



MACIAS, GUTIERREZ & CO., P.C.  
CERTIFIED PUBLIC ACCOUNTANTS  
TIERRA AMARILLA, NEW MEXICO

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## **STATE OF NEW MEXICO**

# **LA FRAGUA PUERTECITO Y SAIZ COMMUNITY DITCH**

Independent Accountants' Report on Applying  
Agreed-Upon Procedures (Tier 3)

Year Ended December 31, 2010

**STATE OF NEW MEXICO**

**LA FRAGUA PUERTECITO y SAIZ COMMUNITY DITCH**

**Independent Accountants' Report on Applying  
Agreed-Upon Procedures (Tier 3)**

**Year Ended December 31, 2010**

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**STATE OF NEW MEXICO  
LA FRAGUA PUERTECITO y SAIZ COMMUNITY DITCH**

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December 31, 2010**

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STATE OF NEW MEXICO  
LA FRAGUA PUERTECITO y SAIZ COMMUNITY DITCH

Official Roster  
at December 31, 2010

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<u>Name</u>	<u>Title</u>
<b><u>Board of Directors</u></b>	
Danny Gallegos	Chairman
Mark Carroll	Secretary
Billy Sanchez	Treasurer
<b><u>Staff</u></b>	
Gabriel (Chio) Gallegos	Mayordomo



Macias, Gutierrez  
& Co., P.C.

*Certified Public Accountants  
Member AICPA, NMSCPA*

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## **INDEPENDENT ACCOUNTANTS' REPORT ON APPLYING AGREED-UPON PROCEDURES (TIER 3)**

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To: Danny Gallegos, Chairman  
La Fragua Puertecito y Saiz Community Ditch #13227  
and  
Brian S. Colón, Esq.  
New Mexico State Auditor

We have performed the procedures enumerated below, which were agreed to by La Fragua Puertecito y Saiz Community Ditch (LFPySCD) and the Office of the State Auditor on the Tier Verification, the State-Funded Capital Outlay Expenditures and Reimbursements and Other (Items 1-7) for the year ended December 31, **2010**, included in the accompanying information provided to us by management of the La Fragua Puertecito y Saiz Community Ditch. La Fragua Puertecito y Saiz Community Ditch is responsible for the Tier Verification, the State Funded Capital Outlay Expenditures and Reimbursements and Other (Items 1-7) for the year ended December 31, **2010** included in the accompanying information provided to us by the management of the ADADS. 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. The procedures and associated findings (Results of Procedures Performed) are as follows:

The Independent Public Accountant shall request and review all state-funded capital outlay awards, joint powers agreements, correspondence and other relevant documentation for the capital outlay award funds expended by the recipient that meet Tier 3 criteria.

1. Before beginning the procedures below, the IPA must verify the local public body's revenue calculation and tier determination using the form provided at [www.osanm.org](http://www.osanm.org) under "Tiered System Reporting Main Page."

We verified La Fragua Puertecito y Saiz Community Ditch's revenue calculation and tier determination. La Fragua Puertecito y Saiz Community Ditch's cash basis revenue was less than \$50,000 and expended at least 50% of a capital outlay award which meets the criteria for **Tier 3 determination**. Project 07-4827 started in calendar year 2008 but did not expend at least 50% of the award until calendar year 2010.

2. **The Independent Public Accountant shall test all state-funded capital outlay expenditures to:**

### **Procedures**

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

- b) Determine that disbursements were properly authorized and approved in compliance with the budget, legal requirements and established 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 (Section 13-1-28 through 13-1-99 NMSA 1978) and State Purchasing Regulations (1.4.1 NMAC) and Regulations Governing the Per Diem and Mileage Act (2.42.2 NMAC).
- d) Determine the physical existence (by observation) of the capital asset based on expenditures to date.
- 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.

