

APPENDIX A

CORRESPONDENCE WITH EPA



Doña Ana County
Engineering Department

845 N. Motel Boulevard • Las Cruces, NM 88001 • (575) 525-6164 • Fax (575) 525-6179

October 31, 2008

Syed A. Shahriyar
Environmental Engineer
Regional Homeland Security Coordinator for Wastewater and Stormwater
Environmental Protection Agency, Region 6
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202-2733

RE: Schedule for Submitting the Notice of Intent for NPDES General Permit No.
NMR040000

Dear Mr. Shahriyar:

This letter is sent as follow up to Doña Ana County's (County) letter to you dated October 15, 2008, in which we promised a schedule for completing the actions that the general permit requires before an NOI can be filed. The County's in-house committee has met with its consultant and has prepared a work plan with the following schedule:

TASK	COMPLETION DATE
Prepare a draft SWMP with BMPs that reflect current County operations and goals	January 30, 2009
Prepare a Monitoring/Assessment Plan that's coordinated with the draft BMPs, addresses the TMDL, and as was required in the First Annual Report by Part 5.6 of the general permit	February 20, 2009
Complete the ESA and NHPA eligibility evaluations	February 20, 2009
Perform an internal review of the draft SWMP, and prepare it and the NOI for public notice	March 30, 2009
Issue public notice of the SWMP and NOI being available for public review	April 13, 2009
Respond to public comments and make final revisions to the SWMP	June 12, 2009
Sign and certify the NOI and SWMP, and submit them with attachments to EPA	June 30, 2009

Since our last letter, the County has determined that the area shown as University Park in the Las Cruces Urbanized Area almost entirely consists of New Mexico State University. NMSU is a land-grant institution owned and operated by the State of New Mexico. The area within its boundaries will not be included in the County's SWMP. The contact information for NMSU is listed below.

Enclosed are exhibits showing the portions of the Las Cruces and El Paso Urbanized Areas that will be included in the County's SWMP. Development of more detailed maps will be part of implementing the SWMP over the remainder of the permit term.

We trust that the information in this letter completes the information that was requested by EPA Region 6 in its letter to Commissioner Evans dated May 1, 2008. We look forward to participating in the NM monthly phone calls with EPA Region 6 staff and to regular communication with you as we progress toward submitting the County's NOI.

Please do not hesitate to contact me at 575-525-6162 or henryco@donaanacounty.org if you have any questions about the submitted information.

Regards,

Henry K. Corneles, P.E.
Engineer Supervisor, Doña Ana County

cc: County Committee
Commissioner Evans
Brian Haines, County Manager

New Mexico State University
Dr. Waded Cruzado, Interim President
MSC 3Z PO Box 30001
Las Cruces, NM 88003-8001
Phone: (575) 646-2035
Fax: (575) 646-6334

October 15, 2008

Syed A. Shahriyar
Environmental Engineer
Stormwater- MS4
Regional Homeland Security Coordinator for Wastewater, EPA- R6
Environmental Protection Agency
Region 6
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202-2733

RE: Notice of Intent Deadline for NPDES General Permit No. NMR040000
EPA Region 6 Letter to Commissioner Evans Dated May 1, 2008

Dear Mr. Michaud:

This letter is sent on behalf of Dona Ana County (County) as a follow up to our telephone conversation with you and other EPA staff on October 7, 2008. We apologize for not responding sooner, but internal changes in the environmental administration of the County left us without a person to carry out the program in a timely manner. We are now in the process of addressing issues relating to the NPDES General Permit for Small MS4's.

The County intends to file a Notice of Intent (NOI) for coverage under NPDES General Permit No. NMR040000 and is not seeking an individual permit. Although the County submitted an NOI and a Stormwater Management Program (SWMP) in 2003, the 2003 SWMP no longer reflects County operations and requires significant revisions. In addition, the 2007 EPA-Approved TMDL for the Lower Rio Grande should be addressed by the SWMP. The County will be submitting a revised SWMP with its NOI and does not intend to use the one currently on file with the EPA. Anthony, Santa Teresa, and University Park as Census Designated Places will be included in the County's SWMP. We will need to verify that the University Park area is not included in the City of Las Cruces or New Mexico State University. The incorporated communities of Mesilla and Sunland Park will not be included. The contact information for Mesilla and Sunland Park is listed below.

Status of Progress to Date: The County has formed an in house committee which includes all affected Departments. This committee has met, and will continue to meet to help keep the efforts for compliance moving forward. I and several other County employees have taken on the responsibility to update our NOI and SWMP, which will be reviewed by the committee. We have hired a consultant, Martich Professional Services, PLLC from El Paso to assist the County in our compliance efforts. We have also met with the City of Las Cruces, NM to review their program, and will be meeting soon with the officials from Bernalillo County, NM who have agreed to share its program with us as an aid.

Schedule for Submitting the NOI: The first action of the in-house committee and its consultant will be to develop a work plan with a schedule for revising the SWMP and implementing the actions that the general permit requires before an NOI can be filed, such as Endangered Species Act and National Historic Preservation Act evaluations, as well as the public comment period. The County anticipates completing the work plan by October 31, 2008, after which it will provide EPA a schedule for filing the NOI.

The County looks forward to working cooperatively with the EPA as it proceeds with its compliance efforts. Please address future correspondence to my attention, so that it will be processed expeditiously.

Regards,

Henry K. Corneles, P.E.
Engineer Supervisor, Dona Ana County

cc: County Committee
Commissioner Evans
Brian Haines, County Manager

Town of Mesilla
Michael M. Cadena - Mayor
P.O. Box 10, Mesilla, NM 88046
(575) 524-3262
Fax: (575) 541-63

City of Sunland Park
Martin Resendez - Mayor
1000 McNutt Road
Sunland Park, NM 88063
(575) 589-7565


UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1448 ROSS AVENUE, SUITE 1200
DALLAS, TEXAS 75202-2733

cc 15012
see Podilla
Troye

MAY 0 1 2008

CERTIFIED MAIL: RETURNED RECEIPT REQUESTED (7005 1820 0003 7457 1295)

Mr. Kent Evans
Chairman
Dona Ana County
845 N. Motel Blvd.
Las Cruces, NM 88007

Re: Notice of Intent deadline of October 1, 2007, for coverage under the NPDES
General Permit for Discharges from Small Municipal Separate Storm Sewer Systems

Dear Mr. Evans:

As you are aware, EPA issued the general permit, on July 1, 2007, for Phase II small municipal separate storm sewer system (MS4) discharges in the State of New Mexico as well as for Indian Lands in New Mexico and Oklahoma. The general permit required submittal of Notices of Intent (NOIs) by October 1, 2003. EPA Region 6 is now assessing the compliance status of small MS4s. Part 3.1.1. of the permit contains a footnote requesting notification of NOI status if a MS4 operator was not able to meet the NOI deadline due to delays in determining eligibility. If you have not already done so, please submit, within 15 days, a status update on your progress-to-date and a schedule for submittal of a completed NOI. The final permit may be viewed at <http://epa.gov/region6/6wa/npdes/sw/sms4/cvpermit.pdf>.

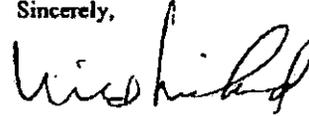
If you are relying primarily on an application submitted in 2003, please be aware that the application requirements for an individual permit, while generally similar, do not completely cover the information required by the NOI. If this is your situation, please confirm that you are relying on your 2003 submittal and, within 15 days, provide a status update on submission of any additional information (including any updates to information in the original submittal) necessary to satisfy the remainder of the NOI requirements.

According to the Census Bureau: Anthony, Santa Teresa, and Sunland Park are located in your county and in the El Paso Urbanized Area; La Mesilla and University Park are located in your county and in the Las Cruces Urbanized Area; Dona Ana is located in your county and in both the El Paso Urbanized Area and the Las Cruces Urbanized Area. In order to evaluate the extent of the County's MS4, it is necessary for Region 6 staff to know whether or not these communities have been included in the County's program. If the County has not included these areas in its program, please provide a contact name, address, and telephone number for each MS4 operator so that we are able to delineate the permit responsibilities. This information should be included with your NOI status update.

2

Please contact Syed Shahriyar via email at Shahriyar.syed@epa.gov or phone (214) 665-2783, if you have questions or concerns regarding the Phase II general permit(s). If you have questions specific to Endangered Species Act issues, you may contact Denise Hamilton via email at Hamilton.denise@epa.gov or phone (214) 665-2775. Some of your questions may be answered by information available on the EPA, Region 6, Storm Water website at <http://epa.gov/region6/6wa/npdes/sw/index.htm>. You may also contact Diana McDonald, of my staff, at Mcdonald.diana@epa.gov or phone (214) 665-7495.

Sincerely,



Michael Michaud
Chief
Water Enforcement Branch

cc: Mr. Joel Lusk
U.S. Fish and Wildlife Service
ARD Ecological Services
P.O. Box 1306
Albuquerque, NM 87103

Ms. Marcy Leavitt, Chief
Surface Water Quality Bureau
New Mexico Environment Department
P.O. Box 26110
Santa Fe, NM 87502

Mr. Syed Shahriyar
EPA, Region 6 (6EN-PP)
1445 Ross Avenue
Dallas, TX 75202

APPENDIX B

PUBLIC NOTICE DOCUMENTATION

**STATE OF NEW MEXICO
COUNTY OF DOÑA ANA
RESOLUTION NO. 09 - 63**

RESOLUTION APPROVING A STORM WATER MANAGEMENT PROGRAM (SWMP) AND THE NOTICE OF INTENT (NOI) FOR SUBMISSION TO THE ENVIRONMENTAL PROTECTION AGENCY (EPA) AND DELEGATE SIGNATURE AUTHORITY TO THE COUNTY MANAGER FOR ALL RELATED DOCUMENTS

WHEREAS, the Board of County Commissioners of Doña Ana County desires to provide clean surface waters for its residents and also comply with federal regulations regarding the discharge of storm water into the waters of the United States; and

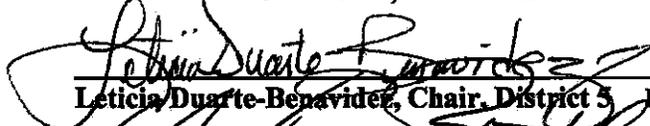
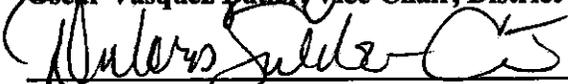
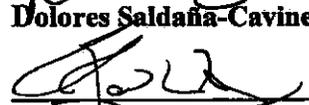
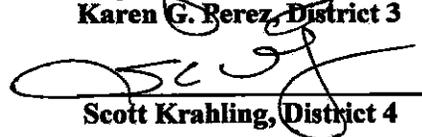
WHEREAS, the Board of County Commissioners recognizes that the County is considered an operator of a Municipal Storm Sewer System (MS4) within certain urbanized areas designated by the Environmental Protection Agency (EPA), and as such must commit to providing a Storm Water Management Plan (SWMP) and a Notice of intent (NOI) to EPA; and

WHEREAS, County staff from several Departments have prepared the required documents with the help of a storm water consultant;

THEREFORE LET IT BE RESOLVED that the Board of County Commissioners of Doña Ana County, State of New Mexico, hereby approves the attached resolution authorizing storm water management program (SWMP) and the notice of intent (NOI) for submission to Environmental Protection Agency's (EPA) and **BE IT FURTHER RESOLVED** that the County Manager is delegated signature authority for all related documents.

Resolved in Board session this 14th day of July 2009.

**BOARD OF COUNTY COMMISSIONERS OF
DOÑA ANA COUNTY, NEW MEXICO**

	
Leticia Duarte-Benavides, Chair, District 5	For / Against
	
Oscar Vasquez Butler, Vice-Chair, District 1	For / Against
	
Dolores Saldaña-Caviness, District 2	For / Against
	
Karen G. Perez, District 3	For / Against
	
Scott Krahling, District 4	For / Against

ATTEST:

Lynn Ellins, County Clerk



Doña Ana County



Doña Ana County Government Center • 845 N. Motel Blvd. • Las Cruces, NM 88007 • (505) 647-7200

AMENDED AGENDA

The following will be considered at the Regular Meeting of the Doña Ana County Board of Commissioners to be held on **Tuesday, July 14, 2009** at 9:00 a.m. in the Doña Ana County Commission Chambers, 1st Floor, Doña Ana County Government Center, 845 North Motel Boulevard, Las Cruces:

- Invocation
- Pledge of Allegiance
- Roll Call of Commission Members Present and Determination of Quorum

COMMISSION CONVENES AS THE BOARD OF COUNTY COMMISSIONERS AND THE COUNTY BOARD OF FINANCE IN OPEN SESSION.

