,

Whereas, it is critical for acequias to engage support the next generation of parcientes, and we support the succession of acequia leadership to the next generation, and

Whereas, our collective vision for the future of acequias is one that must be articulated and defined through a participatory process that includes intergenerational leadership.

Therefore be it resolved, the NMAA will facilitate the creation of an intergenerational *Plan de las Acequias*, to include dialogue, connection, mutual support, and engagement across communities and generations,

Be it further resolved that the *Plan de las Acequias* will honor the work of our ancestors and elders, articulate the challenges of our current moment in history, create action plans that empower our communities to adapt and thrive for the next 100 years;

Be it further resolved that an update on the *Plan de las Acequias* will be presented at every Congreso de las Acequias with updates on progress for years to come;

Be it further resolved, that this resolution be shared widely with acequias, communities, and allies.

*\* In 2015, the El Puente Caucus of the Congreso de las Acequias proposed a project to strengthen the acequia movement with a plan to build more connections and relationships statewide. This 2024 resolution is reviving the idea with greater urgency and commitment.*

**Resolution 2024-2**  
**Acequia Budget Priorities for the 2025 Legislative Session**

Whereas, New Mexico is home to over 700 acequias and community ditches that support livelihoods, culture, as well as community and ecosystem health in their respective communities;

Whereas, in the 2025 session of the New Mexico State Legislature, policymakers will enact a budget that includes short- and long-term investments in water, guided in part by the Governor's 50 Year Water Action Plan;

Whereas, acequia leaders have contributed to statewide water policy and budget recommendations including the Acequia Water Policy Working Group which contributed acequia policy recommendations to the 50 Year Water Action Plan and the Governor's Water Policy & Infrastructure Task Force in 2022-2023 resulting in a task force report;

Whereas, both of these historic documents include references to acequia policy and budget priorities that can form the basis for legislative action in the 2025 legislative session;

Whereas, NMAA's Infrastructure Team, which provides technical assistance on infrastructure planning, funding, and financial compliance has identified tens of millions of dollars of unmet needs in terms of acequia infrastructure projects;

Whereas, the Acequia and Community Ditch Infrastructure Fund (ACDIF) currently is appropriated \$2.5 million in recurring state funding. However, during the past two years, the ACDIF has been used to fund around \$6.5 million per year to acequia projects as a result of special appropriations from the State Legislature;

Whereas, NMAA's Disaster Team, which assists acequias with disaster response and recovery has identified tens of millions of dollars in unmet needs for acequia infrastructure repairs including the need for state matching funding to access federal and state disaster programs;

Whereas, federal disaster programs such as FEMA Public Assistance and USDA NRCS Emergency Watershed Program (EWP) require a 75/25 federal-local match for disaster funding. The lack of matching funding is a barrier to acequia participation in disaster programs and can result in a failure of state and federal agencies to support acequia recovery;

Whereas, NMAA convened an Acequia Adjudication Summit of acequia leaders and experts on challenges facing acequias and identified the need for more resources to be allocated to the Acequia and Community Ditch Fund (ACDF) to address the unmet need for legal defense and

experts in adjudication proceedings and negotiations over water right settlements as well as for implementation of water right settlements;

Whereas, through numerous requests for technical assistance, NMAA has documented unmet needs for infrastructure planning and funding, disaster response and recovery, financial compliance, and watershed restoration that can be met through several established programs through increased, recurring funding;

Whereas, funding to support acequia education, technical assistance, and youth education has been made available through the Acequia and Community Ditch Education Program (ACDEP), a line item in the budget for DFA Local Government Division, which supports NMAA's Acequia Governance Project as well as infrastructure and disaster technical assistance. More funds are needed to address growing demand and unmet needs;

Whereas, acequias are required to comply with the Tiered Reporting System of the Office of the State Auditor but lack the resources to procure professional Independent Public Accountants (IPAs) to prepare required reports for the OSA. In response the OSA has established a program to procure accountants to assist acequias, but the program is underfunded;

Whereas, the River Stewardship Program at New Mexico Environment Department awards grants for restoration projects that improve the health of rivers, including watershed restoration projects that benefit acequias. However, there is great unmet need for this funding, especially in areas impacted by wildfires;

Therefore, be it resolved, that the Congreso de las Acequias supports the following budget priorities:

1. Increase recurring funding for the Acequia and Community Ditch Fund (ACDF) at New Mexico Department of Agriculture, which is used to support acequias in the adjudication process, from a current level of \$800,000 to \$2 million per year;
2. Increase recurring funding for the Acequia and Community Ditch Infrastructure Fund (ACDIF) from \$2.5 million to \$5.0 million per year;
3. Special appropriation of \$10 million to the Interstate Stream Commission to be used to meet various needs of acequias: ACDIF, statewide projects, matching funding for federal programs, and emergency match funding for state and federal disasters;
4. Increase recurring funding for the Acequia and Community Ditch Education Program (ACDEP) from the current level of \$500k to \$750k.
5. Support the Office of the State Auditor request of \$500k for the AUP preparation services for small political subdivisions;
6. Support recurring funding for the River Stewardship Program and a special appropriation for watersheds impacted by post-fire flooding.



Be it further resolved that copies of this resolution be delivered to the New Mexico Acequia Commission, the Office of the State Engineer, the Interstate Stream Commission, state House of Representatives and Senate leadership, the New Mexico Attorney General, and Governor Lujan Grisham.

