



# **OFFICE OF THE STATE AUDITOR**

## **Hector H. Balderas**

### **Acequias de Chamisal y Ojito**

**Independent Accountant's Report on Applying Agreed-Upon Procedures**

**For the Fiscal Year Ended November 30, 2010**

# Acequias de Chamisal y Ojito

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# **Acequias de Chamisal y Ojito**

## **Official Roster**

**Fiscal Year Ending November 30, 2010**

### **Board of Commissioners**

Samuel Lopez, Interim President

Wilbert Rodriguez, Secretary

Shannon Cordova, Treasurer

### **Mayordomos**

Candido Dominguez – Chamisal

Eluid Mondragon - Ojito

### **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**

Samuel Lopez, President  
and Members of the Board of Commissioners  
Acequias de Chamisal y Ojito  
P.O. Box 172  
Chamisal, New Mexico 87521

We have performed the procedures enumerated below for the Acequias de Chamisal y Ojito (Acequias) for the year ended November 30, 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 Acequias through the New Mexico Office of the State Auditor. The Acequias' 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 cash disbursements tested were properly authorized and approved in accordance with 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

NMSA 1978 and 1.4.1 NMAC).

For the work done on the ditch repair projects, the Acequias 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.

- 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 headgate at Rio Santa Barbara and Acequias de Chamisal y Ojito on June 10, 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 Acequias 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 projects were not funded in advance. The Acequias were required to submit reimbursement forms to the OSE/ISC upon completion of work on the project. The Acequias paid for its project expenditures after the Acequias 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 Acequias received a total of \$128,476 and expended a total of \$128,267. For each appropriation, the cash amounts received equaled the amount of expenditures with the exception of noncompliance as described in Finding 2010-02 on page 8 of this report.

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 Acequias' 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 Acequias filed Request for Reimbursement Forms with the OSE/ISC based on unpaid invoices submitted to the Acequias by vendors who had performed work on Acequias projects. The costs were not paid by the Acequias prior to the request for reimbursement because the Acequias did not have the necessary funds. The Acequias paid for its project expenditures after the Acequias received the

OSE/ISC checks. However, the Acequias did not pay for an invoice to the vendor in the amount of \$209.30, after the Acequias received the OSE/ISC check for its project expenditures. This is the exception of noncompliance of described in Finding 2010-02 on page 8 of this report.

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 Acequias 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 Acequias, 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

June 10, 2014

**Acequias de Chamisal y Ojito**  
**Exhibit 1 – Schedule of Capital Outlay Awards to Acequias**  
**November 30, 2010**

	Note 1	Note 2	Note 3	Total
Amount Awarded for Project	\$50,000	\$45,000	\$65,000	\$160,000
Amount Received by Acequias	18,476	45,000	65,000	128,476
Amount Expended by Acequias	<u>(18,267)</u>	<u>(45,000)</u>	<u>(65,000)</u>	<u>(128,267)</u>
Remaining Balance	<u>\$ 209</u>	<u>\$ -0-</u>	<u>\$ -0-</u>	<u>\$ 209</u>

**Agreement Provisions**

**Note 1: Capital Appropriation Project Agreement between the NM Office of the State Engineer (OSE), Interstate Stream Commission (ISC), and Acequias de Chamisal y Ojito**

Legislative Authority: 2006 NM Laws, Chapter 111, Section 43, Item 55 (GF)

Date of Agreement with NMISC: January 29, 2007

Project Description: To make improvements to the Acequias' ditch irrigation system in Taos County, New Mexico.

Estimated Project Cost: \$18,476

Agreement termination date: July 1, 2010

**Note 2: Capital Appropriation Project Agreement between the NM Office of the State Engineer (OSE), Interstate Stream Commission (ISC), and Acequias de Chamisal y Ojito fiscal agent for its self and for Acequia de Llano de San Juan Nepumuceno**

Legislative Authority: 2008 NM Laws, Chapter 92, Section 57, Item 56

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: \$45,000

Agreement termination date: July 1, 2012

**Note 3: Capital Appropriation Project Agreement between the NM Office of the State Engineer (OSE), Interstate Stream Commission (ISC), and Acequias de Chamisal y Ojito and Acequia de Llano de San Juan Nepumuceno**

Legislative Authority: 2007 NM Laws, Chapter 42, Section 67, Item 84

Date of Agreement with NMISC: August 17, 2007

Project Description: To plan, design and construct a diversion dam and headgate at the Rio Santa Barbara for the Acequias de Chamisal y Ojito and Acequia de Llano de San Juan Nepumuceno in Taos County, New Mexico.

Estimated Project Cost: \$65,000

Agreement termination date: July 1, 2011

**Acequias de Chamisal y Ojito**  
**Schedule of Findings and Responses**  
**Fiscal Year Ending November 30, 2010**

**Status of Prior Year Findings**

Not Applicable

**Current Year Findings**

**2010-01 Failure to File Agreed-Upon Procedures Report by the Required Due Date**

**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 April 30, 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 Acequias were unaware that by accepting and spending capital outlay money the Acequias would be obligated to have a Tier 3 engagement performed.

**Recommendation:**

The officers of the Acequias 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 Acequias' annual revenue is less than \$50,000 and the Acequias expended at least 50% of, or the remainder of, a single capital outlay award, then the Acequias 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 Acequias 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 Acequias de Chamisal y Ojito agrees with the above recommendation and the agreed-upon procedures report will be submitted in a timely manner.



**Acequias de Chamisal y Ojito**  
**Schedule of Findings and Responses**  
**Fiscal Year Ending November 30, 2010**

**2010-02 Invoice for Costs Incurred and Reimbursed Was Not Paid**

**Condition:**

In one instance in the amount of \$209.30 out of ten instances tested totaling \$128,476 the check was voided and the invoice was never paid. The costs were incurred in accordance with legal requirements and properly submitted for reimbursement, however the funds in the amount of \$209.30 were not spent within the required time frame.

**Criteria:**

Capital Outlay Agreement Pursuant to 2006 NM Laws, Chapter 111, Section 43, Item 55(GF) states "The OSE/ISC agrees to reimburse the Acequias from the Funds in an amount not to exceed fifty thousand dollars (\$50,000) for the Acequias' expenditures on the Project, provided that such expenditures are made for the sole purpose of competing the project to carry out the Legislature's purpose in appropriating the Funds.

**Effect:**

The Acequias violated the capital outlay agreement and did not expend the funds in the required timeframe.

**Cause:**

The original invoice was misplaced and never paid.

**Recommendation:**

We recommend that the Acequias implement a process to ensure all invoices submitted for reimbursement have been paid in accordance with the terms in the capital outlay agreement.

**Management's Response:**

The Commissioners of Acequias de Chamisal y Ojito agrees with the above recommendation and a process will be implemented to ensure all invoices to be paid in accordance with the terms in the capital outlay agreement.

**Acequias de Chamisal y Ojito**  
**Exit Conference**  
**Fiscal Year Ending November 30, 2010**

On June 10, 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 in a closed meeting:

**Acequias de Chamisal y Ojito**

Samuel Lopez, President  
Wilbert Rodriguez, Secretary  
Shannon Cordova, Treasurer  
Candido Dominguez, Mayordomo

**Office of the State Auditor**

U. Chan Kim, CPA, Audit Manager