- STATEMENT ON CLOSED SESSIONS OF JUNE 29 AND JULY 7, 2009
 - CHANGES TO THE AGENDA – Brian D. Haines, County Manager, will discuss
- Pages
- 1.1-1.19 1. MINUTES – Special Meeting of June 12, Special Meeting of June 15 and Regular Meeting of June 23, 2009
- 2.1-2.9 2. EMPLOYEE RECOGNITION – The Commission will recognize Doña Ana County employees for their years of service to Doña Ana County - Commission Chair Leticia Duarte-Benavidez will present.

<u>Name</u>	<u>Department</u>	<u>Years of Service</u>
<u>Anniversaries:</u>		
Nicole Silva	Sheriff Department	5
Wes Statton	Assessor's Department	5
Curtis Tarin	Engineering Department	5
Lawrence Gloria	Facilities and Parks Department	15
Elizabeth Barela	Sheriff Department	20
David Truby	Assessor's Department	20

- CHAIR COMMENTS – Leticia Duarte-Benavidez, Chair
- PUBLIC INPUT

PRESENTATIONS

- 3.1-3.2 3. Fire District Recognition – Fire Marshal Robert Monsivaiz will present.
- 4.1-4.2 4. Presentation of the Proposed Community Planning Meetings to Prepare for the County's 2010 Legislative Request – Sue Padilla, Assistant County Manager, will present.
- 5.1 5. Presentation of the Proposed 3rd Judicial District Court Expansion and Renovation – County Manager Brian Haines, will introduce.

CONSENT AGENDA - The Board will be asked to approve by one motion the following items of recurring or routine business:

- 6.1-6.11 6. Acknowledgement of Receipt and Public Filing of the Treasurer's Report for the Month of May, 2009 – David Gutierrez, County Treasurer, will discuss.
- 7.1-7.14 7. Accept Utility Easement for County Well 3 Site – Sue Padilla, Assistant County Manager, will discuss.
- 8.1-8.7 8. Accept Utility Easement Deed for County Lift Station No. 7 Site and Approve and Execute Agreement of Conditions – Sue Padilla, Assistant County Manager, will discuss.
- 9.1-9.7 9. Accept the 2009 Traffic Safety Education and Enforcement Project Grant and Delegate Signature Authority to the County Manager – Sheriff Todd Garrison will discuss.
- 10.1-10.8 10. Accept the 2009 100 Days and Nights of Summer Program Grant and Delegate Signature Authority to the County Manager on the Grant – Sheriff Todd Garrison will discuss.
- 11.1-11.7 11. Approve Out-of-State Travel for Health and Human Services Outreach and Education Manager to Attend the National Association of Counties 2009 Annual Conference and Exposition in Nashville, Tennessee on July 24-28, 2009 – Silvia Sierra, Health and Human Services Director, will discuss.

Pages

CONSENT AGENDA cont'd

- 12.1- 12. Approve Out-of-State Travel for Health and Human Services Management Analyst to Attend the Border Health Research Forum – Silvia Sierra, Health and Human Services Director, will discuss.
12.5
- 13. *Item Removed*
- 14.1- 14. Accept a Congressionally Selected Award for Jail Diversion – Silvia Sierra, Health and Human Services Director, will discuss.
14.40
- 15.1- 15. Approve Resolution Authorizing a Storm Water Management Program (SWP) and the Notice of Intent (NOI) for Submission to Environmental Protection Agency (EPA) and Delegate Signature Authority to the County Manager for all Related Documents – Jorge Granados, Public Works Director, will discuss.
15.68
- 16.1- 16. Approve Resolution Accepting a 2009 Safety Hazard Elimination (HSHE) Fund Contract for Road Safety Improvements on Doña Ana Road in Doña Ana County and Delegate Signature Authority to County Manager for all Related Documents – Robert Armijo, County Engineer, will discuss.
16.26
- 17.1- 17. Approve Grant Agreement Amendment No. 3 and No. 4 to the Laws of 2006 Special Appropriation Project-Severance Tax Bond in the Amount of \$300,000.00 and Delegate Signature Authority to the County Manager on this and Future Amendments – Armando Cordero, Facilities and Parks Manager, will discuss.
17.10
- 18.1- 18. Deny Award of Sealed Bid #09-0060 to Metal Craft Company for the Construction of the Mesquite Resource Center HVAC Renovations – Armando Cordero, Facilities and Parks Manager, will discuss.
18.7
- 19.1- 19. Approve Award of Request for Proposal (RFP) #08-0050 for Operation of Doña Ana County Fairgrounds and Delegate Signature Authority to County Manager for Related Contract Documents – Armando Cordero, Facilities and Parks Manager, will discuss.
19.10
- 20.1- 20. Approve Award of Competitive Sealed Bid #09-0055 for a Fractured Aggregate Pricing Agreement and Delegate Signature Authority to the County Manager for Related Contract Documents – Dickie Apodaca, Road Superintendent, will discuss.
20.3
- 21.1- 21. Approve Award of Competitive Sealed Bid #09-0056 for Hot Mix Pricing Agreement and Delegate Signature Authority to the County Manager for Related Contract Documents – Dickie Apodaca, Road Superintendent, will discuss.
21.2
- 22.1- 22. Approve Award of Competitive Sealed Bid #09-0057 for Base Course Pricing Agreement and Delegate Signature Authority to the County Manager for Related Contract Documents – Dickie Apodaca, Road Superintendent, will discuss.
22.3

APPROVALS

- 23.1- 23. Appointments to Doña Ana County Valuation Protest Board – Gary Perez, County Assessor, will discuss.
23.6

CORRESPONDENCE

- 24. Lynn Ellins, County Clerk, will present to the Commission any claims received by Doña Ana County.

DISCUSSION AND ANNOUNCEMENTS

- 25. Commission Input
- 26. Staff Input

COMMISSION WILL CONVENE IN CLOSED SESSION to discuss a personnel matter and threatened or pending litigation as authorized by the Open Meetings Act, § 10-15-1 (H) (2) and (7) respectively.

COMMISSION MAY CONVENE IN OPEN SESSION to take action, if any, on the closed session items.

COMMISSION ADJOURNS AS THE BOARD OF COUNTY COMMISSIONERS AND THE COUNTY BOARD OF FINANCE IN OPEN SESSION.

THIS AGENDA IS SUBJECT TO CHANGE

NOTE: Doña Ana County will ensure effective communication with individuals with disabilities and will, upon request, provide auxiliary communication aids and services to afford those individuals equal opportunity for participation in Doña Ana County sponsored meetings, events, or activities. Any request should be made to the Americans with Disabilities Act Coordinator, in writing, or by phone, as soon as possible prior to the event at which accommodation is needed. If you have any questions regarding examples of reasonable accommodations, please contact the ADA Coordinator, at 525-5884 (voice) or 525-2951 (TTY), 845 N. Motel Blvd. Las Cruces, NM 88007.

Spanish language interpretation services are now available upon request for participation in Doña Ana County sponsored meetings, events, or activities. Please contact Ruth Parra, Health & Human Services Department, at 525-5870, at least 48 hours prior to the event. Servicios de interpretación en las juntas será disponible por petición. Por favor llame a Ruth Parra al 525-5870 por lo menos 48 horas por adelantado para pedir este servicio.

Dona Ana County received no comments from the public as a result of notices published on April 12 and April 19, 2009. Since no comments were received and no issues were raised during the local comment period, no changes were necessary to this SWMP.

Pub No. 41823
 Pub Date: April
 12, 2009

**Doña Ana County
 Public Notice
 Application for Storm
 Water Discharge Per
 mit**

Doña Ana County will be submitting a Notice of Intent to the Environmental Protection Agency (EPA) for an NPDES General Permit for Discharges from Small Municipal Separate Storm Sewer Systems (MS4), Permit Number NMR040000. A Storm Water Management Program (SWMP) must be prepared by the County to cover the unincorporated Las Cruces and El Paso Urbanized Areas. The SWMP is intended to reduce the discharge of pollutants and protect storm water quality. Copies of the Draft Final SWMP are available for public review at the following locations:

-Doña Ana County Clerk's Office (575-647-7428)
 at 845 N. Motel Blvd., Las Cruces, New Mexico 88007
 -Doña Ana County Building Information Front Counter (575-525-6108)
 at 845 N. Motel Blvd., Las Cruces, New Mexico 88007
 - Online at <http://www.co.dona-ana.nm.us/flood/stormwater/>

Any person may submit written comments pertaining to the NOI and SWMP within 60 days of the publishing of this notice. Comments should be directed to Mr. Henry K. Carneles, P.E., Engineering Supervisor, Department of Public Works at 845 N. Motel Blvd. or emailed to henryco@donaanacounty.org. Comments relating to the accuracy, completeness, and appropriateness of the SWMP may result in changes to the SWMP.

For additional information please contact the Department of Public Works at 575-647-7105 or the Public Information Office at 575-525-5801.

Pub No. 41850
 Pub Date: April 19 &
 26, 2009

**Doña Ana County
 Public Notice
 Application for Storm
 Water Discharge Per
 mit**

Doña Ana County will be submitting a Notice of Intent to the Environmental Protection Agency (EPA) for an NPDES General Permit for Discharges from Small Municipal Separate Storm Sewer Systems (MS4), Permit Number NMR040000. A Storm Water Management Program (SWMP) must be prepared by the County to cover the unincorporated Las Cruces and El Paso Urbanized Areas. The SWMP is intended to reduce the discharge of pollutants and protect storm water quality. Copies of the Draft Final SWMP are available for public review at the following locations:

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For additional information please contact the Department of Public Works at 575-647-7105 or the Public Information Office at 575-525-5801.



Doña Ana County



Doña Ana County Government Center • 845 N. Motel Blvd. • Las Cruces, NM 88007 • (505) 647-7200

AGENDA

The following will be considered at the Regular Meeting of the Doña Ana County Board of Commissioners to be held on Tuesday, March 10, 2009 at 9:00 a.m. in the Doña Ana County Commission Chambers, 1st Floor, Doña Ana County Government Center, 845 North Motel Boulevard, Las Cruces:

- **Invocation**
- **Pledge of Allegiance**
- **Roll Call of Commission Members Present and Determination of Quorum**

COMMISSION CONVENES AS THE BOARD OF COUNTY COMMISSIONERS, THE COUNTY BOARD OF FINANCE, AND THE INDIGENT HOSPITAL CLAIMS BOARD IN OPEN SESSION.

- Pages
- **CHANGES TO THE AGENDA** – Brian D. Haines, County Manager, will discuss
 - 1.1-1.9 1. **MINUTES** – Regular Meeting of February 24, 2009
 - 2.1-2.6 2. **EMPLOYEE RECOGNITION** – The Commission will recognize Doña Ana County employees for their years of service to Doña Ana County – Leticia Duarte-Benavidez, Chair will present.

<u>Name</u>	<u>Department</u>	<u>Years of Service</u>
<u>Anniversaries:</u>		
Amy Perez	Legal Department	5
Angelica Valenzuela	Clerk's Department	5
Garth Pirtle	Sheriff Department	10
Juan Zaragoza	Roads Department	10

- **CHAIR COMMENTS** – Leticia Duarte-Benavidez, Chair
- **PUBLIC INPUT**

PRESENTATIONS

- 3.1-3.2 3. Presentation by Staff and Consultant Regarding the County Storm Water Management Program – Henry Comeles, Engineer, will present.

CONSENT AGENDA - The Board will be asked to approve by one motion the following items of recurring or routine business:

- 4.1-4.6 4. Approve Resolution to Adopt the Standing Committee's Recommended Findings and Proposed Disposition of Used Property Attached Hereto – Ruben Martinez, Fixed Asset Accountant, will discuss.
- 5.1-5.12 5. Approve Two Right-of-Way Easements to Mesquite Mutual Water and Sewage Association for Installation of Water or Sewer Lines and Authorization for the Chair to Sign the Documents – Jorge Granados, Public Works Director, will discuss.
- 6.1-6.4 6. Approve Award of Request for Proposal (RFP) #09-0012 for Architect and Engineering Services for Fairacres Fire Department Addition Project and Delegate Signature Authority to the County Manager for Related Contract Documents – Armando Cordero, Facilities and Parks Manager, will discuss.
- 7.1-7.3 7. Approve Award of Competitive Sealed Bid #09-0043 for a Vacuum Pumper Truck and Delegate Signature Authority to County Manager for Related Contract Documents – Sue Padilla, Assistant County Manager, will discuss.
- 8.1-8.4 8. Request for Board of County Commissioners to Reappoint Charles E. Apodaca to One Board Position Representing Labor to the Doña Ana County Labor Management Relations Board in Accordance with Ordinance #215-04 – Kathe Stark, Human Resources Director, will discuss.
- 9.1-9.3 9. Ratify Out-of-State Travel for Detention Director to Review Touchscreen Security System Diagrams Placements as Planned for Facility Set-up – Chris Barela, Detention Center Director, will discuss.