DRAFT

## **Resolution 2024-3**

### **Urging the Creation of an Acequia Disaster Program**

Whereas, wildfires and post-fire flooding have had a devastating impact on acequias and community ditches, with an estimated 150 acequias impacted since 2022;

Whereas, acequias have been severely damaged by post-wildfire burn scar flooding in which flood waters and debris flows destroyed diversion dams, ditch banks, headgates, flumes, culverts, and other infrastructure and ditches were filled with debris, all of which has left many acequias inoperable;

Whereas, acequias are eligible for state and federal disaster programs including FEMA Public Assistance, NM Department of Homeland Security and Emergency Management (DHSEM) Disaster Assistance, and NRCS Emergency Watershed Program (EWP);

Whereas, by law, each of these programs has a cost share requirement: FEMA has a 75/25 federal and/local cost share, DHSEM has a 75/25 state/local cost share, and NRCS EWP has a 75/25 federal/local cost share;

Whereas, the FEMA Public Assistance program and DHSEM Disaster Assistance Program are based on reimbursement of expenses, which makes the programs inaccessible to acequias;

Whereas, the NRCS EWP program does not require reimbursement and the program sponsors are responsible for procurement of contractors and overall project management;

Whereas, the cost of emergency debris removal and acequia infrastructure repairs can exceed a million dollars per acequia;

Whereas, the local cost share requirement makes these programs inaccessible to acequias since acequias generally have only a few thousand dollars in their bank accounts;

Whereas, the Hermit's Peak Calf Canyon (HPCC) disaster is unique because there is no cost share requirement and acequias are also eligible to file a claim with the HPCC Claims office to pay for damages not covered by FEMA or NRCS. However, all other disasters require a cost share;

Whereas, in 2022, the state began an innovative program to assist acequias with emergency debris removal following flash flooding and burn scar flooding (Dixon flooding, Black Fire, and HPCC) that utilized the NM Department of Transportation (NMDOT) as a mechanism to hire local contractors to remove debris;

Whereas, in this debris removal process, NMDOT costs were covered by state funds for state disasters or with a combination of federal and state funds for federal disasters, except for HPCC acequias which were covered with all federal funds;

Whereas, in the implementation of the NRCS EWP program, which covers both debris removal and structural repairs, the state cost share for the Black Fire was covered with state funds

available from a one-time special appropriation. HPCC acequias which were covered with all federal funds;

Whereas, an Acequia Task Force has met regularly for nearly two years to coordinate interagency response and communications. This has been a valuable process and resource and can be strengthened to address ongoing and future needs;

Whereas, in the past three years of working on disaster recovery, the NMAA has determined that there are significant gaps in disaster response and recovery:

1. **Technical Assistance:** Acequias need more technical assistance in addition to the services provided by FEMA, DHSEM, or NRCS. NMAA and our partner High Water Mark have assisted acequias but the volume of work has exceeded our capacity. This assistance is needed to navigate complicated agency processes and procedures.
2. **Cost Share Requirements:** There is great uncertainty regarding the non-federal cost share for disaster recovery projects. In all of the disasters of the past three years, agencies have cobbled together funding from various sources on an ad hoc basis and this has been in large part due to NMAA's advocacy. There is no clear plan for addressing current or future disasters.
3. **Uncertainty in Emergency Debris Removal:** Despite the fact that the NMDOT program has successfully completed multiple debris removal projects, there is inconsistency and instability in this program because of issues with FEMA reimbursements, barriers due to procurement, and other complications. This has caused delays of months and years.
4. **Inconsistency in Emergency Debris Removal:** While acequias impacted by state and federal disasters in 2022 were able to participate in the NMDOT debris removal program, there still has not been a debris removal program put in place for the DR 4795 disasters (Ruidoso and Rio Chama). This leaves an unfortunate gap in acequia disaster response and recovery.
5. **Structural Repair Delays:** Because NRCS was easier to navigate for acequias, most of them in the disasters since 2022 have opted to participate in EWP instead of FEMA PA. However, NRCS partners and sponsors lack capacity to do engineering design in a timely manner, thereby delaying acequia repair projects for years. Complications with procurement have delayed both engineering design and construction contracts.
6. **Lack of Local Capacity:** The NRCS EWP program requires that there be a local sponsor, usually a SWCD. However, the size and scope of disasters has exceeded local capacity for cost share and project management.
7. **Collaboration and Transparency:** There remain gaps in collaboration and transparency. It is not clear how resources are allocated to acequia disaster recovery, making it challenging for stakeholders to offer feedback. For example, FEMA reimbursements and procurements for EWP or NMDOT are delayed. This lack of information stifles problem-solving.

Therefore be it resolved, the Congreso de las Acequias urges the State Legislature to enable the establishment of an Acequia Disaster Program, to appropriate funds to cover the cost

share requirement for federal disaster programs, and to cover the cost of emergency debris removal;

Be it further resolved, that agencies including ISC, NMDOT, DHSEM, NRCS, and DFA collaborate to operate an Acequia Disaster program that is reliably available to acequias to respond to and recovery from state and federal disasters;

Be it further resolved, that through this program, agency partners use funding to meet cost share requirements for federal programs including FEMA PA and NRCS EWP and to provide efficient and timely acequia debris removal;

Be it further resolved, the state agency partners should develop an interagency agreement on the administration of the program so that there is a plan for future disasters and that acequias have certainty about how to ask for assistance;

Be it further resolved, that agency partners build upon the existing Acequia Task Force and strengthen collaborative relationships with each other and with NMAA including appropriate data sharing, coordination of assistance to acequias, and input into decision-making;

Be it further resolved, that the Congreso de las Acequias urges the State Legislature to appropriate funding that is earmarked for acequia disaster response and recovery and that agencies develop a plan for program delivery;

Be it further resolved, that the Congreso de las Acequias requests that Governor Michelle Lujan Grisham consider executive orders that are specific to acequia disaster response and recovery if other state funds are not readily available so that the Acequia Disaster Program have a reliable source of funding (in increments of \$750,000) as needed;

Be it further resolved, the Congreso de las Acequias urges state and federal officials to dedicate necessary resources for disaster recovery since the survival of acequias is at stake;

Be it further resolved that copies of this resolution be transmitted to Governor Michelle Lujan Grisham, the New Mexico Acequia Commission, the Department of Homeland Security and Emergency Management (DHSEM), Federal Emergency Management Agency (FEMA), USDA Natural Resource Conservation Service (NRCS), NM Association of Conservation Districts (NMACD), NM Department of Transportation (NMDOT), Department of Finance and Administration (DFA), House and Senate Leadership, and the New Mexico Congressional Delegation.