### **Results of Procedures Performed**

- a) Except as noted below, we determined that amounts recorded as disbursed agreed to adequate supporting documentation and we verified that amounts, payees, dates and descriptions agreed to the vendor's invoices, purchase orders, contracts and cancelled check copies, as appropriate. There was one project, 07-4827, that began in calendar year 2008 but at least 50% of capital outlay award was not expended until calendar year 2010. Therefore, on a cumulative basis, we examined twenty-four (24) disbursements totaling \$30,862.99. However, seventeen (17) of those payments totaling \$6,835.04 were made without a supporting invoice. The request for reimbursement only showed a listing of the individuals paid but individual invoices were not available. We also determined that one payment totaling \$11,000.00 was paid in cash to a vendor subsequent to a checking account withdrawal from the bank. See Finding 2010-002 (internal control deficiency) on page 5.
- b) Except as noted above, we determined that the disbursements were properly authorized and approved in compliance with the budget, legal requirements and established policies and procedures.
- c) We determined that the bid process or request for proposal process, purchase orders, contracts and agreements were processed in accordance with the New Mexico Procurement Code (Section 13-1-28 through 13-1-99 NMSA 1978) and State Purchasing Regulations (1.4.1 NMAC).
- d) We determined the physical existence by photographs of the capital asset based on expenditures to date.
- e) Except as noted above and below, we verified that status reports were submitted to the state agency per terms of agreement and amounts in the status report agree with accounting records and other supporting documentation.

### **3. Procedures**

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

### **Results of Procedures Performed**

The project was not intended to be funded in advance but on a reimbursement basis.

### **4. Procedures**

If the project is complete, the Independent Public Accountant shall determine if there is unexpended balance and whether it was reverted per statute and agreement with the grantor.

**Results of Procedures Performed**

Project 07-4827 is not complete (the expenditure appropriation period ended June 30, 2011) and, as of December 31, 2010, there was an unexpended balance of \$8,990.97 above the actual amounts requested/received and the actual amounts expended based on reimbursement requests, supporting documentation and actual checks clearing the bank account. However, it appears that capital outlay funds may have been expended on project related repairs and materials, but amounts paid to individuals and/or vendors do not match the invoices or invoice dates submitted with the requests for reimbursement. Those expenses have not been included in project expenses. See Finding 2010-002 (internal control deficiency) on page 5.

**5. Procedures**

The Independent Public Accountant shall 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 agreement.

**Results of Procedures Performed**

Since the project was approved on a reimbursement basis, no separate fund or bank accounts were required.

**6. Procedures**

The Independent Public Accountant shall determine whether reimbursement requests were properly supported by costs incurred by the recipient. The Independent Public Accountant shall determine whether the costs were paid by the local public body prior to the request for reimbursement.

**Results of Procedures Performed**

Except as noted above and below, we determined that reimbursement requests were properly supported by costs and La Fragua Puertecito y Saiz Community Ditch incurred costs prior to the submission of requests for funding from the New Mexico Interstate Stream Commission Acequia Program. For Project 07-4827, we examined six (6) reimbursement requests totaling \$39,853.96. However, as of December 31, 2010, only \$30,862.99 of the amounts requested/received was expended. A final \$2,000.00 payment was made in March 2011 leaving a project balance of \$6,990.97 that has not been but should be returned to the Grantor. See Finding 2010-002 (internal control deficiency) on page 5.

**7. Other Procedures**

If information comes to the Independent Public Accountant's attention (regardless of materiality) indicating any fraud, illegal acts, noncompliance, or any internal control deficiencies, disclose 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.

**Results of Procedures Performed**

No exceptions were found as a result of applying the procedures described above (regardless of materiality) indicating any fraud or illegal acts. However, two noncompliance findings for Late Report submission and Form 1099-MISC not issued for payments of \$600.00 or more made to individuals for services rendered as Findings 2010-001 on page 4 and 2010-003 on page 6, respectively.

\* \* \* \* \*

This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. We were not engaged to and did not conduct an examination or a review, the objective of which would be the expression of an opinion or conclusion, respectively, on the Tier Verification, State-Funded Capital Outlay Expenditures and Reimbursements or Other for La Fragua Puertecito y Saiz Community Ditch for the year ended December 31, **2010**, included in the accompanying information provided to us by management of La Fragua Puertecito y Saiz Community Ditch. Accordingly, we do not express such an opinion or conclusion. 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 La Fragua Puertecito y Saiz Community Ditch, the New Mexico State Auditor's Office, the Department of Finance and Administration, Local Government Division and the New Mexico Legislature and is not intended to be and should not be used by anyone other than the specified parties.