COMMISSION WILL CONVENE IN CLOSED SESSION to discuss threatened or pending litigation as authorized by the Open Meetings Act, § 10-15-1 (H) (7).

COMMISSION MAY CONVENE IN OPEN SESSION to take action, if any, on the closed session item.

PagesAPPROVALS

- 10.1- 10. 10. Approve and Adopt a Resolution Authorizing the County Manager to Negotiate with Verde Santa Teresa LLC for a
10.13 Real Property Exchange Agreement – Vernon Wilson, Airport Manager, will discuss.
- 11.1- 11. 11. Approve Resolution to Ratify Settlement Agreement of Shortfall Debt of 1999 System Revenue Bonds – John
11.3 Caldwell, County Attorney, will discuss.
- 12.1- 12. 12. Approve Resolution to Pre-Pay a Portion of 2008 Revenue Bond – John Caldwell, County Attorney, will discuss.
12.3
- 13.1- 13. 13. Issue a Proclamation Calling for an Election on June 9, 2009 on the Question of Whether Restaurant Licenses for
13.14 the Sale of Beer and Wine Shall Be Permitted Within the Unincorporated Areas of Doña Ana County – John
 Caldwell, County Attorney, will discuss.

ORDINANCE/PUBLIC HEARING

- 14.1- 14. 14. Public Hearing and Adoption of an Ordinance Superseding County Ordinance 30-83, Doña Ana County Airport
14.23 Zoning Height Obstruction Ordinance and Appendix 1 of County Ordinance -- Vernon Wilson, Airport Manager,
 will discuss.
- 15.1- 15. 15. Public Hearing and Adoption of an Ordinance Superseding DAC Resolution 83-20 Minimum Standards for
15.31 Commercial Aeronautical Activities Ordinance for the Doña Ana County Airport at Santa Teresa -- Vernon Wilson,
 Airport Manager, will discuss.
- 16.1- 16. 16. Public Hearing and Adoption of an Ordinance Superseding DAC Resolution 83-19 Development Guidelines
16.20 Ordinance for the Doña Ana County Airport at Santa Teresa -- Vernon Wilson, Airport Manager, will discuss.
- 17.1- 17. 17. Public Hearing to Consider Ordinance No. _____ Repealing Doña Ana County Ordinance 65-89 Establishing an
17.3 Airport Advisory Board – Vernon Wilson, Airport Manager, will discuss.
- 18.1- 18. 18. Public Hearing for the Proposed Subdivision Infrastructure Improvements Substantial Completion Ordinance –
18.9 Chuck McMahon, Community Development and Planning Director, will discuss.

CORRESPONDENCE

19. Lynn Ellins, County Clerk, will present to the Commission any claims received by Doña Ana County.

DISCUSSION AND ANNOUNCEMENTS

20. Commission Input
21. Staff Input

**COMMISSION ADJOURNS AS THE BOARD OF COUNTY COMMISSIONERS, THE COUNTY BOARD OF FINANCE,
AND THE INDIGENT HOSPITAL CLAIMS BOARD IN OPEN SESSION.**

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**DOÑA ANA COUNTY
BOARD OF COUNTY COMMISSIONERS**

Doña Ana County Government Center
845 North Motel Boulevard
Las Cruces, New Mexico 88007
Telephone: (575) 647-7200
Toll-Free: (877) 827-7200

Engineering
Initiating Department

Henry Corneles
Contact Person

March 10, 2009
Meeting Date

3
Agenda Item Number

TITLE OF AGENDA ITEM TO BE CONSIDERED

HEAR PRESENTATION BY STAFF AND CONSULTANT REGARDING THE COUNTY STORM WATER
MANAGEMENT PROGRAM

**SUMMARY OF ITEM TO BE CONSIDERED
INCLUDING PRESENTATION OF OPTIONS FOR ACTION and ACTION REQUESTED**

Staff and Consultant, Martich Professional Services, PLLC to give a presentation on the federally mandated (by EPA) Storm Water Management Program. The presentation will include a synopsis of the requirements, past County actions, and plans for future compliance. The Board will be asked to schedule at least one public hearing in the future to comply with notification requirements. Other considerations for the Board will include future funding options for the County Program.

DESCRIPTION OF SUPPORTING DOCUMENTATION ATTACHED

Informational summary sheets with information on the program and power point presentation.

SUMMARY OF FINANCIAL IMPACT

Staff time and consultant fees

ADMINISTRATIVE REVIEW AND APPROVAL

<input type="checkbox"/> Finance	<input type="checkbox"/> Legal	 County Manager/ Agenda Review
<input type="checkbox"/> Purchasing	<input type="checkbox"/> Human Resources	 Assistant County Manager/ Peer Review
<input type="checkbox"/> Planning	<input type="checkbox"/> Other	

DOCUMENT CONTROL

Original/s for signature? Yes No For Recording? Yes No

Return original/s to: _____ Name _____ Dept.

Send copy of recorded original/s (resolution and ordinances only) to: _____ Name _____ Dept.

Deadline for return of document/s? Yes, return by: _____ or No

Storm Water Management Program

BOCC 3/10/09

Handout to Board Separate Package

Brief Summary

- Result of the Clean Water Act 1990
- Unfunded Mandate
- Enforceable by EPA (potential fines)
- Urbanized Areas only at this time, may change with new census (see maps)
- DAC Submitted SWMP in 2003
- New SWMP required in 2007
- We are in a catch up mode for the 5 year plan, will submit the NOI and SWMP in 2009
- Consultant is on Board
- DAC Departmental Committee formed
- Funding of the program needs to be established
- We will be asking for a public Hearing before the BOCC in the near future

TASK	COMPLETION DATE
Prepare a draft SWMP with BMPs that reflect current County operations and goals	January 30, 2009
Prepare a Monitoring/Assessment Plan that's coordinated with the draft BMPs, addresses the TMDL, and as was required in the First Annual Report by Part 5.6 of the general permit	February 20, 2009
Complete the ESA and NHPA eligibility evaluations	February 20, 2009
Perform an internal review of the draft SWMP, and prepare it and the NOI for public notice	March 30, 2009
Issue public notice of the SWMP and NOI being available for public review	April 13, 2009
Respond to public comments and make final revisions to the SWMP	June 12, 2009
Sign and certify the NOI and SWMP, and submit them with attachments to EPA	June 30, 2009

hkc 2/9/09

APPENDIX C

ESA ELIGIBILITY EVALUATION



ENDANGERED SPECIES ACT ELIGIBILITY EVALUATION

FEDERALLY LISTED ENDANGERED AND THREATENED SPECIES

According to the website (January 10, 2009) of the Southwest Region Ecological Services office of the U.S. Fish & Wildlife Service (USFWS), the species potentially present in Doña Ana County that are federally listed as endangered are:

- Least tern (*Sterna antillarum*) - Bird;
- Northern aplomado falcon (*Falco femoralis septentrionalis*) - Bird;
- Rio Grande silvery minnow (*Hybognathus anarus*) - Fish;
- Sneed pincushion cactus (*Coryphantha sneedii* var. *sneedii*) - Plant; and
- Southwestern willow flycatcher (*Empidonax traillii extimus*) - Bird.

The website also lists the Mexican spotted owl (*Strix occidentalis lucida*) potentially present in Doña Ana County as a threatened bird species.

The website lists two other bird species of concern, the Bald eagle (*Haliaeetus leucocephalus*) and the Yellow-billed cuckoo (*Coccyzus americanus*), that are potentially present in Doña Ana County. In 2007 the status of the Bald eagle was changed from endangered to delisted-recovered. It is currently undergoing 5-years of monitoring, after which it is anticipated that the Bald eagle will be removed from the list.

The Yellow-billed cuckoo is listed as a candidate species. A candidate species is one for which the USFWS has sufficient information to support a proposal to list the species as Threatened or Endangered; however, the proposal is precluded by work on higher priority listings. Listing Priority Numbers range from 1 to 12, with 1 being highest priority based on the magnitude of threats, immediacy of threats, and taxonomic status. Species with a LPN of 1, 2 or 3 are considered high priority candidates. The LPN for the Yellow-billed cuckoo is 3.

Since the Bald eagle and the Yellow-billed cuckoo are not currently listed as Threatened or Endangered, they do not have to be evaluated for Doña Ana County's MS4 permit application. However, the Yellow-billed cuckoo may be listed in the future, and its preferred habitat is riparian woodlands. Evaluations of future MS4 permit activities are advised to consider the species.

DESIGNATED CRITICAL HABITAT

According to the website (January 15, 2009) of the USFWS Southwest Region Ecological Services office, there are no critical habitat rules have been published for the Least tern, Northern aplomado falcon, and Sneed pincushion cactus. Final Rules designating critical habitat have been published for the Mexican spotted owl (Federal Registry 2004), the Rio Grande silvery minnow (Federal Registry 2003), and Southwestern willow flycatcher (Federal Registry 2005). None of the designated critical habitats are within or near the Las Cruces and El Paso Urbanized Areas of Doña Ana County.



ELIGIBILITY DETERMINATION

One of the most recent biological surveys and assessments for threatened and endangered species potentially occurring along the Rio Grande corridor in Doña Ana County were conducted during preparation of the Environmental Impact Statement (EIS) for the United States Section, International Boundary and Water Commission (USIBWC) Rio Grande Canalization Project (RGCP). All the currently listed species were included in the survey, except for the Rio Grande silvery minnow (USIBWC 2003). The surveys and assessments determined that habitat was not present along the Rio Grande corridor for the Northern aplomado falcon, the Sneed pincushion cactus, and the Mexican spotted owl. Based on these findings, Doña Ana County believes its MS4 discharges will *not* impact these species.

The Yellow-billed cuckoo was considered as species of concern in preparation of the RGCP Draft EIS. Conclusions presented indicate the riparian woodlands along the Rio Grande in Doña Ana County did not meet the patch size and density needed to provide suitable nesting habitat for the species. Although not currently listed as Threatened or Endangered, the species and habitat availability will be considered for future MS4 projects if the species becomes listed.

Based on habitat requirements, the RGCP Draft EIS reports that habitat could potentially be present for the Interior least tern and the Southwestern willow flycatcher.

Interior Least Tern

Field surveys were conducted to determine if habitat was actually present for the Interior least tern, and an individual was spotted south of Mesilla dam in 2000 during preparation of the RGCP Draft EIS. Further investigations determined that only limited habitat was present. The final conclusions were that although individuals may be presented during migration, altered flow conditions in the river have eliminated suitable nesting habitat (USIBWC 2003).

In preparing Doña Ana County's ESA eligibility evaluation for its MS4 permit application, a representative for DAC contacted David Griffin, President of the Mesilla Valley Audubon Society to obtain for additional information on the Interior least tern. Mr. Griffin stated that Audubon records indicate the Interior least tern has been spotted in the Las Cruces area with dates ranging from April 20, 2001 to June 6, 2003. He added that there is a possibility the species breeds at Holloman Lake on Holloman Air Force Base, but to the best of his personal knowledge, it is not breeding along the Rio Grande in Doña Ana County (Griffin 2009).

Dr. Hira A. Walker, Non-game and Endangered Species Conservation Services Division of the New Mexico Department of Game and Fish, was also consulted regarding the Interior least tern during preparation of Doña Ana County's ESA eligibility evaluation. Dr. Walker stated that the Interior least tern does not nest in Doña Ana County (Walker 2009).

Since the Interior least tern is not nesting along the Rio Grande, Doña Ana County believes its MS4 discharges will *not* impact the species.

Southwestern Willow Flycatcher



Field surveys were conducted during preparation of the RGCP Draft EIS to determine if habitat was actually present for the Southwestern willow flycatcher. The final conclusions were that habitat was not present (USIBWC 2003).

Mr. Griffin and Dr. Walker were also asked about the Southwestern willow flycatcher during preparation of the ESA eligibility evaluation for Doña Ana County's MS4 permit application. Dr. Walker said the species is only breeding at Seldon Canyon and Radium Springs in Doña Ana County, neither of which are near the Las Cruces Urbanized Area (Walker 2009). Mr. Griffin also reported the Radium Springs breeding population (Griffin 2009).