**Resolution 2024-5**  
**Supporting Amendments to the Community Governance Attorney Act to**  
**Include Organizations that Serve Acequias**

WHEREAS, the Community Governance Attorney Act (CGAA) (NMSA § 21-21Q-4) was established in 2019 to address the need for more attorneys who are trained to provide legal services to land grants, acequias, and colonias;

WHEREAS, the Act established a program at the UNM Law School in which third year law students are eligible to apply for the program and get financial assistance for tuition, and, in exchange, that student agrees to work either at the university or a non-profit in the service of land grants, acequias, and colonias for two years;

WHEREAS, the Act states that partnering non-profits should have a mission which is “to provide a range of free legal services to low-income New Mexico.” Additionally, it is required that the non-profit cover 50% of the cost of a full-time attorney position;

WHEREAS, Acequias are concerned about the lack of legal resources available to them and the need for legal assistance, representation for litigation, and expertise in mediation is growing;

WHEREAS, the current language of the Community Governance Attorney Act is too restrictive and allows only specific non-profit agencies to meet the requirements and requires a 50% cost share;

THEREFORE BE IT RESOLVED, that the Congreso de las Acequias supports amendments to the Community Governance Attorney Act to expand eligible non-profit employers to include qualified and experienced non-profit organizations providing free legal services to acequias, which would make New Mexico Acequia Association eligible;

BE IT FURTHER RESOLVED, that the Congreso de las Acequias supports amendments to the Community Governance Attorney Act that remove the 50% non-state fund match requirements for non-profit employers;

BE IT FURTHER RESOLVED, that copies of this resolution be delivered to the New Mexico Acequia Commission, the New Mexico Land Grant Council, state House of Representatives and Senate leadership, the New Mexico Attorney General, the Community Governance Attorney Commission, and Governor Lujan Grisham.

APPROVED BY THE CONGRESO DE LAS ACEQUIAS THIS DAY THE XX OF  
NOVEMBER 2024.

*\* The Community Governance Attorney Act outlines in NMSA (C)(4) that “The commission shall: (4) enter into contracts for expenditure of the fund for the purpose of providing community governance attorney services for acequias, land grants-mercedes and low-income residents of colonias on issues regarding the governance of colonias. The contracts shall be entered into with the university or with nonprofit organizations whose mission is to provide a range of free legal services to low-income New Mexicans. No contract shall provide funding in excess of one-half of a full-time community governance attorney position, and each contract shall be executed only with service providers that have secured sufficient matching nonstate funding to provide a full-time position,”*

DRAFT

**Resolution 2024-6**  
**Supporting Protections for Clean Water in New Mexico and Creation of a State-based**  
**Surface Water Permitting System (update to Resolution 2023-05)**

WHEREAS, clean water is vital to the health and well-being of communities in New Mexico and acequias are uniquely affected by potential contamination from wastewater effluent from towns and cities, stormwater and flash flooding, and a range of contaminants from mining, nuclear laboratories, ski areas and other industrial and commercial uses;

WHEREAS, New Mexico has unique challenges with regard to protecting clean water because of interpretation of the federal Clean Water Act during the past two decades resulting in different standards to determine which waterways are under the jurisdiction of the Clean Water Act;

WHEREAS, the most recent interpretation of the Clean Water Act has been through the *Sackett* decision, a US Supreme Court ruling stating that wetlands can only be defined as “navigable waters,” and therefore protected by the Clean Water Act, through a “relatively permanent” test in which wetlands have to be connected to surface waters that are under the jurisdiction of the Clean Water Act;

WHEREAS, this new “relatively permanent” test replaced a previous standard for Waters of the US (WOTUS) which was the “significant nexus” test, which extended protections of the Clean Water Act if there was a hydrological connection between wetlands, ephemeral streams, and intermittent streams from “navigable waters;”

WHEREAS, following the Sackett Decision, the Environmental Protection Agency (EPA) and the Army Corp of Engineers (USACE) enacted a new rule to interpret the Clean Water Act. This new rule narrows the coverage of protected waters and only protects wetlands that have a “continuous surface water connection” to other covered waters, while the previous WOTUS Rule covered wetlands that were “bordering” or “neighboring.”

WHEREAS, these new limitations on clean water protections for wetlands have raised concerns about the protection for ephemeral and intermittent streams. Approximately 96% of New Mexico’s streams and rivers are ephemeral and intermittent;

WHEREAS, ephemeral waters are ecologically and hydrologically significant in New Mexico, helping to recharge aquifers used for drinking water making New Mexico disproportionately impacted by the new WOTUS Rule;

WHEREAS, New Mexico does not currently have a state surface water permitting program to fall back on like other states to protect our wetlands and ephemeral and intermittent streams and

the New Mexico Environment Department has received resources in the form of a special appropriation to establish a permitting program;

WHEREAS, the New Mexico Environment Department is seeking input on statutory changes to the New Mexico Water Quality Act as well as rulemaking to establish a surface water permitting program;

WHEREAS, the state rules for surface water permitting will regulate discharges into Waters of the US (WOTUS) and will regulate discharges into waters where there will be a gap in federal regulation, whereby those waters will be defined as Waters of the State;

WHEREAS, the federal Clean Water Act has long-standing, detailed exemptions for agricultural activities in section 404(f), which explicitly exempts construction and maintenance of irrigation ditches, and an additional guidance letter further defines this exemption;

WHEREAS, acequia construction projects, which involve replacements of diversion dams on rivers, have routinely been considered exempt from 404 permits and numerous acequia projects have been completed without any requirement to obtain a 404 permit;

WHEREAS, acequias divert from both Waters of the US, which are rivers with a continuous water flow, and also Waters of the State, which are rivers that flow intermittently. Many acequias also are downstream from ephemeral water courses and wetlands;

WHEREAS, a surface water permitting system for point source discharges provides a level of protection for acequias which are at risk of contamination from industries and municipalities;