*Macias, Gutierrez & Co., CPAs, P. C.*

Macias, Gutierrez & Co., CPAs, P. C.  
Tierra Amarilla, New Mexico  
October 7, 2019



STATE OF NEW MEXICO  
 LA FRAGUA PUERTECITO y SAIZ COMMUNITY DITCH  
 Agreed-Upon Procedures (Tier 3)  
 For the Year Ended December 31, 2010

Exhibit A

Capital Outlay Project No.	Pay Request	Amount Awarded	Amount Requested/ Received	Actual Amount Expended	Remaining Balance	Actual Legislation	Effective Dates
07-4827 GF		<u>\$ 40,000.00</u>					
	1		\$ 6,059.54	\$ 6,059.54	\$ 33,940.46		
	2		1,280.00	1,280.00	32,660.46		
	3		3,792.82	2,780.00	29,880.46		
	4		19,169.59	13,191.44	16,689.02	Laws of 2007, Chapter 42,	
	5		7,552.01	7,552.01	9,137.01	Section 67, Paragraph 49, to repair	
	6		2,000.00	-	9,137.01	and to purchase and install pipes	
						and culverts for La Fragua community	
						ditch and dam in Sena in San	Through
						Miguel county.	6/30/2011
			<u>\$ 39,853.96</u>	<u>\$ 30,862.99</u>	<u>\$ 9,137.01</u>	Project Unspent	
Project	Balance		\$ 146.04		\$ 8,990.97	Actual Unspent	

**LA FRAGUA PUERTECITO y SAIZ COMMUNITY DITCH  
 Agreed-Upon Procedures (Tier 3)  
 For the Year Ended December 31, 2010**

Grant No.	Pay Request	Invoice/ Request Date	Amount Awarded	Amount Requested/ Received	Date Received	Invoice Amount	Check Number	Check Date	Actual Amount Expended	Vendor Paid
07-4827			<u>\$ 40,000.00</u>							
GF										
	1	6/6/2008		\$ 6,059.54	6/12/2008	\$ 6,059.54	262	4/5/2008	\$ 6,059.54	Contech Construction Products, Inc.
	2	4/20/2009		1,280.00	5/5/2009	1,280.00	270	4/9/2009	1,280.00	New Image Construction
	3	6/2/2009		3,792.82	6/10/2009	2,780.00	272	5/30/2009	2,780.00	Joe Salazar
						262.82	-	-	-	Pat Romero Building Supply
				3,792.82		3,042.82			2,780.00	
	4	10/28/2009		19,169.59	11/25/2009	15,583.53	275	9/23/2009	2,191.44	BTU Block & Concrete, Inc.
						603.05	CASH	3/2/2010	11,000.00	BTU Block & Concrete, Inc.
							-	-	-	Floyd's Rental Center
				19,169.59		16,186.58			13,191.44	
	5	4/7/2010		7,552.01	4/26/2010	-	279	3/2/2010	120.00	Jerry Gonzales
						-	280	3/2/2010	120.00	Margarito Hernandez
						-	281	3/2/2010	170.00	Aaron Gonzales
						-	282	3/2/2010	120.00	Fermin Gonzales
						-	283	3/2/2010	160.00	Timothy Gonzales
						-	284	3/2/2010	150.00	Leroy Urioste
						-	285	3/2/2010	60.00	Adam Villanueva
						-	286	3/2/2010	250.00	Arturo Gallegos
						716.97	287	3/2/2010	716.97	Abel Aguilar
						-	288	3/2/2010	275.00	Adam Gallegos
						-	289	3/4/2010	795.00	Arturo Gallegos
						-	290	3/4/2010	1,115.00	Michael A. Martinez
						-	291	3/5/2010	100.00	Michael A. Martinez
						-	292	3/7/2010	775.00	Johnny Manzanares
						-	293	3/7/2010	662.54	Gabriel Gallegos
						-	294	3/16/2010	75.00	Leroy Urioste
						-	295	3/16/2010	187.50	Joe P. Sena
						-	296	3/28/2010	1,700.00	Gabriel Gallegos
				7,552.01		716.97			7,552.01	
	6	11/29/2010		2,000.00	12/29/2010	2,000.00			-	
				<u>\$ 39,853.96</u>		<u>\$ 29,285.91</u>			<u>\$ 30,862.99</u>	