Doña Ana County believes its MS4 discharges will *not* impact the Southwestern willow flycatcher because suitable habitat is not believed to be present along the Rio Grande within the Las Cruces and El Paso Urbanized Areas and the known nesting sites in Doña Ana County are outside of the urbanized areas.

Rio Grande Silvery Minnow

A Draft Revised Recovery Plan was published for the Rio Grande silvery minnow in 2007. The plan states that the Rio Grande silvery minnow is only known to be present in the Middle Rio Grande down to the headwaters of Elephant Butte Lake (USFWS 2007). Although the Lower Rio Grande through Doña Ana County is part of the minnow's historic range, channelization and flow diversions have resulted in conditions where the minnow is no longer present. The Recovery Plan includes numerous research activities to better understand the habitats, flow regimes and water quality needed to support a population in hopes of establishing two populations outside of the Middle Rio Grande. A non-essential experimental population was introduced to the Big Bend area of Texas in 2008; however, there are no immediate plans for introducing a population to the Lower Rio Grande in the vicinity of the El Paso or Las Cruces Urbanized Areas. Therefore, Doña Ana County believes its MS4 discharges will *not* impact the Rio Grande silvery minnow.

CONCLUSION

The federally listed threatened or endangered species that are potentially present within Doña Ana County are not believed to occur in proximity to the MS4 or the MS4's points of discharge. Also, no critical habitat is in proximity to the MS4. Therefore, Doña Ana County is eligible for general permit authorization of its MS4 discharges under Part 1.5.3.1 ESA Criterion A of the permit.



REFERENCES

Griffin, David, President, Mesilla Valley Audubon Society. By e-mail, January 07, 2009.

Walker, Hira A., Ph.D. New Mexico Department of Game and Fish, Conservation Services Division, Non-game and Endangered Species. By e-mail, January 07, 2009.

Federal Register. 2003. Designation of Critical Habitat for the Rio Grande Silvery Minnow (*Hybognathus amarus*); Final Rule. Vol. 68, No. 33. February 19, 2003.

Federal Register. 2004. Designation of Critical Habitat for the Mexican spotted owl (*Strix occidentalis lucida*); Final Rule. Vol. 69, No. 168. August 31, 2004.

Federal Register. 2005. Designation of Critical Habitat for the Southwestern Willow Flycatcher (*Empidonax traillii extimus*); Final Rule. Vol. 70, No. 201. October 19, 2005.

Federal Register. 2007. Removing the Bald Eagle in the Lower 48 States from the List of Endangered and Threatened Wildlife; Final Rule. Vol. 72, No. 130. July 9, 2007.

United States Section, International Boundary and Water Commission. 2003. Draft Environmental Impact Statement: River Management Alternatives for the Rio Grande Canalization Project. Prepared by Parsons, Austin, Texas. December 2003. Retrieved January 15, 2009, from http://www.ibwc.state.gov/EMD/RGCP_DEIS/USIBWC_RGCP_DEIS.html

United States Section, International Boundary and Water Commission. 2004. Final Environmental Impact Statement: River Management Alternatives for the Rio Grande Canalization Project. Prepared by Parsons, Austin, Texas. June 2004. Retrieved January 15, 2009, from http://www.ibwc.state.gov/EMD/Canalization/FEIS/documents/final_eis/Final_EIS.pdf

U.S. Fish & Wildlife Service. 2007. Draft Revised Rio Grande Silvery Minnow (*Hybognathus amarus*) Recovery Plan. January 2007. Retrieved on January 31, 2009 from http://ecos.fws.gov/docs/recovery_plan/070118a.pdf

U.S. Fish & Wildlife Service, Southwest Region Ecological Services. 2009. Information retrieved January 10, 15 and 31, 2009, from <http://www.fws.gov/southwest/es/EndangeredSpecies/lists/ListSpecies.cfm>

APPENDIX D

NHPA ELIGIBILITY EVALUATION



NATIONAL HISTORIC PRESERVATION ACT ELIGIBILITY EVALUATION

FEDERALLY LISTED HISTORIC RESOURCES

According to the National Register of Historic Places on the National Park Service website (January 7, 2009), there are four listed historic properties located within Doña Ana County's portions of the El Paso and Las Cruces Urbanized Areas. The properties are:

- Fort Fillmore;
- Our Lady of Purification Catholic Church;
- Dona Ana Village Historic District; and
- Elephant Butte Irrigation District (EBID)

According to Michelle Ensey, Archaeologist with the New Mexico Historic Preservation Division, the EBID listing is not of concern for the MS4 permit. EBID has a Memorandum of Agreement with the New Mexico Historic Preservation Division, and any potential effects on it are addressed through the EBID discharge permitting process. None of the other listed properties are in the path of Doña Ana County's MS4 storm discharges. The enclosed documentation was sent to Ms. Ensey on February 6, 2009 to obtain her review of the properties. A determination of no adverse effect was issued on March 12, 2009.

TRIBAL CONSULTATION

On September 22, 2008 and again on November 20, 2008, Region 6 of the EPA sent a letter to Tribal authorities within the State of New Mexico and notified them of the NPDES General Permit NMR040000. EPA also provided the Tribes with a list of MS4 operators that may be seeking authorization under the permit. The Tribes were asked to comment on any properties with religious or cultural importance to the Tribe that might be affected by authorizing discharges under the permit. Denise Hamilton in the EPA Region 6 NPDES Permits and Technical Section indicates that these letters satisfy the Tribal consultation requirements under Section 106 of the NHPA.

CONCLUSION

Except for the EBID, the listed historic properties are not in the path of Doña Ana County's MS4 discharges. Although the EBID receives MS4 discharges, the EBID ensures through its permitting process that the discharges do not negatively affect its structures. None of the Best Management Practices in the Storm Water Management Program (SWMP) prepared for the MS4 permit will be constructed on, adjacent to or near the listed historic properties. Therefore, Doña Ana County is eligible for general permit authorization of its MS4 discharges under Part 1.6.1.1 NHPA Criterion A of the permit.



REFERENCES

Ensey, Michelle. Archaeologist, New Mexico Historic Preservation Division, Department of Cultural Affairs. By phone, December 09, 2008.

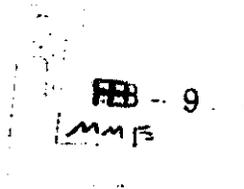
Hamilton, Denise. Environmental Protection Agency Region 6, Water Quality Protection Division. By phone, November 19, 2008.

National Park Service. 2009. National Registry Information retrieved January 9, 2009, from <http://www.nr.nps.gov>

MPS **MARTICH**
PROFESSIONAL
SERVICES

February 6, 2009

Ms. Michelle Ensey, Archaeologist
Department of Cultural Affairs
Historic Preservation Division
Bataan Memorial Building
407 Galisteo Street, Suite 326
Santa Fe, NM 87501



086233

RE: Doña Ana County's Application for Coverage under
NPDES General Permit No. NMR040000 for
Discharges from Small Municipal Separate Storm Sewer Systems (MS4)

Dear Ms. Ensey.

Doña Ana County (DAC) is preparing a Notice of Intent to obtain authorization of its storm water discharges under the subject permit. DAC contracted with Martich Professional Services to assist in preparation of the permit documents.

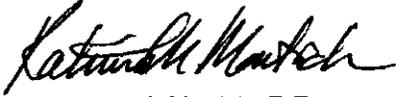
In accordance with Part 1.6 of the permit, DAC evaluated its discharges for permit eligibility with regards to the National Historic Preservation Act. The enclosed table summarizes the listed properties within DAC's portion of the Las Cruces and El Paso Urbanized Areas. The hatched areas of the enclosed exhibits show the portions of the urbanized areas that are in unincorporated DAC. The exhibits also show the location of the listed properties in relation to the urbanized areas and known storm water discharge points (outfalls) at, in, or adjacent to the listed properties.

Except for the Elephant Butte Irrigation District (EBID), the listed historic properties are not in the path of DAC's storm water discharges and allowable non-storm water discharges. In addition, no construction activities are planned to control storm water discharges near the listed properties. Based on our phone conversation of December 9, 2008, DAC believes EBID's Memorandum of Agreement with your office and EBID's permit process for discharges address any potential historic property concerns related to the EBID system. Therefore, DAC has determined that its storm water discharges are eligible for the subject permit under NHPA Criterion A in Part 1.6.1.1 of the permit. I am submitting this evaluation for your review of DAC's determination.

Ms. Denise Hamilton of the EPA Region 6 has stated that her letters dated September 22, 2008 and November 20, 2008 satisfy the permit's requirement for Tribal consultation and that no further action is needed by DAC. Copies of these letters are enclosed for your review.

If you have any questions or require additional information, please contact me at (915) 433-9254 or by e-mail at kmartich@martichps.com.

Respectfully Submitted,



Katrina M. Martich, P.E.
President

Enclosures:

NRIS Listed Resources in Doña Ana County Urbanized Area
Exhibits of the Las Cruces and El Paso Urbanized Areas in Unincorporated Doña Ana County
USEPA Region 6 Letters dated September 22, 2008 and November 20, 2008

c: Henry K. Comeles, P.E., Engineer Supervisor
Doña Ana County
845 N. Motel Blvd.
Las Cruces, NM 88007

This undertaking will not have an adverse effect on
registered or eligible properties.


Michelle Ensey
for NM State Historic Preservation Officer

3/12/09

NATIONAL REGISTRY INFORMATION SYSTEM					
LISTED RESOURCES WITHIN URBANIZED AREA OF DOÑA ANA COUNTY*					
State	County	Resource Name	Jurisdiction	Address	Notes
NM	Doña Ana	Fort Fillmore	Doña Ana County	restricted	Believed to be east of I-10. If correct, then the site is not within the UA.
NM	Doña Ana	Our Lady of Purification Catholic Church	Doña Ana CDP	Camino Real and 2nd St, currently at 5525 Cristo Rey Rd	No outfalls near the church.
NM	Doña Ana	Doña Ana Village Historic District	Doña Ana CDP	Roughly bounded by the Doña Ana lateral irrigation ditch, I-25, NM 320, and Doña Ana School Rd.	Nearest outfall is beyond the northwest boundary of the district.
NM	Doña Ana	Elephant Butte Irrigation District	City of Las Cruces, Doña Ana County and Town of Mesilla	Roughly along US 85, between jct. of US 85 and NM 90, and El Paso City Limits	Discharges governed by EBID and their MOA with NM SHPO.

Source: 11/26/08 search and download from <http://www.nr.nps.gov/>

*The downloaded data included all listed properties in Doña Ana County. The list was then reduced to the properties shown in the table. The table contains listed properties that meet the following criteria as governed by NPDES General Permit NMR040000:

- 1) Property is in Doña Ana County, and
- 2) Property is in the Las Cruces or El Paso Urbanized Area, and
- 3) Property is not within the jurisdiction of one of the other entities regulated by the NPDES permit. (City of Las Cruces, Town of Mesilla, New Mexico State University, City of Sunland Park, and City of El Paso)

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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6**

1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

SEP 22 2008

Governor Chandler Sanchez
Pueblo of Acoma
P.O. Box 309
Acoma, New Mexico 87034

Dear Governor Sanchez:

Through this letter EPA is clarifying the process for providing information to fulfill requirements with the National Historic Preservation Act (NHPA), Section 106. EPA is in the process of authorizing discharges of small Municipal Storm Sewer Systems (sMS4s) in New Mexico through our May 2007, general permit. EPA has an obligation to consider the effects of this undertaking on historic properties. We request your input during the formal comment period should the Tribe be aware of properties with religious or cultural importance that are affected by this undertaking.

A copy of the EPA sMS4 general permit is available at <http://epa.gov/region6/water/npdes/sw/sms4/index.htm>. In accordance with general permit requirements, MS4 operators within specified urbanized areas (UAs) must apply to EPA for permit coverage by filing a Notice of Intent (NOI). The UAs, defined by 2000 Census data, include Farmington, Santa Fe, Albuquerque, Las Cruces, El Paso and many of their surrounding communities. Maps of the UAs are available on the general permit website. It should be noted that municipal stormwater from within the City of Albuquerque is addressed by a separate individual permit, while MS4s outside the city limits who meet population density levels apply under this general permit.

Contrary to most general permits, the sMS4 general permit does not grant automatic coverage upon filing an NOI. The sMS4 permit requires that EPA authorize by letter each NOI only after in-house review and completion of a 30-day public comment opportunity. Review and comment on individual NOIs may be made online at <http://epa.gov/region6/water/npdes/sw/sms4/index.htm> or directly via mail to EPA. Currently, several NOI comment periods are complete, a few remain open, and several are anticipated in the future; continuing until all applications for discharge of municipal stormwater in New Mexico are processed.