WHEREAS, while regulation of industrial and municipal discharges is vitally important to acequias, it is also important to ensure that the agricultural exemptions in the federal Clean Water Act are also included in New Mexico's Water Quality Act;

THEREFORE BE IT RESOLVED, that the Congreso de las Acequias supports the development of a state surface water permitting program to help protect rivers and streams, both perennial and intermittent, in addition to wetlands and ephemeral waterways, that are the lifeblood of our acequias and our traditional ways of life;

BE IT FURTHER RESOLVED that the Congreso de las Acequias supports a base budget increase and special appropriations for the upcoming 2024 state Legislative Session for the New Mexico Environment Department (NMED);



BE IT FURTHER RESOLVED that the New Mexico Water Quality Act, which is the statutory vehicle through which a surface water permitting program will be established, should include clear and explicit agricultural exemptions in the same way that they are defined in the federal Clean Water Act;

BE IT FURTHER RESOLVED that the Clean Water Act also include language that prohibits discharges into acequias, provided that acequias are able to conduct maintenance, construction, and operations as needed;

BE IT FURTHER RESOLVED, that copies of this resolution be transmitted to the New Mexico Acequia Commission, the New Mexico Land Grant Council, the New Mexico Environment Department Secretary, state House of Representatives and Senate leadership, the New Mexico Attorney General, Governor Lujan Grisham, and the New Mexico Congressional Delegation.

APPROVED BY THE CONGRESO DE LAS ACEQUIAS THIS DAY THE 16th OF NOVEMBER 2024.

**Resolution 2024-7**  
**Opposing the Removal of Water Protections in the Cannabis Regulation Act**

Whereas, the Cannabis Regulation Act, NMSA § 26-2C-7, was enacted in 2021 and it legalized the production and retail sale of recreational marijuana;

Whereas, a broad coalition of organizations advocated effectively to include provisions in the Cannabis Regulation Act intended to ensure accountability in the use of water by the emerging industry of cannabis production;

Whereas, the rationale for the added water protections was that the medical marijuana industry was characterized by several examples of illegal water uses, such as pumping water directly from rivers, using residential water from community water systems, using domestic wells for commercial production, and other problems;

Whereas, additionally, acequia communities are concerned about the impacts of cannabis production in their communities and they seek to ensure transparency in new uses of water in their communities, including in the form of water transfers and water leases;

Whereas, the Cannabis Regulation Act\*, as enacted, requires that cannabis producers before being granted a license must demonstrate that the applicant has a legal right to a commercial water supply, water rights or another source of water;

Whereas, according to the Act, evidence of a legal right of water is in the form of documentation from the office of the state engineer of a valid water right or from a water provider that the use of water for cannabis production is compliant with that water provider's rules;

Whereas, a number of industry representatives and policymakers have expressed concern that the water protection requirements are burdensome and that they hamper economic development;

Whereas, several acequias have been impacted by cannabis production in their communities and they have expressed the importance of ensuring the validity of water rights and the need for transparency in these changes in local water uses;

Whereas, Acequias continue to support the protections outlined in the Cannabis Regulation Act that hold applicants and licensees accountable and ensure that the applicant or licensee is not unlawfully taking surface or groundwater and impairing existing water rights, owners, or unlawfully taking water from a water provider;

Therefore be it resolved, the Congreso de las Acequias supports the water protections currently included in the Cannabis Regulation Act that hold applicants and licensees accountable and that ensure that the applicant or licensee is not unlawfully taking surface or groundwater and impairing existing water rights or unlawfully taking water from a water provider;

Be it further resolved that the Congreso de las Acequias opposes the removal of CRA's critical water protection requirements as it would endanger Acequias by allowing the commercial cannabis production industry to be able to obtain licenses without demonstrating that they have a

legal right to a commercial water supply, water rights or another source of water sufficient to meet their water needs and without providing the necessary notice to parties involved;

Be it further resolved that copies of this resolution be delivered to the New Mexico Acequia Commission, the Office of the State Engineer, the Interstate Stream Commission, state House of Representatives and Senate leadership, the New Mexico Attorney General, and Governor Lujan Grisham.

APPROVED BY THE CONGRESO DE LAS ACEQUIAS THIS DAY THE XX OF  
NOVEMBER 2024.

\*Cannabis Regulation Act outlines in § 26-2C-7.B(3) that “[i]n carrying out its commercial cannabis activity licensing duties, the division shall: (3) Require as a condition of licensing pursuant to the Cannabis Regulation Act that the applicant demonstrate that the applicant has a legal right to a commercial water supply, water rights or another source of water sufficient to meet the water needs as determined by the division related to the license as evidenced by documentation from the office of the state engineer of a valid water right or from a water provider that the use of water for cannabis production is compliant with that water provider’s rules,” and

**Resolution 2024-8**  
**Reform of the Acequia Infrastructure Funding Process**

WHEREAS, efficient and well-functioning acequia infrastructure is vital to ensure availability of irrigation water for farms, ranches, gardens, orchards, and pastures and to support local and regional agricultural economies and traditional ways of life into the future for generations to come;

WHEREAS, in hundreds of acequias across the state, acequia infrastructure, including the earthen ditches, diversion dams, headgates, and other elements, needs improvements, repairs, and replacements in order to efficiently deliver water to parciantes who own historic water rights;

WHEREAS, the current process of funding acequia infrastructure is not meeting the needs in our communities for several reasons including:

1. The current process is a piecemeal approach that funds one acequia in isolation of neighboring acequias on a shared stream system,
2. The current funding sources are inadequate to meet the need for impactful infrastructure investment that benefits the acequia system as a whole,
3. Because of their status as volunteers, acequias lack capacity to navigate funding programs, to implement effective project management, and to ensure financial compliance,
4. Bottlenecks in the process, such as a lack of resources for planning and engineering design, limit the number of acequias that can request funding for construction;
5. Increasing numbers of disasters are straining existing limited resources for acequia infrastructure;

