



OFFICE OF THE STATE AUDITOR

Hector H. Balderas

Acequia del Llano de San Juan de Nepumuceno

Independent Accountant's Report on Applying Agreed-Upon Procedures

For the Fiscal Year Ended December 31, 2010

Acequia del Llano de San Juan de Nepumuceno

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Acequia del Llano de San Juan de Nepumuceno

Official Roster

Fiscal Year Ending December 31, 2010

Board of Commissioners

Bonifacio Vasquez, President

Kristen Davenport, Secretary

Mary Mascarenas, Treasurer

Mayordomos

Otavio Griego

Administrative Staff

None



State of New Mexico
OFFICE OF THE STATE AUDITOR

Hector H. Balderas
State Auditor

Carla C. Martinez
Deputy State Auditor

Independent Accountant's Report on Applying Agreed-Upon Procedures

Bonifacio Vasquez, President
and Members of the Board of Commissioners
Acequia del Llano de San Juan de Nepumuceno
P.O. Box 56
Penasco, New Mexico 87553

We have performed the procedures enumerated below for the Acequia del Llano de San Juan de Nepumuceno (Acequia) for the year ended December 31, 2010, 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 and Section 6-6-2 (A) NMSA 1978. 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.

The cash disbursement for the capital award project was tested. The amount disbursed could not be agreed with the supporting documentation. This is the exception of noncompliance as described in Finding 2010-02 on page 8 of this report.

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

The cash disbursement tested was properly authorized and approved in accordance with budget, legal requirements and the Acequia's policies and procedures. However, Acequia de Chamisal y Ojito the fiscal agent for Acequia del Llano de San Juan Nepumuceno did not pay the Acequia's invoices directly to the vendor as required. Instead a check in the amount of \$15,000 was given to the Acequia to pay the contractor. This is the exception of noncompliance as described in Finding 2010-02 on page 8 of this report.

- 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

NMSA 1978 and 1.4.1 NMAC).

The Acequia could not provide documentation to support that the contract was processed in accordance with the New Mexico Procurement Code. This is the exception of noncompliance as described in Finding 2010-02 on page 8 of this report.

- 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 diversion dam and head gates at Santa Barbara River and Acequia del Llano de San Juan de Nepumuceno on April 17, 2014.

- 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 agree with the general ledger and other supporting documentation. Status reports were not required by the terms of the agreements with the Office of the State Engineer/Interstate Stream Commission (OSE/ISC). The Acequia submitted the project 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 project was 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 expenditure after the Acequia received a check 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 received a total of \$15,000 and expended a total of \$15,000 in the fiscal year ended December 31, 2010, and expended \$-0- in the previous year. For the appropriation, the cash amount received equaled the amount of expenditure.

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 check received from the OSE/ISC was deposited in the Acequia's checking account at Centinel Bank. 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 invoice submitted to the Acequia by the vendor who had performed work on the Acequia project. 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 expenditure after the Acequia received the OSE/ISC check.

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 2010-01, and 2010-02 on pages 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 page 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

Office of the State Auditor

April 17, 2014

Acequia del Llano de San Juan de Nepumuceno
Exhibit 1 – Schedule of Capital Outlay Awards to Acequia
December 31, 2010

	Note 1
Amount Awarded for Project	\$45,000
Amount Not Spent by the Acequia*	30,000
Amount Received by Acequia	15,000
Amount Expended in Prior Years	(-0-)
Amount Expended by Acequia	<u>(15,000)</u>
Remaining Balance	<u>\$ -0-</u>

Agreement Provisions

Note 1: Capital Appropriation Project Agreement between the NM Office of the State Engineer (OSE), Interstate Stream Commission (ISC), and Acequia de Chamisal y Ojito fiscal agent for itself and Acequia del Llano de San Juan de Nepumuceno.

Legislative Authority: NM Laws of 2008, Chapter 92, Section 57, Item 56 (GF)

Date of Agreement with NMISC: December 30, 2008

Project Description: To plan, design and improve a diversion dam and headgates for the Acequias del Llano de San Juan Nepumuceno, and Chamisal y Ojito in Taos County, New Mexico.