Tribal input regarding cultural or historic properties that might be affected by EPA authorization of any sMS4 discharge is requested during the public comment period. EPA utilizes a New Mexico Tribal Mailing List to inform interested parties, including the Tribes, of public comment opportunities on NPDES permits. Please contact EPA immediately if the Tribe has not been receiving notification from us regarding online availability of NOIs. If, for any NOI whose comment period has closed, you have

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remarks for our consideration, we request you forward those comments to EPA within thirty days of receipt of this letter. For NOIs with public comment periods currently open and for future NOIs, you should provide any comments, including those regarding historic and cultural properties, during the comment period.

EPA acknowledges the government-to-government relationship we share with federally recognized tribes. We look forward to hearing from you. Any comments, including input the Tribe might have regarding the effects on historic properties of discharges addressed in an NOI, should be submitted to: Diane Smith, USEPA, Region 6, Water Quality Protection Division (6WQ-NP), 1445 Ross Ave., Suite 1200, Dallas, TX, 75202. Additionally, you may contact Denise Hamilton of the NPDES Permits and Technical Section via telephone at (214) 665-2775 or email at hamilton.denise@epa.gov, if you have questions.

Sincerely,



Claudia V. Hosch
Associate Director
NPDES Permits and TMDLs Branch

cc: (orig w/ Tribal Mailing List)
Michelle Ensey, NMSHPO
Tribal Mailing List

LIST OF HEADQUARTERS TO BE MERGED - Creates 1 letter

Office_Address_List

9/5/2008 per

individual

Title	First Name	Last Name	Company Name
Governor	Chandler	Sanchez	Pueblo of Acoma
Governor	Joseph Ernest	Suina	Pueblo of Cochiti
Governor	Robert	Benavides	Pueblo of Isleta
Governor	Paul	Chinana	Pueblo of Jemez
Governor	John	Antonio, Sr	Pueblo of Laguna
Governor	Ernest	Mirabal	Pueblo of Nambe
Governor	Earl	Salazar	Ohkay Owingeh
Governor	Craig	Quanchello	Pueblo of Picuris
Governor	George	Rivera	Pueblo of Pojoaque
Governor	Stuart	Paisano	Pueblo of Sandia
Governor	Ulysses	Leon	Pueblo of Santa Ana
Governor	J. Michael	Chavarria	Pueblo of Santa Clara
Governor	Ronald L	Tenorio	Pueblo of San Felipe
Governor	Leon T.	Roybal	Pueblo of San Ildefonso
Governor	Sisto	Quintana	Pueblo of Santo Domingo
Governor	Paul T.	Martinez	Pueblo of Taos
Governor	Robert	Mora	Pueblo of Tesuque
Governor	Ivan	Pino	Pueblo of Zia
Governor	Norman	Coeyate	Pueblo of Zuni
Chairman	Joe	Garcia	All Indian Pueblo Council
President	Levi	Pesata	Jicarilla Apache Nation
Executive Director	James Roger	Madalena	Five Sandoval Indian Pueblos
President	Dr. Carleton	Naicha-Palmer	Mescalero Apache Tribe
Interim Executive Director	Valarie	Lyon	Eight Northern Indian Pueblos Council
President	Joe	Shirley, Jr.	Navajo Nation
Speaker of the House	Lawrence	Morgan	Navajo Nation Council
Chairman	Benjamin	Nuvamsa	Hopi Tribal Council
Chairperson	Wendler	Noise, Sr.	San Carlos Tribal Council
Chairman	Ronnie	Lupe	White Mountain Apache Tribal Council
Chairman	Clement J.	Frost	Southern Ute Tribe
Chairman	Ernest	House, Sr.	Ute Mountain Ute Tribe
Chairman	Alonzo	Chalepah	Apache Tribe of Oklahoma
Chairman	Wallace	Coffey	Comanche Nation
Chairman	Jeff	Houser	Fort Sill Apache Tribe of Oklahoma
Chairman	Don	Tofpi	Kiowa Tribe of Oklahoma
President	George	Howell	Pawnee Tribal Business Council
President	Gary	McAdams	Wichita & Affiliated Tribes
Governor	Frank	Piaz	Ysleta del Sur Pueblo



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6**

1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

November 20, 2008

Governor Chandler Sanchez
Pueblo of Acoma
P.O. Box 309
Acoma, New Mexico 87034

Dear Governor Sanchez:

On September 22, 2008, EPA, Region 6, mailed a letter to inform the Tribe of municipal storm water Notices of Intent (NOIs) now and recently at public notice. That letter meant to clarify the process for information to be provided to fulfill requirements with National Historic Preservation Act (NHPA), Section 106, regarding EPA's Small Municipal Storm Sewer System (sMS4) general permit. Your input was requested regarding properties with religious or cultural importance to the Tribe that might be affected by this undertaking.

It has come to our attention that not all of the NOIs were accessible for review. Due to the inability for interested parties to review all NOIs, we are allowing additional time for review and comment. The EPA sMS4 general permit and copies of each NOI received to date by EPA are now available at <http://epa.gov/region6/water/npdes/sw/sms4/index.htm>.

Tribal input is again requested, regarding cultural or historic properties potentially affected by EPA authorization of any sMS4 discharge. For those NOIs with closed public comment periods, please forward any comments to EPA within 14 days of receipt of this letter. Please note that your input regarding potential impacts to cultural or historic properties from NOIs at public notice now or in the future should be submitted during each comment period.

Comments the Tribe might have regarding the effects on historic properties of discharges addressed in an NOI should be submitted to: Diane Smith, USEPA, Region 6, Water Quality Protection Division (6WQ-NP), 1445 Ross Ave., Suite 1200, Dallas, TX, 75202. Additionally, you may contact Denise Hamilton of the NPDES Permits and Technical Section via telephone at (214) 665-2775 or email at hamilton.denise@epa.gov, if you have questions.

Sincerely,

A handwritten signature in black ink, appearing to read "W. Hosch".

For Claudia V. Hosch
Associate Director
NPDES Permits and TMDLs Branch

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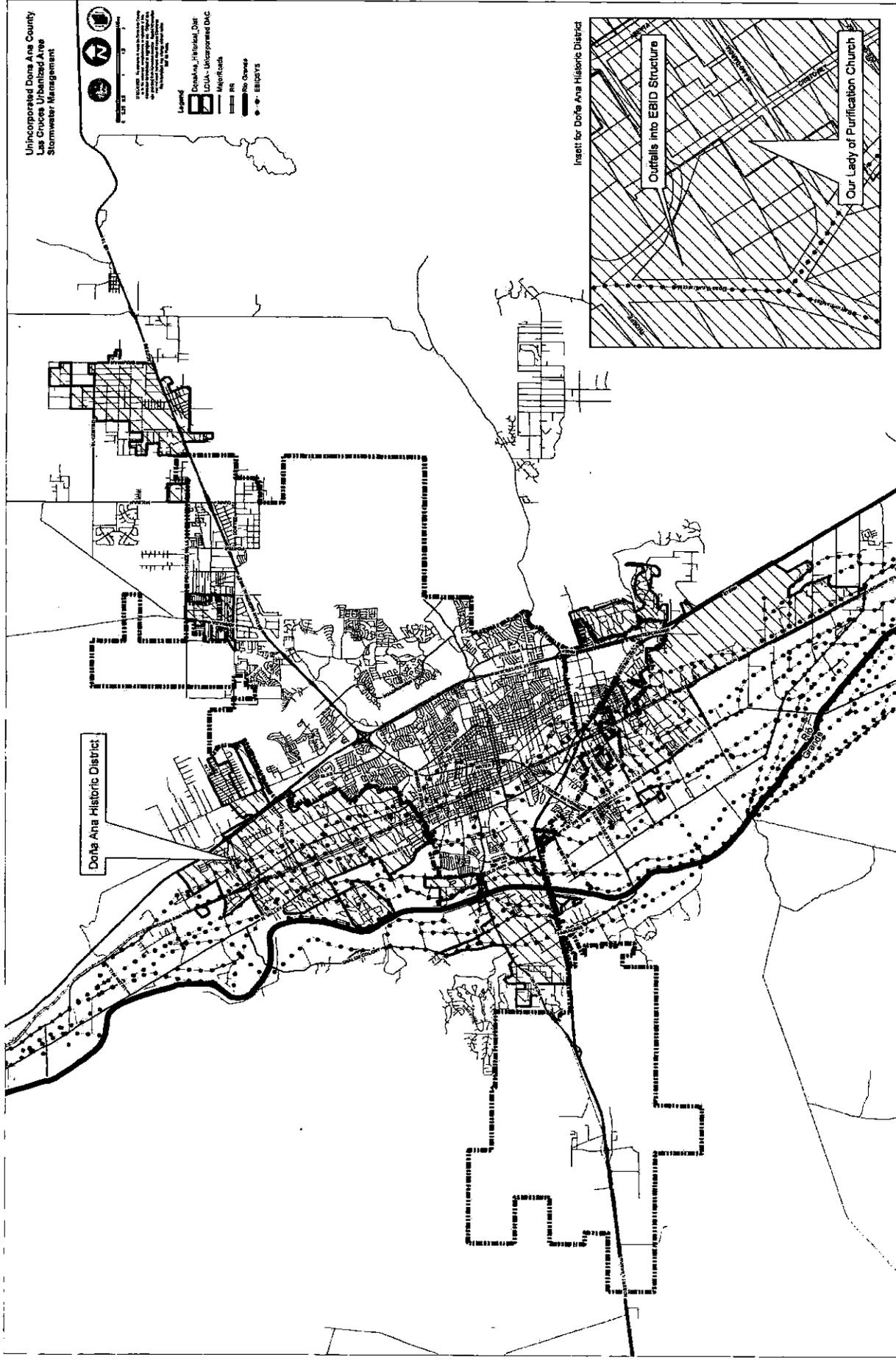
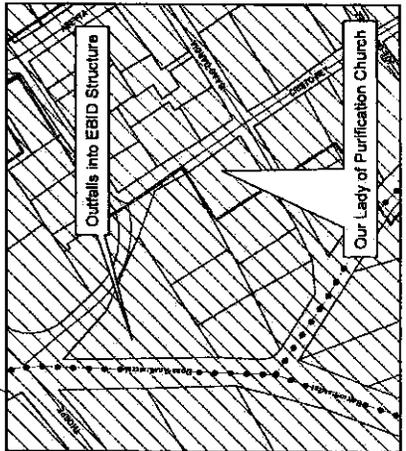
Unincorporated Dona Ana County
Water Control Districts
Stormwater Management



- Legend
- Dona Ana, Historical District
 - CDUA - Unincorporated DCA
 - Magnifield
 - RR
 - No. Owners
 - EBID'S