WHEREAS, a review by NMAA of infrastructure requests for the past two fiscal years revealed tens of millions of dollars per year of unmet need and this estimate does not include acequias that have not asked for assistance;

WHEREAS, the only statewide recurring stream of funding for acequias is the Acequia and Community Ditch Infrastructure Fund with \$2.5 million annually. Individual acequias may apply for Capital Outlay but that source is very limited in comparison to the need and it often results in incomplete projects;

WHEREAS, federal funding sources are very uncertain. The Army Corp of Engineers Acequia Program does not have a reliable budget and the NRCS Resource Conservation Partnership Program has many challenges and limitations;

WHEREAS, there is a growing need for acequia technical assistance for disaster recovery, regional mapping and assessments, engineering design and cost estimates, resources for planning and project management, and financial compliance;

WHEREAS, there are models to learn from that could possibly be applied to acequia infrastructure funding:

1. The New Mexico Higher Education Department has a process in which each institution has access to resources for planning and developing cost estimates to request funding for design and construction phases. The state holds hearings, identifies needs and priorities, and assembles a list that is incorporated into the statewide budget framework;
2. The NRCS EWP program is administered in a manner that is based on a geographic area with a local sponsor. That sponsor manages the entire project from assessment, planning, design, construction, and overall project management such that the acequia is not tasked with the administrative burden of infrastructure projects;
3. In some areas of the state, Soil and Water Conservation Districts play a key role in acequia infrastructure development with engineering design technical assistance and construction funding or by serving as fiscal agents. Counties have also served as fiscal agents;

WHEREAS, there are 700 acequias in the state and a statewide infrastructure assessment is not feasible in the short-term. However, developing regional infrastructure assessments and plans is an approach that could be used in the next one to three years and it could dovetail with regional water planning;

WHEREAS, an Acequia Funding Coordination group, including ISC, OSE, and DFA representation along with the New Mexico Acequia Association and the New Mexico Acequia Commission has been having regular meetings to analyze challenges and identify potential solutions;

WHEREAS, Senator Ben Ray Lujan has convened a working group on acequia policy and funding needs that includes both state and federal agencies and that meets quarterly;

THEREFORE BE IT RESOLVED, that the Congreso de las Acequias supports the ongoing work of the Acequia Funding Coordination group and requests that specific proposals be developed for presentation to the Water and Natural Resources Legislative Interim Committee by the spring of 2026;

BE IT FURTHER RESOLVED that the Congreso de las Acequias requests that NMAA staff, the New Mexico Acequia Commission, and other subject matter experts develop a concept paper for reform of acequia infrastructure funding to inform the work of the Acequia Funding Coordination group and Senator Lujan's working group;

BE IT FURTHER RESOLVED that this concept paper provide a framework for a regional approach to infrastructure funding that empowers local leaders to request larger amounts of funding based on completed engineering designs, credible cost estimates, and projects that are ready for construction funding;

BE IT FURTHER RESOLVED, that copies of this resolution be transmitted to the New Mexico Acequia Commission, the New Mexico Land Grant Council, the Office of the State Engineer, the Interstate Stream Commission, state House of Representatives and Senate leadership, the New Mexico Attorney General, Governor Lujan Grisham, and the New Mexico Congressional Delegation.

APPROVED BY THE CONGRESO DE LAS ACEQUIAS THIS DAY THE 15th OF  
NOVEMBER 2024.

**Resolution 2024-9**  
**Supporting the Acequia and Community Ditch Education Program**

WHEREAS, the Acequia and Community Ditch Education Program (ACDEP) was created by the late Senator Carlos Cisneros and the late Speaker of the House of Representatives Ben Lujan as a recurring item in the DFA Local Government Division budget in 2007;

WHEREAS, this program has been a source of support for NMAA's Acequia Governance Project and Acequia Youth Project since 2007 through a contract with DFA Local Government Division;

WHEREAS, this vital program has been the basis for technical assistance provided by NMAA to over 500 acequias on bylaws, infrastructure, easements, other governance matters, disaster recovery, youth education, and community education;

WHEREAS, the need for this program has grown with the demand for acequia education and technical assistance as well as community and youth education;

WHEREAS, the program is included in the state budget but is not a program that is codified in state government.

THEREFORE BE IT RESOLVED, the Congreso de las Acequias supports continuation of this program, additional resources for the program, and codification to establish it for long-term availability to acequias;

BE IT FURTHER RESOLVED, that copies of this resolution be transmitted to the New Mexico Acequia Commission, state House of Representatives and Senate leadership, the New Mexico Attorney General, Governor Lujan Grisham.

**Resolution 2024-10**  
**Strongly Urging Compliance with State Law and**  
**Protection of Due Process in Water Leasing (Reaffirming 2023-3)**

WHEREAS, the New Mexico Acequia Association has been advocating for protection of due process provisions in the Water Use Lease Act since 2014 when the acequias in the Upper Hondo filed numerous protests to applications granted by the OSE for “immediate use” through a procedure entitled “preliminary approval” and passed resolutions in support of due process and in opposition to the administrative practice of “preliminary approval” in 2014, 2015, and 2021;

WHEREAS, New Mexico statutes require a permit from the OSE before water can be put to beneficial use. Before granting a permit, the State Engineer must consider impairment of existing water rights, conservation of water, and public welfare;

WHEREAS, new appropriations or changes in point of diversion, place of use, or purpose of use are subject to public notice, opportunity to protest, and mandatory public hearing on protested applications. These requirements apply to new appropriations of surface or groundwater, water transfers involving surface or groundwater, and water leases;

WHEREAS, the Water Lease Use Act was enacted in 1967 and defines the process of water leases like any other water transfer, which specifically requires public notice, opportunity to protest, and mandatory public hearing on protested applications;

WHEREAS, in 2005, the OSE enacted the Surface Water Regulations which state that the procedure for filing a lease application shall be the same as for any other application for water transfers or new/supplemental wells, including changes in point of diversion, purpose of use, or place of use;