**STATE OF NEW MEXICO  
LA FRAGUA PUERTECITO y SAIZ COMMUNITY DITCH**

**Schedule of Findings and Responses  
Year Ended December 31, 2010**

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	<u>Type of Finding *</u>	<u>Prior Year Finding Number</u>	<u>Current Year Finding Number</u>
<b>Current Year Findings:</b>			
Late Report	D	N/A	2010-001
Payments Made Without Supporting Invoice, Payment to Vendor Paid in Cash and Unreturned/Unexpended Project Balance	C	N/A	2010-002
Form 1099-MISC not issued for payments made of \$600 or more to individuals for services rendered	D	N/A	2010-003
<b>Follow-up on Prior Year Findings:</b>			
None	N/A	N/A	N/A

**\* Legend for Findings:**

- A. Fraud
- B. Illegal Act(s)
- C. Internal Control Deficiency(ies)
- D. Noncompliance

**STATE OF NEW MEXICO  
LA FRAGUA PUERTECITO y SAIZ COMMUNITY DITCH**

**Schedule of Findings and Responses  
Year Ended December 31, 2010**

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**2010-001**

**Late Report (Noncompliance)**

**Criteria**

Office of the State Auditor, Rule 2010, Section 2.2.2.16.H, requires that local public bodies with other than a June 30 fiscal year end must submit the agreed-upon procedures (AUP) report no later than five months after the fiscal year end.

**Condition**

La Fragua Puertecito y Saiz Community Ditch (LFPySCD) agreed-upon procedures report for the year ended December 31, 2010 was submitted more than five months after the fiscal year end.

**Cause**

La Fragua Puertecito y Saiz Community Ditch was not aware of the AUP requirements and also did not have adequate funds to pay for an AUP for the year ended December 31, 2010. Therefore, they did not submit the recommendation or contract form to the State Auditor until July 2019 after they were awarded funding through the Office of the State Auditor.

**Effect**

La Fragua Puertecito y Saiz Community Ditch has not complied with Office of the State Auditor, Rule 2010, Section 2.2.2.16.H.

**Recommendation**

We recommend that La Fragua Puertecito y Saiz Community Ditch submit all future agreed-upon procedures recommendation and contract forms and the AUP reports by the required deadlines.

**Entity Response**

“The Chairman and the Treasurer will take immediate appropriate measures to insure that La Fragua Puertecito Y Saiz Community Ditch submits all future agreed upon procedures recommendation and contract forms and AUP reports by the required deadlines.”

**2010-002**

**Payments Made Without Supporting Invoice, Payment to Vendor Paid in Cash and  
Unexpended/Unreturned Project Balance (Internal Control Deficiency)**

**Criteria**

Proper internal accounting control requires that all disbursements have supporting documentation, such as the approved vendor's invoice and the supporting documentation should be maintained in the entity's files and be readily available for inspection. Also, proper internal accounting control requires that all vendor payments be paid by check. Finally, any unexpended project funds should be returned to the Grantor.

**STATE OF NEW MEXICO  
LA FRAGUA PUERTECITO y SAIZ COMMUNITY DITCH**

**Schedule of Findings and Responses  
Year Ended December 31, 2010**

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**2010-002**

**Payments Made Without Supporting Invoice, Payment to Vendor Paid in Cash and  
Unexpended/Unreturned Project Balance (Internal Control Deficiency) (cont'd)**

**Condition**

During the performance of the agreed-upon procedures, we noted that the La Fragua Puertecito y Saiz Community Ditch made seventeen (17) payments totaling \$6,835.04 to individuals without the proper supporting documentation, an invoice. The invoice or other supporting documentation was either not obtained or maintained in the files. The only supporting documentation was the request for reimbursement form that included a listing of the individual's names and amount requested. We also noted that an \$11,000.00 payment to a vendor was paid in cash after a checking account cash withdrawal from the bank. Lastly, it appears that portions of the Capital Outlay appropriation may have been expended on project related repairs and materials but amounts paid to individuals and/or vendors do not match the invoices or invoice dates submitted with the requests for reimbursement. These costs have not been included in project expenses. A final \$2,000.00 project payment was made in March 2011 leaving a project balance of \$6,990.97 that has not been but should have been returned to the Grantor.