Dona Ana Historic District

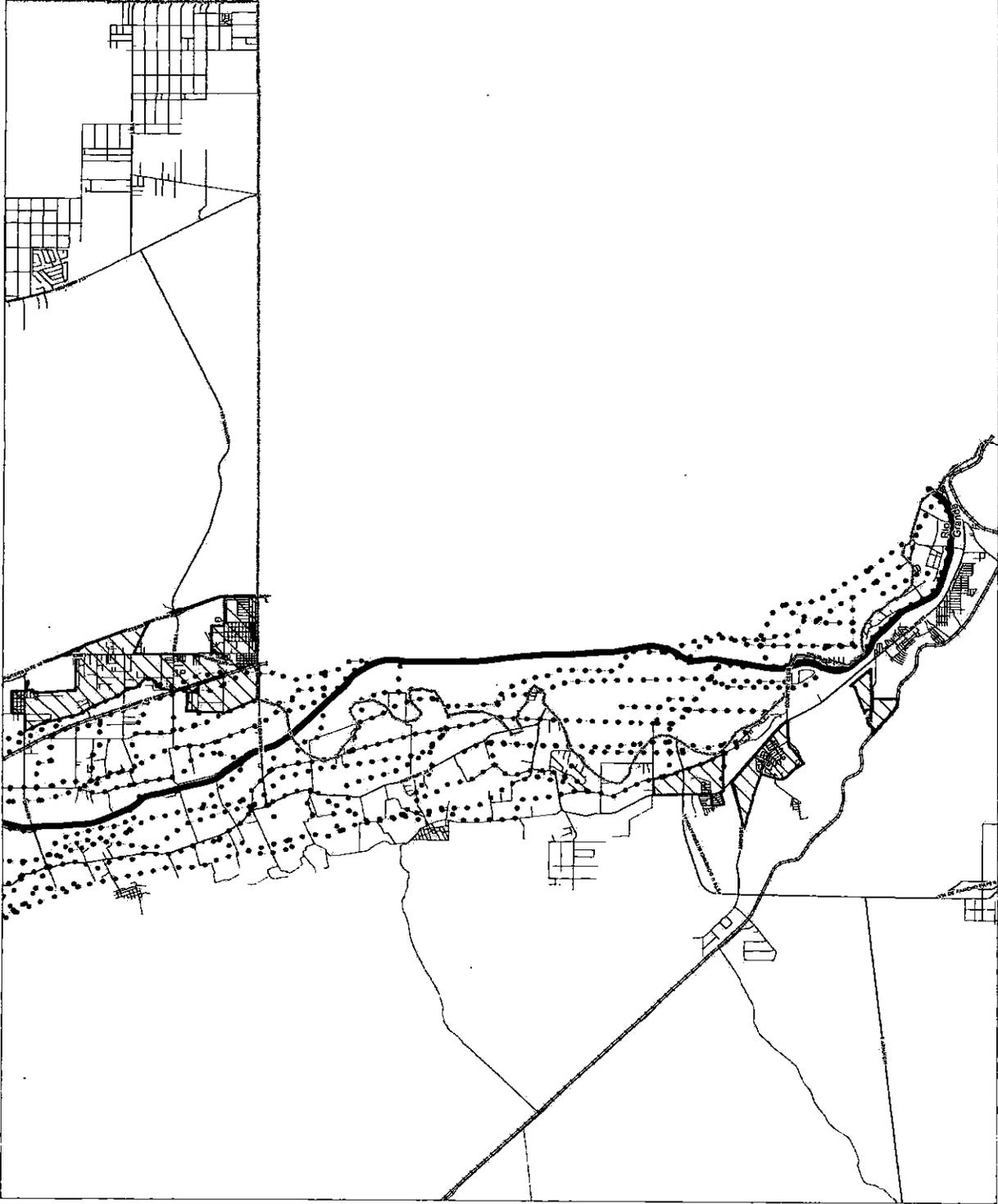
Inset for Dona Ana Historic District



Unincorporated Deane Area County
El Paso Unified Area
Stormwater Management



- Legend
- Existing DDC Boundary
 - Domestic W/Inflow Dd
 - Highway
 - RR
 - Rio Grande
 - EL PASO



APPENDIX E

**ORDINANCE NO. 201-02:
POLICIES AND REGULATIONS FOR
WASTEWATER SYSTEMS OWNED,
ESTABLISHED OR AUTHORIZED BY
DOÑA ANA COUNTY**

20582

Ordinance No. 201-02
Doña Ana County, New Mexico

DOÑA ANA COUNTY WASTEWATER ORDINANCE

**AN ORDINANCE ESTABLISHING THE POLICIES AND REGULATIONS
FOR WASTEWATER SYSTEMS OWNED, ESTABLISHED
OR AUTHORIZED BY DOÑA ANA COUNTY**

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Ordinance No. 201-02
Doña Ana County, New Mexico

DOÑA ANA COUNTY WASTEWATER ORDINANCE

**AN ORDINANCE ESTABLISHING THE POLICIES AND REGULATIONS
FOR WASTEWATER SYSTEMS OWNED, ESTABLISHED
OR AUTHORIZED BY DOÑA ANA COUNTY**

WHEREAS, the County of Doña Ana County has the power and authority to provide for the health, safety, prosperity, comfort and convenience of its inhabitants; and

WHEREAS, population growth and increasing residential and commercial densities in the unincorporated communities of Doña Ana County discharge wastewater effluent through on-site wastewater disposal systems, increasing the risk of groundwater contamination, and which is acknowledged by the State of New Mexico as being detrimental to the health, safety and welfare of New Mexico residents; and

WHEREAS, the Board of Commissioners has determined that adequate regional and community water and wastewater systems are necessary for the development of residential, commercial and industrial properties in Doña Ana County; and

WHEREAS, the formation of County water and wastewater utilities as directed in Resolutions 95-38, 96-36 and 97-27 for the construction, expansion and/or improvement of wastewater systems will benefit the residents of the County; and

WHEREAS, Doña Ana County, with financial assistance (grant and loan funding) and in cooperation with Federal and State agencies, has constructed and continues to construct wastewater treatment systems in the unincorporated areas of the County; and

WHEREAS, the viability of regional and community wastewater systems and the health and welfare of County residents require stated policies and regulations regarding

connections, service, rates and provisions for general discharge prohibitions for customers of the County's wastewater systems.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of Doña Ana County, New Mexico that the following policies, terms and conditions governing the establishment and operation of the County Wastewater Systems shall have the force of law. Further, the County Manager and Staff are hereby authorized to take whatever actions they deem necessary to affect and carry out the policies, terms and conditions of this Ordinance.

Section 1. Short Title.

This Ordinance shall be known and may be cited as the "Doña Ana County Wastewater Ordinance."

Section 2. Authorization.

This Ordinance is adopted in accordance with the authority granted by §§ 4-36-10 NMSA 1978, 4-37-1 NMSA 1978, and 3-26-1 et seq. NMSA 1978, and by County Resolutions 95-38, 96-36 and 97-27. The County is the Designated Management Agency as defined by the United States Environmental Protection Agency and the New Mexico Environment Department.

Section 3. Jurisdiction.

This Ordinance applies to all County service areas within the unincorporated area of the County to be served by the County's wastewater utility, as designated and established by this Ordinance and by subsequent ordinances or resolutions.

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Section 4. Definitions.

The following words, terms, and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act or the Act:

The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251, et seq.

Applicant:

A person that applies for County water service.

Biochemical Oxygen Demand (BOD):

The quantity of oxygen utilized in the biochemical oxidation of organic matter within five days at 20 degrees Celsius, expressed in terms of concentration (milligrams per liter (mg/l)) as determined by analytical procedures in 40 CFR 136.

Board:

The Dona Ana County Board of County Commissioners.

Categorical Pretreatment Standard or Categorical Standard:

Any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307 (b) and (c) of the Act (33 USC 1317) which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

CFR:

Code of Federal Regulations.

Chemical Oxygen Demand (COD):

A measure of the oxygen-consuming capacity of organic and inorganic matter present in wastewater as milligrams per liter (mg/l), as determined by analytical procedures in 40 CFR 136.

County:

Dofia Ana County.

County Manager:

The person designated by the County as its manager or acting manager to supervise the administration of the County's duties including the operation of the publicly-owned wastewater system, and who is charged with certain duties and responsibilities by this ordinance, or his duly authorized representative or designee.

County Right-of-Way:

Property owned by or maintained by the County, including but not limited to, streets, highways, alleys, planes, sidewalks, plazas, parks, easements, curbs, and drainage ways, which constitute County right-of-way.

County System:

A wastewater system owned, established or authorized by the County and constructed within a community or region in the unincorporated area of the County. County system includes wastewater collection lines, lift stations, and any other facilities of collection and conveyance but, according to the circumstances of a particular community or area, may or may not include a treatment facility.

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Customer:

Any owner or user of a building or facility which produces wastewater that is discharged to the County system and/or is responsible for payment of wastewater services.

Designated Operator:

The entity which operates, maintains and manages the wastewater system and which may be the County, another municipality or a private entity which by contract or other similar agreement performs those duties.

Direct Discharge:

The release, from any vehicle, container, wastewater line, or structure, of any waste governed by this ordinance.

Discontinuance of Service:

An intentional cessation of service by the County which was not requested by a customer.

Engineer:

A registered professional engineer currently licensed by the State of New Mexico as a Civil or Environmental engineer.

Environmental Protection Agency (EPA):

The United States Environmental Protection Agency or, where appropriate, the may also be used as a designation for the administrator or other duly authorized official of that agency.

Estimated Bill:

A bill for utility service which is not based on an actual reading of the customer's meter, or other measuring device, for the period billed.

Facilities:

Facilities are and include, but are not limited to, plants, works, systems, improvements and equipment of the County such as valves, conduits, pipes, collection lines, force mains, lift stations, and sludge mixing and hauling equipment.

Indirect Discharge:

The discharge or the introduction of any treated or untreated wastewater or other pollutants from any source into the County System.

Industrial Liquid Waste:

All waterborne solids, liquids, or gaseous wastes resulting from any industrial, manufacturing or food-processing operation or process, or from the development of any natural resources, or any mixture of these with water or domestic sewage as distinct from normal domestic wastewater.

Municipal System:

The wastewater system owned, established, or authorized by a municipality and to which, for the purposes of this ordinance, a county system may be connected for the treatment of wastewater.

New Mexico Environment Department (NMED):

The State of New Mexico Environment Department or, where appropriate, the term may also be used as a designation for the director or other duly authorized official of that department.

Normal Domestic Wastewater:

Any waterborne wastes normally discharging from the sanitary conveniences of buildings (including apartment houses, motels, and hotels), office buildings, factories, and

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institutions, free from storm surface water and industrial wastes. Normal domestic wastewater for purposes of this ordinance does not contain COD or BOD and TSS in excess of the following concentrations: COD = 500 mg/l, BOD = 250 mg/l, TSS = 330 mg/l.

Person:

Any individual, estate, trust, utility, receiver, association, subdivision of the state, cooperative, club, public or private corporation, company, firm, partnership, joint venture, syndicate, municipality or any other entity.

Pollutant:

Any dredged spoil, solid waste, incinerator residue, wastewater, garbage, wastewater sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

Pollution:

The manmade or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

Pretreatment:

The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a County System. The reduction or alteration can be obtained by physical, chemical or biological processes, process changes or by other means, except as prohibited by 40 CFR section 403.6(d).

Rate Schedule:

A description of the charges, conditions of services and other similar information associated with the provision of wastewater service to a given class or type of customer.

Rendering of a Bill:

The mailing or personal delivery of a bill by the County.

Resolution:

Rule, regulation or other decision adopted and enacted by the Board, under the authority of this Ordinance for the purpose of carrying-out the policies, terms and conditions of the Ordinance.

Service Area:

Service Area means the area of land within the unincorporated area of the County that the County from time to time designates as the service area to be provided wastewater service by the County Wastewater Utility.

Service Connection:

The pipe connection from the County system to the facility or unit producing wastewater.

Special Service:

A service provided to a customer by the County, which may not be included in a rate schedule.

Storm Sewer:

Facilities, which carry storm and surface waters and drainage, but excludes wastewater and industrial wastes.

Storm Water:

Any flow occurring during or following any form of natural precipitation and resulting therefrom.

Total Suspended Solids (TSS):

The total suspended matter that floats on the surface of or is suspended in water, wastewater or other liquids and which is removable by laboratory filtering as determined by standard method procedures.

Trap:

A device for retaining sand, silt, grit, mineral materials, petroleum solvent, grease or oil by gravity differential separation from wastewater and of a design and capacity approved by the County.

User:

Customer or other person who connects to the County wastewater system.

Utilities Administrator:

The person designated by the County to administer this Ordinance and the resolutions adopted, enacted and promulgated thereunder.

Utility:

A utility service including water, wastewater, electric, and/or gas services.

Wastewater:

Any water-borne industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, which is contributed into or permitted to enter the County System.

Wastewater Constituents:

The individual chemical, physical, bacteriological and radiological parameters, including volume and flow rate and such other parameters that serve to define, classify or measure the contents, quality, quantity and strength of wastewater.

Wastewater Discharge Permit:

A permit authorizing a user to discharge prohibited pollutants into the County system, provided that they fulfill all of the reporting requirements of the permit and discharge pollutants at concentrations no greater than are listed in the permit.

Section 5. Service Area.

A. The County wastewater system will serve the unincorporated areas of the County except those areas where a lawfully established wastewater system exists and is presently operating.

B. The County will identify and designate wastewater service areas.

C. The County identified and designated wastewater service areas shall be exclusive and property owners and other users in that said service area shall not take wastewater service from any other public, private or municipal wastewater utility.

D. The County hereby identifies and designates the following areas as exclusive wastewater service areas:

Exhibit 1, Northern Region:

Salem/Ogaz Area

Rincon Area

Exhibit 2, Las Cruces Region

Dona Ana Village Area

- | | |
|---|--|
| Exhibit 3, South Central Region: | <p>La Mesa/San Miguel Area</p> <p>Vado/Del Cerro Area</p> <p>Berino Area (Including Montana Vista and
Las Palmeras)</p> <p>Chamberino Area</p> |
| Exhibit 4, Southern Region: | <p>Santa Teresa - Border Area</p> <p>La Union Area</p> |
| Exhibit 5, Chaparral Region: | <p>Chaparral Area</p> |

E. The wastewater service area maps are attached hereto as Exhibits 1 through 5, which are incorporated herein and made a part hereof. These designated service areas and/or maps may be changed by the County by subsequent ordinance or resolution, as the need requires, consistent with expansions of or other modifications of the County's wastewater system as a result of new construction, operations, contracts, public or private development or plans therefor.