WHEREAS, in 2010, the OSE began an administrative practice of granting “preliminary approval” to water lease applications in conflict with state statute and the Surface Water Regulations of the agency. By granting “preliminary approval” to water use lease applications, the OSE failed to provide public notice, opportunity to protest, and mandatory public hearings on protested applications prior to allowing “immediate use” of water;

WHEREAS, in 2015, the OSE granted preliminary approval to three water lease applications to the Village of Ruidoso, after which over 300 protests by downstream irrigators and acequias were filed. In the years that followed, acequias would be some of the most vocal critics of the OSE’s practice of preliminary approval;

WHEREAS, in 2019, the OSE granted preliminary approval to seven applications by Intrepid to use old mining water rights for the oil and gas industry. The application was protested by Carlsbad Irrigation District, Pecos Valley Artesian Conservancy District, Otis Mutual Domestic



Water Consumers Association, and the Interstate Stream Commission over concerns about impacts to compact deliveries to Texas and related impacts;

WHEREAS, Carlsbad Irrigation District and Otis Mutual Domestic Water Consumers Association proceeded to file a Writ of Mandamus with the 5<sup>th</sup> Judicial District stating that the permits granted via preliminary approval violated state law. Judge Romero ruled against the OSE and commanded the State Engineer to cancel the permits;

WHEREAS, in February 2020, the 5<sup>th</sup> Judicial District Court found that the State Engineer's practice violated both the Water-Use Leasing Act and the state engineer's implementing regulations and the practice deprived existing priority water rights owners of the statutorily required public hearing.

WHEREAS, despite the ruling in the 5<sup>th</sup> Judicial District, the OSE continued to grant preliminary approval to water lease applications outside the 5<sup>th</sup> Judicial District in significant numbers;

WHEREAS, in January 2023, the Attorney General stated the following: "Our determination that the State Engineer cannot lawfully grant "preliminary" approval of changes in use or location of water rights is based on the plain language of the Water Use Lease Act and supported by statutory interpretation and considerations of due process. The law does not allow for the State Engineer to circumvent procedures and protections clearly defined in statute, even if temporary in nature.";

WHEREAS, the Attorney General Opinion stated that there is no explicit or clearly implicit authority for the State Engineer to grant preliminary approval in state statutes or agency regulations and that preliminary approval may violate constitutional due process;

WHEREAS, during the 2023 session of the New Mexico State Legislature, Senator Peter Wirth and Representative Christine Chandler sponsored HB 121 to clarify existing language in the Water Use Lease Act that applications were subject to public notice, opportunity to protest, and mandatory public hearing on protested applications. Initially opposed by the State Engineer, a compromise was reached with language to create in statute an expedited hearing process that retained due process protections. However, the legislation did not pass;

WHEREAS, despite the 5<sup>th</sup> Judicial District ruling and the Attorney General Opinion stating that preliminary approval is unlawful, the OSE continued to grant preliminary approval to numerous applications for substantial amounts of water in 2023;

WHEREAS, the NMAA has raised concerns with the OSE and the Attorney General about the ongoing practice of granting preliminary approval for water lease applications because of the due process implications, the past impacts on acequia communities, and the potential for future impacts to senior water rights, acequias, aquifers, and rivers;

WHEREAS, the OSE has announced that the agency will be promulgating a rule regarding water leasing and is seeking input on concepts. The current conceptual outline includes an option for codification of a process for granting “immediate use” to certain applications prior to publication and opportunity for protest;

THEREFORE BE IT RESOLVED, the Congreso de las Acequias calls upon the Office of the State Engineer comply with the Water-Use Leasing Act and refrain from unlawfully granting immediate use of water for a water lease application before due process requirements are met;

BE IT FURTHER RESOLVED the Congreso de las Acequias continues to oppose legislation or administrative rules that remove due process protections in the water leasing process;

BE IT FURTHER RESOLOVED the Congreso de las Acequias maintains that any rulemaking by the State Engineer with regard to water leasing should maintain due process protections including public notice, opportunity to protest, and mandatory public hearing on protested applications;

BE IT FURTHER RESOLVED that the Congreso de las Acequias recommends that any administrative rulemaking should be consistent with state statutes as well as the findings and conclusions of law in the 2020 Intrepid Decision and the guidance provided by the state Attorney General in Opinion No. 2023-01;

BE IT FURTHER RESOLVED that the Congreso de las Acequias urges policymakers to affirm that any future regulations or legislation retain requirements for public notice and opportunity to protest. These due process requirements must be provided at the beginning of the WULA application process to ensure affected acequias and other communities can raise concerns about impairment, conservation, or public welfare;

BE IT FURTHER RESOLVED that copies of this resolution be delivered to the New Mexico Acequia Commission, the Office of the State Engineer, the Interstate Stream Commission, state House of Representatives and Senate leadership, the New Mexico Attorney General, and Governor Lujan Grisham.

APPROVED BY THE CONGRESO DE LAS ACEQUIAS THIS DAY THE 15th OF NOVEMBER 2024.

**Resolution 2024-11**  
**Equitable and Responsible Water Management in the Middle Rio Grande**

WHEREAS, on August 26, 2024, the Interstate Stream Commission Director informed the Legislative Water and Natural Resources Interim Committee of the then- 2024 Rio Grande Compact status, which equaled 121,500 acre-feet of debit, owed by the Middle Rio Grande (MRG).

WHEREAS, on June 28, 2024, the Office of the State Engineer wrote a letter to the Middle Rio Grande Conservancy District (MRGCD), summing it up with: "Ultimately, ... reducing depletions and managed shortage sharing, as well as improving infrastructure, are the best avenues for maintaining Compact compliance and avoiding catastrophic curtailment." That message is germane to all in the MRG.

WHEREAS, the MRGCD has proposed lining its ditches and canals, as well as requesting improvements to the Low Flow Conveyance Channel. Such actions are sure to impact other interests, not to mention the aquifer.

