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East Pecos Ditch Association

Independent Accountant's Report on Applying Agreed-Upon Procedures

For the Fiscal Year Ended December 31, 2010

**East Pecos Ditch Association
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Fiscal Year Ended December 31, 2010**

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**East Pecos Ditch Association
Official Roster
Fiscal Year Ending December 31, 2010**

Board of Commissioners

Frank Roybal, Chairman

Ralph Roybal, Treasurer

Pauline Varela, Secretary

Staff

Ernie Vigil, Mayordomo

Accounting & Auditing Services, LLC

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Independent Accountant's Report on Applying Agreed-Upon Procedures

Frank Roybal, Chairman, East Pecos Ditch Association
and
Timothy Keller, New Mexico State Auditor

I have performed the procedures enumerated below for the East Pecos Ditch Association (Association) 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, Section 2.2.2.16 NMAC and Section 6-6-2 (A) NMSA 1978. The procedures were agreed to by the Association through the New Mexico Office of the State Auditor. The Association'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 project were tested. The amounts disbursed agreed with the supporting documentation. The amount, payee, date and description of the purchase agreed with the purchase orders, contracts, vendors' invoices and canceled checks.

- 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 the project budget, legal requirements and the Association'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).

The Association advertised, obtained quotes and awarded purchase orders and contracts to vendors and contractors 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 project work was observed. The work done as of December 31, 2010 agreed with the contracts and invoices.

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

The Association submitted the required payment request forms and project status reports to the New Mexico Interstate Stream Commission (NMISC). The amounts requested in the payment request forms and status reports agreed with the Association's general ledger and supporting documentation.

- f. 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 Association was required to submit payment request forms to the NMISC along with the contractor's invoices and other documentation to support the request.

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

Three projects under grant agreements 1, 2 and 3 were completed in 2010. As of December 31, 2010, there were no unexpended balances in these project appropriations. See the Schedule of Capital Outlay Awards on p. 7 of this report.

- h. 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 Association used its checking account at the Bank of Las Vegas, NM to account for the cash receipts and disbursements for this project. A separate non-interest bearing account was not required by the grant agreement.

- i. 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.

For grant agreement #1, the Association submitted three Request for Reimbursement forms totaling \$9,402.02 to the NMISC in 2010; the Association received and expended \$90,597.98 from the NMISC before 2010. For grant agreement #2, the Association submitted two Request for Reimbursement forms totaling \$40,000 to the NMISC. For grant agreement #3, the Association submitted four Request for Reimbursement forms totaling \$80,000 to the NMISC. See the Schedule of Capital Outlay Awards on p. 7 of this report.

All of the reimbursement forms were supported by invoices from vendors and contractors for goods and services rendered on each project. The amounts requested in the request for reimbursement forms agreed with the contractor's invoices and canceled checks. The invoices were not paid by the Association prior to the request for reimbursement forms because the Association did not have the necessary funds. The Association paid for the invoices after the checks were received from NMISC.

2. The agreed-upon procedures 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 the Schedule of Capital Outlay Awards on p. 7 of this report.

3. Other

- a. 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 the Schedule of Findings on p. 5 of this report.

We were not engaged to and did not conduct an audit, 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 and others with the Association, the New Mexico State Auditor, Department of Finance and Administration – Local Government Division, New Mexico Office of the State Engineer-Interstate Stream Commission and the State Legislature and is not intended to be and should not be used by anyone other than these specified parties.

Accounting & Auditing Services, LLC

Accounting & Auditing Services, LLC

Santa Fe, New Mexico

May 3, 2016

**East Pecos Ditch Association
Schedule of Findings and Responses
Fiscal Year Ending December 31, 2010**

Status of Prior Year Findings

Not applicable.

Current Year Findings

Finding 2010-001. Late Submission of Firm Recommendation Form, Contract and Agreed-Upon Procedures Report

Condition

For the fiscal year ending December 31, 2010, the Association did not submit the Firm Recommendation Form for Tiered System Local Public Bodies and the signed agreed-upon procedures contract to the New Mexico Office of the State Auditor (OSA) until February 22, 2016. Also, the agreed-upon procedures report was not submitted to the OSA by the due date of June 1, 2011.

Criteria

According to the State Audit Rule (2.2.2 NMAC), the Association should have submitted the completed Firm Recommendation Form for Tiered System Local Public Bodies and the completed and signed agreed-upon procedures contract to the OSA by January 1, 2011. The State Audit Rule also states that the agreed-upon procedures report should have been submitted to the OSA by June 1, 2011.