Section 6. Mandatory Connection.

When, as set forth in Sections 3 and 5 above, it has been determined by the Board of County Commissioners that a particular County system or service area shall be subject to this Ordinance, the following provisions apply:

A. Except as herein provided for in Section 7, it shall be mandatory for owners of buildings and facilities which produce wastewater and are located within three hundred (300) feet of a wastewater line to connect to the County System.

B. Upon completion, acquisition or authorization of a new County wastewater system, owners of buildings and facilities shall connect to the system within six (6) months. The six-month period begins with a public notice/Notice of Availability from the County announcing the system is completed or acquired and ready for service connections.

C. Connections to the County System shall be completed in a manner and with such materials as are prescribed by the County Wastewater Rules and Regulations and County Wastewater Construction Standards.

D. Each building or customer shall have a separate service connection unless specifically exempted by the Utilities Administrator.

E. The applicant for wastewater connection shall notify the County when the applicant's building is ready for inspection and connection to the County wastewater system. After obtaining an approved User Agreement, the connection shall be completed under the supervision of the County's representative or designee.

F. No person, other than employees of the County, its designated operator, or authorized contractors, shall be authorized to connect, turn on, turn off, or disconnect any community service or remove, replace or repair any equipment connected to any such service.

Section 7. Mandatory Connection Exceptions.

A. Any building, which meets the following County criteria, may be exempt from mandatory connection to a County System upon application for exemption and approval by the County:

1. Any building located farther than three hundred (300) feet from a connection with the county system;

2. Access to the County system is not available due to insufficient grade or right-of-way limitation. If a property is located near a sewer line but cannot flow by gravity into the sewer line, the property owner, at their expense, may be required to install a grinder pump system;

3. An officially declared moratorium to new connections to the system;

4. A claim for exemption based upon a clearly demonstrated hardship, which must be of such exceptional circumstances that no alternative is available. This exemption may include a recent installation of a septic system on a property; such an exemption, however, will not be automatic and will be for only a period of time as determined by the County.

B. All buildings declared exempt from connecting to a County wastewater system must have an approved on-site wastewater disposal system, which is in compliance with applicable local, state and federal regulations.

Section 8. County Rules and Regulations.

The Board of County Commissioners shall have the authority to set by subsequent resolution, rule, regulation, or ordinance such standards, specifications and policies, additional service areas, rates, expansion, line extension and line sizes and other charges, conditions of service and/or other matters, as may be deemed necessary, for the establishment, construction, expansion and maintenance and operation of the County Wastewater Systems. Attached hereto and titled "Dofia Ana County Wastewater Rules

and Regulations" is the present set of such Rules and Regulations, which are incorporated herein and made a part of this Ordinance and shall be effective with the effective date of this Ordinance.

Section 9. Service to Comply with Technical Provisions.

A. Any service furnished as a result of this Ordinance shall be in accordance with and in compliance with all applicable technical provisions of county, state and federal laws, rules and regulations, as well as this ordinance.

B. Where the wastewater system is connected to a municipal, water and sanitation district, or other system not owned by the County, any service will additionally be in accord with and will comply with applicable municipal codes, ordinances and regulations of that municipality, the water and sanitation district, or other system.

Section 10. Rates and Charges.

A. The rates and charges for the use of the County wastewater system and services furnished are fixed as set forth in the Rate Schedules, attached hereto. The rates and charges shall be sufficient to provide for the cost of service, capital improvement and debt service of the County system. In addition, the Board may assess, by subsequent ordinance or resolution, a surcharge to said utility rates to provide for repairs, replacement and/or expansions to any County system.

B. All customers of the County System shall pay all user rates, fees, and other charges as set by the Board in the manner established by the County.

C. Fees, charges and user rates may be different depending on type of use, i.e. residential, commercial, industrial or institutional, and/or by region served.

D. The rates and charges fixed herein may be changed by the Board by subsequent ordinance or resolution, as the need requires.

Section 11. Non-payment of Fees, Charges and/or Rates

A. In the event of non-payment by a customer, the County may exercise any one or combination of the following provisions:

1. bring suit to collect payment;
2. disconnect the wastewater utility service and water service if provided by the County;
3. file a utility lien on the serviced property;
4. enforce the lien as provided for in §§ 3-36-1 through 3-36-7 NMSA 1978; and/or
5. upon agreement with the water utility company serving the area, have customer's water service disconnected by the water utility company.

B. In any legal action instituted by the County provided for above, the County, if it prevails, shall be entitled to recover reasonable attorney fees and costs of the lawsuit.

Section 12. Billing and Collection.

Utility billing and collection under the authority of this Ordinance will be performed by the County or designated agent.

Section 13. Operation and Maintenance

Utility operations and maintenance under the authority of this Ordinance will be performed by the County or designated agent.

Section 14. Administration.

This Ordinance shall be administered and enforced by the County Utilities Administrator and his or her Department with the assistance of Codes Enforcement and/or the Sheriff's Department. Applications for service or questions concerning service should be directed to that Department.

Section 15. Enforcement and Penalties.

A. It shall be a violation of this Ordinance for a customer or any other person to neglect, fail or refuse to comply with or resist the enforcement of any provision of this ordinance or resolution enacted thereunder pursuant to § 4-37-3 NMSA 1978. Any customer or other person found guilty by a court of competent jurisdiction of a violation of this ordinance, shall be punished by a fine:

1. Not to exceed five thousand dollars (\$5,000) for the improper or illegal discharge of hazardous waste (as defined by the New Mexico "Hazardous Waste Act") into the system in any manner other than as provided in this ordinance.

2. Not to exceed three hundred dollars (\$300) for violation of any provision of this ordinance.

3. Each day that such violations exist shall constitute a separate offense.

4. In addition, the County may, as provided by law, bring suit to restrain, enjoin or otherwise prevent the violation of this ordinance or compel compliance with this ordinance and/or seek enforcement pursuant to Section 11 of this ordinance.

Section 16. County Police Power.

The Board expressly reserves the option, right and duty to adopt from time to time in addition to the provisions herein contained, such resolutions and other ordinances as the

Board may deem reasonably necessary in the exercise of its police power for the protection of the health, safety and welfare of its citizens and their properties.

Section 17. Notices.

All notices required to be delivered to the County pursuant to this Ordinance shall be sent, certified mail, to the following:

County Manager
Doña Ana County
180 W. Amador
Las Cruces, NM 88001

and

County Utilities Administrator
Doña Ana County
180 W. Amador
Las Cruces, NM 88001

Section 18. Severability.

If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application and, to this end, the provisions of this ordinance are severable.

Section 19. Conflict Provisions.

In the event the terms and/or the conditions of this Ordinance conflict with those found in any other County or local ordinance or State or Federal statute or regulation, the more stringent terms and/or conditions shall apply.

Section 20. Non-Waiver.

Any waiver by the County of a violation by a person of any term or condition of this Ordinance shall not be deemed or considered as a continuing waiver and shall not operate to bar or prevent the County from enforcing any succeeding violation either of the same term or condition or another. All remedies afforded in this Ordinance shall be taken and

construed as cumulative, that is, in addition to every other remedy provided herein or by law.

Section 21. Amendment Clause.

This Ordinance may be amended, as needed.

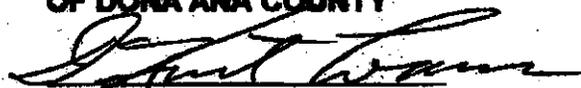
Section 22. Repealer.

Upon the effective date of this Ordinance, prior Doña Ana County Ordinance No. 171-97 ("Community Wastewater and Treatment Ordinance") and its requirements, terms and conditions are repealed and superceded by this Ordinance.

PASSED, ADOPTED AND APPROVED this 9th day of JULY,
2002, by the Doña Ana Board of County Commissioners.

**BOARD OF COUNTY COMMISSIONERS
OF DOÑA ANA COUNTY**

VOTE:



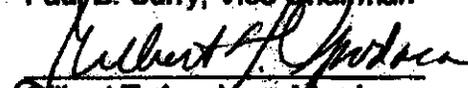
AYE

D. Kent Evans, Chairman

BY TELEPHONE

AYE

Paul B. Curry, Vice Chairman



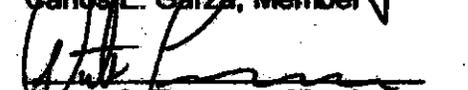
AYE

Gilbert T. Apodaca, Member



NAY

Carlos E. Garza, Member



NAY

Arturo C. Terrazas, Member



ATTEST:



Ruben Ceballos, County Clerk

Doña Ana County, New Mexico

**DOÑA ANA COUNTY WASTEWATER
RULES AND REGULATIONS**

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Rule 1. Preamble to Rules and Regulations

The following rules and regulations apply in the unincorporated areas of the County wherever the County is furnishing wastewater service to its inhabitants with its County wastewater utility.

These rules and regulations are enacted by the County pursuant to its authority granted by §§ 4-36-10 NMSA 1978, 4-37-1 NMSA 1978, and 3-26-1 et seq. NMSA 1978, and by County Resolutions 95-38, 96-36 and 97-27.

These rules and regulations are intended to promote safe and adequate service to the public and to provide standards for uniform and reasonable practices. The rules and regulations herein established shall remain in effect until amended or superseded by subsequent ordinance or resolution.

Dona Ana County does not assume any responsibility to serve or extend its wastewater facilities to serve additional customers located outside the service area boundaries as defined by the County.

Rule 2. Customer Classification

Wastewater service for residential, commercial, industrial, institutional and other purposes will be furnished under conditions as stated in these Rules and Regulations. Service to a customer will be provided at the rates set forth in the applicable rate schedules.

A. Residential Service

1. Residential service shall include wastewater service to a single house or to a multiple dwelling unit or condominium if separate piping is installed for each dwelling unit so that wastewater service to each unit can be billed separately.

2. Where premises are used for both residential and commercial purposes, the wastewater service will be billed under the applicable commercial rate schedule. When separate piping is installed to permit separate wastewater service to each class of service, billing will be rendered in accordance with the applicable rate schedule.

3. Any establishment acknowledged or advertised as a business, professional or commercial enterprise will be classified as non-residential.

4. Each service will be billed separately or as otherwise agreed.

B. Commercial Service

1. Commercial service shall include wastewater service to all types of establishments including multi-family residential not included in the "residential" classification, mobile home parks served by common service line(s), retail, offices, hotels, motels, shopping centers, laundromats, none of which use water in the manufacturing process.

2. Only one premises or business will be served through one (1) service line, except a group of buildings under one (1) management and control.

3. Each service will be billed separately or as otherwise agreed.

C. Industrial Service

1. Industrial service shall include wastewater service to a manufacturing or process facility, which is engaged in producing a product.

2. An Industrial User may be required to follow pretreatment standards and obtain a wastewater discharge permit in accordance with Rules No. 22, 23 and 24.

3. Each service will be billed separately or as otherwise agreed.

D. Institutional Service

1. Institutional service shall include wastewater service to government buildings, hospitals, schools and other facilities that provide public and quasi-public services.

2. Only one premises or structure will be served through one (1) service line, except a group of buildings under one (1) management and control.

3. Each service will be billed separately or as otherwise agreed.

Rule 3. Responsibility for Wastewater Service Equipment

A. Responsibility of the County.

1. The County will own, operate and maintain the complete wastewater system up to the service connection.

B. Responsibility of the Customer.

1. The customer shall install, own and maintain all facilities from the service connection up to and within the connected facility or unit.

2. The customer or property owner must exercise due care for the protection of the property of the County on the customer's premises.

3. The customer agrees, in accepting service that only a County employee shall be allowed to make an internal or external adjustment of the County's service line or any other piece of apparatus, which is the property of the County.

4. Facilities or equipment necessary for special requirements shall be installed and maintained by the customer.

Rule 4. Liability of County for Damage

A. The County shall not be liable for any damage to any customer of a County-owned wastewater system due to backflow of the wastewater system, failure of supply, interruption of service or any other cause outside the direct control of the County.

B. A statement to the effect provided for in paragraph A, above, is included in the Terms and Conditions described on the Application for Wastewater Service and User Agreement.

Rule 5. County's Right to Ingress/Egress from Customer's Property

A representative of the County shall have the right to ingress and egress to and from the customer's premises at reasonable times for the purpose of inspecting, maintaining, testing, changing, installing, or removing county property. If such representative, after showing proper credentials and identification, is refused admittance or hindered or prevented from performing the above duties, the customer shall be subject to those actions described in the County Wastewater Ordinance, Section 15, Enforcement and Penalties.