Estimated Project Cost: \$15,000*

Agreement termination date: July 1, 2012

*The remaining \$30,000 was spent directly by the Acequia de Chamisal y Ojito listed in the project description above.

Acequia del Llano de San Juan de Nepumuceno
Schedule of Findings and Responses
Fiscal Year Ending December 31, 2010

Status of Prior Year Findings

Not Applicable

Current Year Findings

2010-01 Failure to File Agreed-Upon Procedures Report

Condition:

This agreed-upon procedures report for FY 2010 was not submitted to the NM Office of the State Auditor (OSA) by the due date of May 31, 2011.

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 shall provide 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 obligated 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 you have any questions about the State Audit Rule, call the OSA at (505) 476-3800. 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 by May 31.

Management's response:

The Commissioners of Acequia del Llano de San Juan de Nepumuceno agree with the above recommendation and the agreed-upon procedures report will be submitted in a timely manner.

Acequia del Llano de San Juan de Nepumuceno
Schedule of Findings and Responses
Fiscal Year Ending December 31, 2010

2010-02 Lack of Documentation

Condition:

The Capital Outlay Agreement dated 12/30/2008 states Acequia de Chamisal y Ojito will be the fiscal agent for Acequia del Llano de San Juan de Nepumuceno (the Acequia). However, Acequia de Chamisal y Ojito did not pay the Acequia's invoices directly as required. Instead a check in the amount of \$15,000 was given to the Acequia to pay the contractor. The invoice and the related contract do not identify what portion will be paid by the Acequia and no documentation could be provided to ensure the procurement code was followed. The full \$15,000 was paid to the vendor by the Acequia.

Criteria:

Capital Outlay Agreement Pursuant to 2008 NM Laws, Chapter 92, Section 57, Item 56 (GF) (the Agreement) indicates an agreement between the New Mexico Office of the State Engineer (OSE), the Interstate Stream Commission (ISC), and Acequia de Chamisal y Ojito fiscal agent for its self and for Acequia del Llano de San Juan Nepumuceno in Taos County.

The Agreement requires competitive bidding shall be used for awarding construction contracts. All aspects of the process must comply with applicable Federal, State and local laws and regulations.

In addition, the Agreement indicates during the term of the agreement and for three years after this agreement expires or is otherwise terminated, the Acequia shall maintain detailed records indicating the date, time, and nature of work performed pursuant to this Agreement.

The Acequia is responsible even if the fiscal agent did not perform their duties or were not used.

Effect:

The Acequia's ability to prevent and detect misstatements in the accounting records, fraud, waste and abuse is diminished without the ability to clearly identify the liability of the Acequia.

Cause:

The Acequia was unaware that the fiscal agent should be paying invoices directly on the Acequia's behalf. The Acequia was also unaware of the required documentation and records retention.

Recommendation:

In the future ensure that if a fiscal agent is identified the fiscal agent is responsible for paying invoices directly and maintaining all the records related to the capital outlay award.

Management's Response:

The Acequia del Llano de San Juan de Nepumuceno was not aware that the fiscal agent should be paying invoices directly on the Acequia's behalf. The Acequia was also unaware of the required documentation and records retention. The Commissioners of Acequia del Llano de San Juan de Nepumuceno agree with the above recommendation and will ensure that in the future if a fiscal agent is identified the fiscal agent is responsible for paying invoices directly and maintaining all the records related to the capital outlay award.

Acequia del Llano de San Juan de Nepumuceno
Exit Conference
Fiscal Year Ending December 31, 2010

On April 17, 2014, an exit conference was held with the following individuals to discuss the results of the agreed upon procedures and the contents of this report:

Acequia del Llano de San Juan de Nepumuceno

Bonifacio Vasquez, President

Office of the State Auditor

U. Chan Kim, CPA, Audit Manager