



OFFICE OF THE STATE AUDITOR

Hector H. Balderas

Ponderosa Community Ditch

Independent Accountant's Report on Applying Agreed-Upon Procedures

Fiscal Year Ended September 30, 2011

Ponderosa Community Ditch
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Fiscal Year Ended September 30, 2011

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Ponderosa Community Ditch
Official Roster
Fiscal Year Ending September 30, 2011

Board of Commissioners

Lori Perea, President

Peter Trujillo, Vice President

Diana Clark Secretary/Treasurer

Mayordomos

Ramon Trujillo

Administrative Staff

Gloria Garcia, Office Manager



Hector H. Balderas
State Auditor

State of New Mexico
OFFICE OF THE STATE AUDITOR

Carla C. Martinez
Deputy State Auditor

Independent Accountant's Report on Applying Agreed-Upon Procedures

Lori Perea, President
and Members of the Board of Commissioners
Ponderosa Community Ditch
P.O. Box 167
Ponderosa, New Mexico 87044

We have performed the procedures enumerated below for the Ponderosa Community Ditch (Acequia) for the year ended September 30, 2011, solely to assist in determining compliance with the provisions of the Audit Act for a Tier 3 entity per Section 12-6-3 B (3) NMSA 1978 and Section 2.2.2.16 NMAC. The procedures were agreed to by the Acequia through the New Mexico Office of the State Auditor. The Acequia's management is responsible for its accounting records and the subject matter. This agreed upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of the parties specified in this report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose. Our procedures and findings are as follows:

1. Test all state-funded capital outlay expenditures.

- a. Determine that the amount recorded as disbursed agrees to adequate supporting documentation. Verify that amount, payee, date and description agree to the purchase order, contract, vendor's invoice and canceled check, as appropriate.

All of the cash disbursements for the capital award projects were tested. The amounts disbursed agreed with the supporting documentation. The amount, payee, date and description of the purchase agreed with the vendor's invoice, contract and canceled check.

- b. Determine that cash disbursements were properly authorized and approved in accordance with the budget, legal requirements and established policies and procedures.

The Acequia is not required to submit a budget to the Department of Finance and Administration – Local Government Division. However, a project budget is required to be submitted by the terms of the agreements with the NM Office of the State Engineer Interstate Stream Commission (OSE/ISC) to the OSE/ISC. The cash disbursements tested were properly authorized and approved in accordance with the project budget, legal requirements and the Acequia's procurement policies and procedures.

- c. Determine that the bid process (or request for proposal process if applicable), purchase orders, contracts and agreements were processed in accordance with the New Mexico Procurement Code and State Purchasing Regulations (Section 13-1-28 through 13-1-199

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NMSA 1978 and 1.4.1 NMAC).

For the work done on the ditch repair projects, the Acequia advertised, obtained bids and quotes where necessary, and entered into contracts and purchase agreements in accordance with its procurement policies and applicable state laws and regulations with the exception of the instances of noncompliance described in Finding 2011-02.

- d. Determine the physical existence (by observation) of the capital asset based on expenditures to date.

The repair work was physically observed during a tour of the Ponderosa Lower Vallecito Dam and the Ponderosa Community Ditch on November 8, 2013.

- e. Verify that status reports were submitted to the state agency per terms of agreement and amounts in the status report agree with the general ledger and other supporting documentation.

The amounts on the reimbursement forms agreed with the general ledger and other supporting documentation. Status reports were not required by the terms of the agreements with the OSE/ISC. The Acequia submitted the required budgets and reimbursement forms for the projects to the OSE/ISC.

2. If the project was funded in advance, determine if the award balance (and cash balance) appropriately reflects the percentage of completion based on the project schedule and expenditures to date.

The projects were not funded in advance. The Acequia was required to submit reimbursement forms to the OSE/ISC upon completion of work on the project. The Acequia paid for its project expenditures after the Acequia received checks from the OSE/ISC.

3. If the project is complete, determine if there is an unexpended balance and whether it was reverted per statute and agreement with the grantor.