WHEREAS, the on-going Rio Grande Basin Study is to include strategies to counter the impacts of climate change. At the Fall 2024 All-Partners Meeting on October 9, 2024, the MRGCD presented an update of its activities towards completing the Rio Grande Basin Study. There was no similar report from the urban sector.

WHEREAS, included in that agenda was the Basin Study Modeling Overview. Currently, there is not a spatial component to the model. In other words, there is no link showing the impacts of moving water rights from one location to another.

WHEREAS, before more groundwater users and uses are allowed in the Middle Rio Grande, a robust depletions model should be developed and utilized by all. In that way, depletions can be tracked and reduced so as to comply with Compact and Treaty of Guadalupe Hidalgo obligations.

WHEREAS, the Office of the State Engineer has handed out some 232,000 acre feet a year of paper water permits to urban areas in the MRG. When put to use and their impacts appear as river flow depletions, those permits will require wet water rights to offset them. A large percentage of the permits have not been utilized to date. Full usage would represent a complete drying of non-Pueblo irrigated lands as it would require transfers from all currently irrigated lands with water rights to offset such paper permits.

WHEREAS, there are at least 80,785 acres of pre-1907 and 1927 Acequia rights in the MRG, in addition to Prior and Paramount-watered tribal lands.

WHEREAS, the Compact debit, together with the lack of storage available in El Vado Reservoir and climate change, has resulted in surface water users having less supply than usual.

WHEREAS, although there is decreased surface water supply, groundwater withdrawals have continued. It is easier to talk about shortage sharing when the users and uses are similar. However, as was painfully learned in the Lower Rio Grande, increasing withdrawals leads to increased river flow depletions.

WHEREAS, referring to mined groundwater, when poured in the Rio Grande after treatment, a "return flow" is a misnomer. The water is not returning to the aquifer from where it was pumped, so that hole continues to be enlarged as more is pumped, depleting future flows, and, in turn, requiring more water for offsets rather than enabling such water to be reused. Worse yet, those offsets may be junior to the pre-1907 rights being offset – further complicating water accounting problems in the region.

WHEREAS, increasing or even maintaining current depletions is unsustainable in light of the fact that river flows are already declining -- with a projected 25% less water in our rivers and recharging our aquifers by 2070, if not more and earlier.

WHEREAS, the State has acknowledged that the MRG was fully, if not over, allocated by 1907. And yet, since 1963, the State Engineer has awarded tens of thousands of acre feet of "vested" water rights to urban areas -- representing water used prior to the basin being declared in 1956 but mostly after 1907. Most importantly, depletions from such usage do not have to be offset.

WHEREAS, the water allocation to the reclaimed lands of the MRGCD combined with requirements of the Endangered Species Act have resulted over-appropriation in the Middle Rio Grande.

WHEREAS, it is clear that the MRG is headed for a train wreck.

THEREFORE, the Congreso de las Acequias supports the following action steps proposed by the South Valley Regional Association of Acequias:

1. Prior and paramount water rights of Pueblos and pre-1907 water rights of acequias must be included in regional water plans and water budgets and there should be meaningful engagement of such stakeholders rather than being told what to conserve. Plans for conserving water should include and respectfully engage senior water right owners.
2. MRGCD proposals to line ditches and canals and to make improvements to the Low Flow Conveyance Channel should consider impacts to other interests and to the aquifer;
3. With regard to the Rio Grande Basin Study, the urban sector should be involved in presenting options for how they will counter the impacts of climate change as MRGCD has already done;
4. With regard to the Basin Study Modeling Overview of the Rio Grande Basin Study, there should be a spatial component to the model so that when transfers are proposed, the impacts to acequias and the river system should be analyzed;
5. As part of a reduction in depletions program, the SE should require an offset for vested rights in the MRG for depletions subsequent to 1907;
6. The SE should recall or rescind a substantial portion of the unused outstanding paper water permits as they represent a collective liability for the Middle Rio Grande;

7. Any regional water model must include depletions and be spatially based. In preparation for the upcoming Regional Water Planning effort, the Water Resource Board of the Middle Rio Grande Council of Governments should fund such work or make a request for funding to support from the legislature.

BE IT FURTHER RESOLVED that copies of this resolution be delivered to the New Mexico Acequia Commission, Governor, House and Senate Leadership, Middle Rio Grande Conservancy District, and the Office of the State Engineer.

**Resolution 2024-12**  
**Supporting Legislation that Increases Monetary Penalties for Illegal Uses of Water**

WHEREAS, illegal uses of water for ponds, irrigation, or other uses, has detrimental impacts on acequias;

WHEREAS, acequias have limited enforcement powers as political subdivisions of the state and limited capacity and scope in how they exercise those powers;

WHEREAS, the State Engineer has enforcement powers based on the use of compliance orders and monetary penalties. However, the penalties are outdated and have not kept pace with the serious nature of violations of the Water Code nor have they kept pace with penalties of similar regulatory functions in state government;

WHEREAS, the OSE has proposed legislation to address gaps in the State Engineer's enforcement authority to ensure that the State Engineer has the appropriate tools to ensure compliance with water laws.

WHEREAS, the bill would amend Sections 72-2-18, 72-5A-12, and 72-12-14 to increase the maximum penalties for violations of these portions of the water code to amounts commensurate with the maximum penalties available to NMED for violations of the statutes it administers. The bill also would include automatic increases for these maximum penalties indexed to inflation;

WHEREAS, Section 72-2-18 contains a monetary penalty of \$100 per day, and does not become effective until after a compliance order becomes final. This penalty is too low, and too remote to be an effective deterrent. The bill would increase the maximum penalty to \$2,000 per day. By comparison, NMED can assess penalties of up to \$15,000 per day for violations of air quality permits;

WHEREAS, the \$100/day penalty amount was fixed in the original 1907 Water Code and has never been increased for inflation. In today's dollars, the original penalty of \$100/day would now be approximately \$3,000/day, which is similar to the maximum penalty being sought in the bill of \$2,000/day.