Effect

The Association did not comply with the provisions of the State Audit Act and the State Audit Rule in a timely manner. Since the agreed-upon procedures report is late, users of the report are not receiving timely information about the results of the agreed-upon procedures. Future non-compliance with the State Audit Rule could jeopardize grants or capital award funding to the Association.

Cause

Management of the Association was unaware of the State Audit Act and OSA's rules and reporting requirements for local public bodies, and, therefore, did not comply with the requirements by the established due dates.

Recommendation

**East Pecos Ditch Association
Schedule of Findings and Responses
Fiscal Year Ending December 31, 2010**

The Association's Board of Directors should thoroughly read Section 2.2.2.16 NMAC of Audit Rule 2016 to understand the specific requirements and due dates for agreed-upon procedures. For future fiscal years, the Association shall determine its total revenues and state funded capital outlay award expenditures and apply the criteria noted in Section 2.2.2.16.B NMAC (Determination of Revenues and Services) to determine what agreed-upon procedures or audits are required for the fiscal year.

When required, the Association should take the necessary steps to ensure that future contracts for agreed-upon procedures are submitted to the Office of the State Auditor as follows:

- According to State Audit Rule 2016, Section 2.2.2.8.J (9) NMAC (effective March 15, 2016), "After completing the evaluations for each IPA and making the IPA selection, each agency must enter the appropriate requested information online on the OSA-Connect website (www.osa-app.org)." According to State Audit Rule, Section 2.2.2.8.J (11) NMAC, the Association shall deliver the unsigned contract generated by OSA-Connect to the office 30 days before the end of the fiscal year (December 1).

- According to State Audit Rule, Section 2.2.2.16.G (1) NMAC (effective March 15, 2016), "Local public bodies with a fiscal-year end other than June 30 must submit the agreed-upon procedures report or certification no later than five months after the fiscal year-end (June 1)."

Management's Response

In the near future, the President of the Association and the Commission will comply with the rules and regulations of the State Auditor. We will inform ourselves with all rules and procedures.

**East Pecos Ditch Association
Schedule of Capital Outlay Awards
For the Fiscal Year Ending December 31, 2010**

	<u>1</u>	<u>2</u>	<u>3</u>
Amount Awarded	\$ 100,000.00	\$ 40,000.00	\$ 80,000.00
Received and Expended in 2007	(65,487.98)		
Received and Expended in 2008	(25,110.00)	-	-
Received and Expended in 2010	(9,402.02)	(40,000.00)	(80,000.00)
Remaining Balance	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>

Agreement Provisions

1 - Capital Project Agreement Between the NM Office of the State Engineer, the Interstate Stream Commission and the East Pecos Ditch Association

Legislative Authority: New Mexico Laws of 2006, Chapter 111, Section 43, Item 35 (\$50,000)

Legislative Authority: New Mexico Laws of 2006, Chapter 111, Section 12, Item 4 (\$50,000)

Date of Agreement: September 12, 2006

Project Description: For the planning, design and construction of improvements to the Acequia's ditch irrigation system in San Miguel County.

Estimated Project Cost: \$100,000

State Grant Amount: \$100,000

Agreement termination/reversion date: June 30, 2011

2 - Capital Project Agreement Between the NM Office of the State Engineer, the Interstate Stream Commission and the East Pecos Ditch Association

Legislative Authority: New Mexico Laws of 2008, Chapter 92, Section 57, Item 27 GF

Date of Agreement: September 23, 2008

Project Description: To plan, design and construct an acequia lining for the East Pecos Ditch Association in San Miguel County.

Estimated Project Cost: \$40,000

State Grant Amount: \$40,000

Agreement termination/reversion date: July 1, 2012

3 - Capital Project Agreement Between the NM Office of the State Engineer, the Interstate Stream Commission and the East Pecos Ditch Association

Legislative Authority: New Mexico Laws of 2007, Chapter 42, Section 67, Item 53

Date of Agreement: November 10, 2008

Project Description: To plan, design and construct improvements to acequias for the East Pecos Ditch Association in San Miguel County.

Estimated Project Cost: \$80,000

State Grant Amount: \$80,000

Agreement termination/reversion date: July 1, 2011

**East Pecos Ditch Association
Exit Conference
Fiscal Year Ended December 31, 2010**

On May 3, 2016, an exit conference was held with the following individuals to discuss the results of the agreed upon procedures and the contents of this report:

East Pecos Ditch Association

Frank Roybal, Chairman

Accounting & Auditing Services, LLC

Steve B. Archibeque, CPA, Engagement Manager