As shown in Exhibit 1 on page 6, the Acequia expended a total of \$251,814.59 in the fiscal year ended September 30, 2011 and expended \$6,197.92 in the previous year. For each appropriation, the cash amounts received equaled the amount of expenditures. Therefore, the Acequia had no unexpended cash balance to revert.

4. Determine whether cash received for the award was accounted for in a separate fund or separate bank account that is non-interest bearing if so required by the capital outlay award agreement.

The checks received from the OSE/ISC were deposited in the Acequia's checking account at Jemez Valley Credit Union. The capital outlay award agreement did not require a separate fund or separate non-interest bearing bank account to deposit the amounts received.

5. Determine whether reimbursement requests were properly supported by costs incurred by the recipient. Determine whether the costs were paid by the local public body prior to the request for reimbursement.

The Acequia filed Request for Reimbursement Forms with the OSE/ISC based on unpaid invoices submitted to the Acequia by vendors who had performed work on Acequia projects. The costs were not paid by the Acequia prior to the request for reimbursement because the Acequia did not have the

necessary funds. The Acequia paid for its project expenditures after the checks were received from the OSE/ISC. A finding was not considered necessary since the Acequia complied with the OSE/ISC's reimbursement procedures requirements.

6. If information comes to the IPA's attention (regardless of materiality) indicating any fraud, illegal acts, noncompliance, or any internal control deficiencies, such instances must be disclosed in the report as required by Section 12-6-6 NMSA 1978. The findings must include the required content per Section 2.2.2.10 (I)(3)(C) NMAC.

See Findings 2011-01 through 2011-02 on p. 7-8 of this report.

7. The report shall include the capital outlay amount awarded, amount received, amount expended, the remaining balance, and the actual legislation and effective dates for each capital outlay appropriation that meets the Tier 3 criteria.

See Exhibit 1 — Schedule of Capital Outlay Awards to Acequia on p. 6 of this report.

We were not engaged to and did not conduct an examination, the objective of which would be the expression of an opinion on the Tier 3 agreed upon procedures. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of management of the Acequia, the New Mexico State Auditor, the NM Office of the State Engineer, the NM Department of Finance and Administration — Local Government Division, and the NM State Legislature and is not intended to be and should not be used by anyone other than these specified parties.



Office of the State Auditor
November 8, 2013

Ponderosa Community Ditch
Exhibit 1 – Schedule of Capital Outlay Awards to Acequia
September 30, 2011

	Note 1	Note 2	<u>Total</u>
Amount Awarded for Project	\$280,000.00	\$50,000.00	\$330,000.00
Amount Received by Acequia	248,012.51	10,000.00	258,012.51
Amount Expended in Prior Years	(-0-)	(6,197.92)	(6,197.92)
Amount Expended Current Year	<u>(248,012.51)</u>	<u>(3,802.08)</u>	<u>(251,814.59)</u>
Remaining Balance	<u>\$ -0-</u>	<u>\$ -0-</u>	<u>\$ -0-</u>

Agreement Provisions

Note 1: **Acequia Capital Appropriation Project Agreement between the NM Interstate Stream Commission (NMISC) and the Ponderosa Community Ditch;** Original Contract - Pursuant to the laws of 2007 Chapter 341, Section 268 (STB Fund) and Chapter 42, Section 58, Paragraph 9 (GF) and Amendment No. 1 per Article 14, of the Original Contract allows for amendment of the contract

Legislative Authority: Original Contract - NM Laws of 2007, Chapter 341, Section 268 (STB), and Chapter 42 Section 58, Paragraph 9 (GF), and Amendment No. 1 to the Original Contract

Date of Agreement with NMISC: Original Contract – July 21, 2010 and Amendment No. 1 – May 13, 2011

Project Description: To plan, design, and construct improvements to the Lower Vallecito Dam owned by Ponderosa Ditch Association in Sandoval County, New Mexico.

Estimated Project Cost: \$280,000

Agreement termination/reversion date: June 30, 2011

Note 2: **Acequia Capital Appropriation Project Agreement between the NM Interstate Stream Commission (NMISC) and the Ponderosa Community Ditch**

Legislative Authority: NM Laws of 2008, Chapter 92, Section 57, Item 34 (GF)

Date of Agreement with NMISC: August 3, 2009

Project Description: To plan design and improve acequias in the Jemez Springs area of Sandoval County New Mexico.