**Cause**

The La Fragua Puertecito y Saiz Community Ditch either failed to obtain or maintain approved invoices that were associated with was the request for reimbursement forms listing prior to issuing the checks. It is uncertain why one vendor was paid in cash and believed all expenses to be project related.

**Effect**

The lack of appropriate supporting documentation and approvals for expenses and payments to vendors paid in cash could create the possibility of errors, irregularities or duplicate payments.

**Recommendation**

We recommend that La Fragua Puertecito y Saiz Community Ditch implement and enforce policies and procedures to ensure a vendor's invoice is presented and approved, prior to a payment being made. We further recommend that complete supporting documentation for all payments be maintained in the files and all payments to vendors be paid by check. Finally, any unexpended project funds should be returned to the Grantor.

**Entity Response**

"The Chairman and the Treasurer will immediately implement and enforce policies and procedures to ensure a vendor's invoice is presented and approved, prior to a payment being made, and that complete and supporting documentation for all payments be maintained in the files and all payments to vendors be paid by check. These procedures will be implemented for all future projects administered by the La Fragua Puertecito y Saiz Community Ditch.

The State Legislature through the Interstate Commission granted La Fragua Puertecito Y Saiz Community Ditch \$40,000.00 for repairs to our irrigation Dam in 2007. All \$40,000.00 were used on said project. Unfortunately, payments were made without proper supporting documentation and drawdowns were also made without proper documentation. We are asking if we can get something in writing from the State Engineers Office verifying that said project was completed and that all monies were applied to said project.

**STATE OF NEW MEXICO  
LA FRAGUA PUERTECITO y SAIZ COMMUNITY DITCH**

**Schedule of Findings and Responses  
Year Ended December 31, 2010**

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**2010-002**

**Payments Made Without Supporting Invoice, Payment to Vendor Paid in Cash and  
Unexpended/Unreturned Project Balance (Internal Control Deficiency) (cont'd)**

**Entity Response** (cont'd)

At this time, it would cause a hardship to our finances to have to pay this money back, since our only source of income are our member dues. We do agree that in the future any monies granted to us, we will comply by having all proper documentation in place."

**2010-003**

**Form 1099-MISC not issued for payments made of \$600 or more to individuals for services rendered  
(Noncompliance)**

**Criteria**

Department of the Treasury, Internal Revenue Service (IRS) requires Form 1099-MISC to be issued to individuals, who are not employees, that have been paid \$600 or more during the calendar year for services performed.

**Condition**

During the performance of the agreed-upon procedures, we noted that the La Fragua Puertecito y Saiz Community Ditch paid \$600 to several individuals but did not issue Form 1099-MISC for calendar years 2009 (one individual) and 2010 (fourteen individuals). There might be several others that were not associated with the agreed-upon procedures engagement.

**Cause**

La Fragua Puertecito y Saiz Community Ditch was not aware of the IRS regulation regarding 1099-MISC.

**Effect**

La Fragua Puertecito y Saiz Community Ditch has not complied with Department of the Treasury, Internal Revenue Service regulations and might be subject to substantial fines for noncompliance. Such payments to individuals are taxable income and may not have been reported on their tax returns.

**Recommendation**

We recommend that La Fragua Puertecito y Saiz Community Ditch issue Form 1099-MISC to individuals who are not employees that have been paid \$600 or more during the calendar year for which services are performed.

**Entity Response**

"The Chairman and the Treasurer will make sure that, in the future, 1099-MISC be issued to individuals who are not employees that have been paid \$600 or more during the calendar year for which services are performed."

**STATE OF NEW MEXICO  
LA FRAGUA PUERTECITO y SAIZ COMMUNITY DITCH**

**Exit Conference  
Year Ended December 31, 2010**

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**EXIT CONFERENCE**

The report contents were discussed at a telephonic exit conference held on October 10, 2019 with the following:

La Fragua Puertecito y Saiz Community Ditch

By telephone:

Danny Gallegos, Chairman

Accounting Firm

James R. (Jim) Macias, CPA