THEREFORE BE IT RESOLVED, that the Congreso de las Acequias supports more tools for enforcement of illegal diversions of water and other types of violations of the Water Code and supports legislation proposed by the Office of the State Engineer to update the monetary penalties that the agency can impose as part of their compliance orders;

BE IT FURTHER RESOLVED that copies of this resolution be delivered to the New Mexico Acequia Commission, the Office of the State Engineer, the Interstate Stream Commission, state House of Representatives and Senate leadership, the New Mexico Attorney General, and Governor Lujan Grisham.

APPROVED BY THE CONGRESO DE LAS ACEQUIAS THIS DAY THE 15th OF  
NOVEMBER 2024.

## **Resolution 2024-13**

### **Urging Reform of Audit Compliance for Small Political Subdivisions (updated from 2022)**

WHEREAS, in 2010, the State Legislature enacted updates to the Audit Act creating a tiered reporting system whereby political subdivisions under \$500,000 were allowed to submit financial reports in lieu of full audits to the Office of the State Auditor;

WHEREAS, financial reporting was defined based on tiered reporting with lower tiers having simpler reporting requirements;

WHEREAS, an executive order from 2013 required all political subdivisions receiving state funding to be compliant with financial reporting requirements;

WHEREAS, NMAA has been supportive of measures that ensure accountability for use of public funds for acequia infrastructure projects and has offered suggestions to ensure requirements are not overly burdensome for compliance by acequias and other small political subdivisions;

WHEREAS, several years ago, the State Legislature provided funding to the Office of the State Auditor for a small grant program for political subdivisions to get assistance with covering the costs of their AUP reports;

WHEREAS, while this assistance fund was a step in the right direction, there remained barriers to acequia compliance through this approach including a burdensome application process, inadequate funding to meet the needs for IPAs, inadequate numbers of IPAs available for small contracts for individual acequias, and a generally difficult procurement and reporting process;

WHEREAS, more recently, the Office of the State Auditor initiated the small political subdivision program that extends assistance a step further by obtaining special appropriations from the state legislature to fund the OSA to procure IPAs and then provide the IPA services to acequias who need to complete an AUP report;

WHEREAS, while this new approach to assistance is an improvement because the OSA procures the IPAs, there remain gaps and barriers for acequias including a lack of IPAs, delays in obtaining IPA services, and ongoing challenges for acequias in working with IPAs to complete the AUPs;

WHEREAS, acequias have been vigilant in achieving compliance with the Tiered Reporting System, but are also reporting that compliance is placing a strain on the capacity of their volunteers, has become a deterrent to recruitment of new officers, and has led their acequias to reconsider asking for state funding for much needed infrastructure;

WHEREAS, some local government entities have been willing to be fiscal agents for acequias but only on the condition of getting paid an administrative fee. Acequias generally do not have the funds to pay an administrative fee and infrastructure funding cannot be used for administrative expenses;

WHEREAS, other models for funding infrastructure, project management, and financial compliance should be explored including funding a government entity or agency to manage all aspects of the projects, similar to the manner in which certain disaster projects are administered;

THEREFORE BE IT RESOLVED, the Congreso de las Acequias supports an initiative by the State Auditor to create a task force that includes representatives from small political subdivisions to make recommendations to the Office of the State Auditor and the State Legislature for policies that are more responsive to the needs of small political subdivisions;

BE IT FURTHER RESOLVED, that Congreso de las Acequias requests the State Auditor and agencies involved with acequia infrastructure funding such as the Interstate Stream Commission identify ways to make the existing process more streamlined and explore options for how to administer projects differently to relieve the burden of project management and financial compliance from acequias;

BE IT FURTHER RESOLVED, that Congreso de las Acequias requests that the State Legislature appropriate increased funding for the OSA special assistance fund for small political subdivisions and for dedicated staff to assist small political subdivisions;

BE IT FURTHER RESOLVED, that a copy of this resolution will be forwarded to the New Mexico Acequia Commission, the Interstate Stream Commission, the State Auditor, the Governor, and House and Senate Leadership.



**Resolution 2024-14**  
**Supporting Acequia Education in Schools and Universities**  
**and Developing Curriculum, Teacher Networks, and Youth Internships**

WHEREAS, acequias have supported life and community well-being in New Mexico for centuries and multiple generations;

WHEREAS, for generations, traditional knowledge about acequias has been passed on through cultural practices, shared work, language, and oral history;

WHEREAS, educational institutions have been based on a model of learning that has not been inclusive of the contributions of acequias to the historical development of our communities nor of the significance of acequias in terms of land and water stewardship, agriculture, cultural identity, and social cohesion;

WHEREAS, acequia communities are rich with keepers of traditional knowledge, educators, community leaders, and youth who together can co-create a more inclusive model of education based on experiential learning and critical thinking;

THEREFORE BE IT RESOLVED that the Congreso de las Acequias believes that Acequias should be an integral part of education in New Mexico, and students should be able to learn about Acequias and integrate them into our schools and curriculum.

1. BE IT FURTHER RESOLVED that the Congreso de las Acequias will support the following: Building capacity for Universities, Community Organizations, Public Schools, and the community to continue to create and implement curriculum about Acequias;
2. Creating access for public schools and universities to use Acequias on their campuses and integrate Acequia use into our curriculums and educational landscapes.
3. Establishing programs to offer internships and paid positions for youth to work with Acequias, support local farmers, and develop their own agricultural projects;
4. Developing a state-wide educator network that supports Acequia Education being implemented into curriculum and schools and will help train and support teachers and educators that want to integrate Acequia Education into their classrooms, schools, and campuses.
5. Working together to generate funds and resources that create positions that can integrate Acequia Education in our public schools, universities, and community organizations, that can work with youth and continue our traditions around land, water, and food.

BE IT FURTHER RESOLVED that copies of the resolution be delivered to the New Mexico Acequia Commission, the Governor, House and Senate Leadership, etc.