Estimated Project Cost: \$50,000

Agreement termination/reversion date: July 1, 2012

**Ponderosa Community Ditch
Schedule of Findings and Responses
Fiscal Year Ending September 30, 2011**

Status of Prior Year Findings

Not applicable.

Current Year Findings

2011-01 Late Agreed-upon Procedures Report

Condition:

This agreed-upon procedures report for FY 2011 was not submitted to the NM Office of the State Auditor (OSA) no later than 5 months after the fiscal year-end.

Criteria:

Per Section 2.2.2.16(H) NMAC, "Local public bodies with a fiscal year-end other than June 30 must submit the agreed-upon procedures report no later than 5 months after the fiscal year-end."

Effect:

If the report is late, users of the report are not receiving timely information about the results of the agreed-upon procedures.

Cause:

According to State Audit Rule, Section 2.2.2.16.B NMAC, "Annually, the State Auditor shall provide local public bodies written authorization to proceed with obtaining services to conduct a financial audit or other procedures." The Acequia was unaware that by accepting and spending capital outlay money the Acequia would be required to have a Tier 3 engagement performed.

Recommendation:

The officers of the Acequia should read Section 2.2.2.16 NMAC of the State Audit Rule to understand the specific requirements and due dates for agreed-upon procedures. For future fiscal years, if the Acequia's annual revenue is less than \$50,000 and the Acequia expended at least 50% of, or the remainder of, a single capital outlay award, then the Acequia shall procure services of an IPA for the performance of a Tier 3 Agreed Upon Procedures engagement (Section 2.2.2.16B(3) NMAC). If the annual revenues of the Acequia exceed \$50,000, review Section 2.2.2.16 NMAC for the applicable requirements. If agreed-upon procedures are required for future fiscal years, take the necessary steps to ensure that the agreed-upon procedures report is submitted to the OSA no later than 5 months after the fiscal year-end.

Management's response:

The Agency has reviewed the above finding and will institute procedures to ensure compliance with the applicable rules.

**Ponderosa Community Ditch
Schedule of Findings and Responses
Fiscal Year Ending September 30, 2011**

2011-02 – Insufficient Supporting Documentation over Procurement

Condition:

In three instances totaling \$216,750 out of sixteen instances tested, the Acequia could not provide supporting quotes related to RFP for the engineer.

Criteria:

Capital Project Agreement pursuant to 2008 NM Laws, Chapter 92, Section 57, Item 34 (GF) states the Acequia will comply with the State Procurement Code and State Purchasing Regulations (Section 13-1-28 through 13-1-199 NMSA 1978 and 1.4.1 NMAC) and will keep files of all related procurement documents, including but not limited to, bids, advertisements, minutes of pertinent meetings, selection and award criteria, as well as contracts, subcontracts, and agreements.

Effect:

This will result in a violation of the New Mexico Procurement Code and State Purchasing Regulations (Section 13-1-28 through 13-1-199 NMSA 1978 and 1.4.1 NMAC).

Cause:

The Ponderosa Community Ditch submitted required bids and quotes to OSE/ISC, however, the Acequia did not keep or misplaced some copies of the quotes.

Recommendation:

The Acequia should implement policies and procedures pertaining to the application of the New Mexico Procurement Code and Purchasing Regulations and retention of all supporting documents for Capital Outlay appropriation.

Agency Response:

We submitted all bids/quotes to ISC for this project as required by the NM State procurement code. In the future the Ponderosa Community Ditch (Acequia) will retain copies of all documentation.

**Ponderosa Community Ditch
Exit Conference
Fiscal Year Ended September 30, 2011**

On November 8 2013, an exit conference was held with the following individuals to discuss the results of the agreed upon procedures and the contents of this report:

Ponderosa Community Ditch

Diana Clark, Secretary/Treasurer
Gloria Garcia, Office Manager

Office of the State Auditor

U. Chan Kim, CPA, Audit Manager