Rule 6. Acceptable Standards

The County will adhere to the applicable minimum design and construction standards and technical provisions as established under state law, Federal law and/or County ordinances or Standards for Wastewater Facilities.

Rule 7. Application for Service

A. Applications for wastewater service shall be made at the county office or other designated location. Applications shall be in a form prescribed by the County, *Application for Wastewater Service and User Agreement*, and shall include specific Terms

and Conditions for which wastewater service will be provided. All applicable Administrative Charges and One-Time Charges, as described in Rate Schedules 1 and 2, shall be paid or payment arrangements made prior to approval by the County. The County shall have a reasonable time to provide wastewater service, once the application has been accepted.

B. The cost to physically connect to the wastewater service line is the responsibility of the customer. The conditions of piping and character of installation on the premises shall be subject to inspection and approval by the county, and if such piping and/or installation is found to be faulty, the County may refuse to provide service until, and after, such faulty installation has been corrected to the satisfaction of the County. The County does not assume the responsibility for such inspections and shall not be held liable for failure of such piping or installations.

C. The County reserves the right to limit each customer to a maximum daily flow.

D. To enable the County to provide adequate service facilities, the customer may be required to provide flow information on new construction or alterations sufficiently in advance of the date upon which the customer expects wastewater service to commence.

E. The County shall supply service within a reasonable time after the application or agreement is approved, and after any necessary permits have been obtained. It is the responsibility of the customer to comply with all applicable codes and to obtain the necessary permits from governmental authorities. If, due to circumstances beyond the control of the County, service cannot be furnished within a reasonable length of time, the customer shall be advised promptly regarding the delay.

F. New or additional service will be limited to the available unreserved capacity in the collection, conveyance and treatment facilities.

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Rule 8. Temporary and Special Services

- A.** Where service connections are available, temporary service will be furnished under the County's established rules, regulations, and rates for the type of service required; provided, however, that the customer shall pay, in addition to the cost of service rendered under its applicable rate, the cost of installing and removing, or of connecting and disconnecting the necessary facilities required to provide such service.
- B.** The rate to be charged for temporary wastewater service will be in accordance with the County's existing applicable Rate Schedules.
- C.** Where wastewater service is supplied directly to a mobile/manufactured home or other temporary or portable structure, the County shall require that the Application for Service and User Agreement be in the name of the owner of the property on whose land the mobile/manufactured home or other portable structure is located. In such case, the monthly bill may be billed to the tenant as may be requested by the property owner, but the property owner will be held responsible for any unpaid charges.
- D.** Where wastewater service is supplied to an individual mobile/manufactured homes and other portable structures, the customer shall pay for the installation and removal cost of providing this service.
- E.** The County reserves the right to furnish or not to furnish wastewater service for any type of temporary or special service and further, to define the conditions under which the wastewater service will be provided. Continuous service under normal conditions to existing customers shall take priority over customers receiving temporary service.

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Rule 9. Service Connection

A. The service connection shall be constructed in accordance with the technical provisions as identified in the County Wastewater Ordinance, Section 9. The cost of the construction is the responsibility of the customer and is subject to inspection by the County.

B. Where applications for service are received involving service to elevations either above or below the established elevation, special engineering and economic studies may be required that could result in other than normal equipment requirements to provide such service. All circumstances will be taken into account in determining the feasibility of rendering wastewater service and where feasible, extensions will be made subject to the provisions outlined in Rule No. 25, Line Extension Policy.

C. One wastewater service line for each dwelling shall be installed on the premises except when a building houses more than one unit requiring separate wastewater connections.

D. The customer may be required to install a flow meter, lift station or other apparatus.

E. Upon connection to a County wastewater system, on-site systems shall be rendered incapable of future use in compliance with applicable local, state and federal regulations. The disabling of the existing system shall include but not be limited to the following:

1. Any pipe which carries waste to any location other than the County system shall be disconnected and securely capped and sealed including inlet pipes to septic tanks, cesspools, and other types of on-site holding tanks.

2. All septage remaining in the septic tank shall be pumped out by a certified septage hauler and shall be disposed of.

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3. Any on-site holding tank shall have its top broken and crushed in place and be filled with dirt, or it shall be removed and the hole backfilled to the level of the surrounding surface grade.

4. The disabled on-site system shall be inspected by the County or its authorized representative/designee.

F. Piping and plumbing installations made by the customer or under responsibility of the customer shall conform with the Uniform Plumbing Code, Mechanical Code or other State or County requirements.

Rule 10. Unauthorized Connection

A. Wastewater service provided by the County to any customer shall be used only in connection with such customer's residence, dwelling, or building to which the County has authorized a wastewater service connection and for which a customer account exists. The customer connection must comply with technical provisions provided for in the County Wastewater Ordinance, Section 9, be properly permitted and be successfully inspected by the County Utility and other local inspection authority.

B. Additional facilities shall not be connected to the existing service nor shall service be piped from one residence, dwelling, or building to another residence, dwelling or building without first obtaining a written permit, authorization and/or statement of requirements from the County, and without first complying with any such requirements.

C. Should a connection be completed in violation of the previous paragraphs, 10.A. and 10.B., the connection will be considered unauthorized and the following actions shall be taken by the County Utility:

1. applicable charges, as described in Wastewater Rate Schedules 1 and 2, shall be doubled;

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2. the connection will be subject to inspection and if construction is not acceptable, the connection shall be removed and reinstalled in accordance with the Technical Provisions identified in the County Wastewater Ordinance; and

3. the property owner will be subject to those actions as described in the County Wastewater Ordinance Section 11, Non-payment of fees, Charges and/or Rates.

Rule 11. Interruption of Service

A. The County will strive to furnish adequate, efficient and reasonable service. The customer should report interruption or any problems of service promptly to the County. The County will endeavor to restore or repair service within a reasonable time.

B. The County will use reasonable diligence to furnish a regular and uninterrupted wastewater service; however, interruptions or problems may occur or service may be curtailed or fail as a result of circumstances beyond the control of the County, included but not limited to those caused by public enemies, accidents, strikes, legal processes, or damages, repairs or changes in the County's collection, conveyance or treatment facilities. The County will endeavor to give reasonable notice in advance of any planned effort.

C. Customers whose service requirements exceed those normally provided should advise the County and contract for additional facilities as may be required.

Rule 12. Discontinuance and Denying Restoration of Service

A. Customers who intend to move from a premises or discontinue the use of wastewater services or in any way terminate their liability shall give the County or its designated agent reasonable notice of such intentions. The customer will be liable for wastewater service charges for the premises until such notice is given and the County has also confirmed the discontinuance of water service with the water provider. Upon receipt of

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such notice, the County will confirm the water provider's final meter reading within a reasonable period of time or approximately five (5) working days. The owner of the premises will be subject to the minimum fixed charge up to the time of the final meter reading.

B. The County reserves the right to interrupt service or request the interruption of water service for a reasonable period for maintenance and repairs to its property or equipment.

C. The County may discontinue utility service to a customer without prior notice:

1. In the event of a condition determined by the County to be hazardous.
2. In the event of customer use of equipment in such manner as to adversely affect the County's equipment or the County's service to others.

3. In the event of customer's tampering with, damaging, or destroying the equipment furnished and owned by the County.

4. In the event of unauthorized use of service.

D. The County may discontinue utility service to a customer with prior notice:

1. Nonpayment of a delinquent account.
2. Failure to comply with the terms and conditions of a settlement agreement.
3. Refusal to grant access at reasonable times to equipment installed upon the premises of the customer for the purpose of inspection, maintenance or replacement.

4. Failure to comply with conditions specified by the County and/or the Application for Service and User Agreement required to obtain County wastewater services.

5. Violation of and/or non-compliance with the County's rules on file with the office of the County Clerk and approved by the governing body.

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6. Failure of the customer to fulfill contractual obligations for utility service and/or facilities other than settlement agreements.

E. The Notice of Discontinuance required by this rule shall include the following:

1. A statement of the reason(s) why the County has issued notice to discontinue utility service.

2. The title(s), address, telephone number(s) and working hours of the personnel at the County responsible for carrying out the rights herein prescribed.

3. Notice that the customer may obtain a review by County personnel to address the reasons for the discontinuance of service.

4. Notice that a complaint may be filed with the Utility Administrator if the customer disagrees with the County's determination of the facts on which the proposed discontinuance is based. If the customer requests a review by the County, discontinuance of service shall be stayed during the review.

5. The amount owed and the date by which the customer must either pay the amount due or make other arrangements with the County concerning payment of the charges, including arrangements for a settlement agreement. The service period over which said amount was incurred, the date, and the amount of the last payment shall be available upon request.

6. Notice that the County will not discontinue service to any residence where, upon adequate proof, the County determines a seriously ill person or person whose life may be endangered by discontinuance of service resides.

7. Notice of a Reactivation Charge in accordance with the Wastewater Rate Schedule 4, Special Charges.

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F. The County shall not discontinue service for:

- 1. The failure of a customer to pay for special services.**
- 2. The failure of a customer to pay for service received at a separate wastewater service point, residence or location. However, in the event of discontinuance or termination of service at a separate wastewater service point, residence or location, the County may transfer any unpaid balance due to any other service account of the customer.**
- 3. Nonpayment of the disputed amount of a bill.**
- 4. Delinquency in payment for service to a previous occupant of the same premises unless a court has found the new customer is legally liable for the debt of the previous occupant.**
- 5. Failure of a customer to pay the bill of another customer as guarantor thereof.**

G. Any customer whose service is involuntarily disconnected may be required to pay a Reactivation Charge in addition to all charges before being reconnected to the County's utility systems.

H. The County employee sent to discontinue utility service shall be empowered to receive full payment, by check or money order, of delinquent bills and, upon receipt of the full payment in a form acceptable to the County, said employee shall be empowered to cancel the discontinuance order.

I. When a customer has indicated to the County an inability to pay utility charges, has not been chronically delinquent, and can provide some evidence and/or documentation of hardship such as medical or other extenuating circumstances, the County shall attempt to arrange an installment plan for the payment of past due utility charges. While an installment plan is being negotiated, the County shall not discontinue service to

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such customer. In the event that either negotiation of the installment plan is discontinued or progress in its negotiation is stalled, the County may proceed with discontinuance of service.

J. Utility service to a customer may be discontinued only during the hours from 8:00 a.m. to 3:00 p.m. on Monday through Thursday and may not be discontinued less than twenty-four (24) hours prior to a holiday or weekend unless the County's designated business office is open for receipt of payment of past due charges and County personnel are available to restore such service upon payment during said holiday or weekend.

Rule 13. Manner of Serving Notice to Customer

Notice by the County to the customer may be given verbally, in person or by telephone, or in writing. A mailed written notice will be deemed received three (3) business days after mailing to the customer's billing address. Hand delivered written notice shall be deemed effective immediately upon delivery to the service address.

Rule 14. Customer Complaint Procedures

A. Inquiries or complaints concerning the application or interpretation of rates, charges and regulations may be made to the County Utility Department or designated agent by telephone, in person, and/or in writing. The inquiry or complaint shall be documented as received in the County's Customer Inquiry Log. County staff or the designated agent will make every attempt to investigate, respond, and resolve the issue in a timely manner.

B. In the event that the customer is not satisfied with the action of such County representative, the customer may direct a written complaint to the Utilities Administrator. Such written complaints shall be fully investigated and the Utilities Administrator shall provide a written decision in effort to resolve or satisfy the inquiry or complaint of the customer. Any customer who does not file a written complaint with the Utilities

Administrator within sixty (60) days of the decision or action of the County representative, which is the subject of the complaint, shall waive any right to contest such decision or action.

Rule 15. Rates and Charges

The Rates and Charges to be paid to the County for wastewater service will be the rates and charges legally in effect, approved by and on file with the office of the County Clerk. Complete schedules of all rates and charges legally in effect will be kept at all times at the County's Utility Department where they will be available for public inspection. Attached hereto is Rate Schedule 1 through 4, which shall be in effect with the effective date of this ordinance.

Rule 16. Security Deposits, Guarantees of Payments

A. The County may require a security deposit or other guarantee of payment as condition of new or continued service to a residential customer, specifically in the case of service:

1. to a residential customer who is not connected to a community water system,
2. to a residential customer who has not previously had utility service with the County,
3. to a chronically delinquent residential customer of the County,
4. to a residential customer who is being reconnected following discontinuance of service by the County, and
5. to a residential customer who, without authority, has interfered with or connected to the County's wastewater service.

B. Commercial and Industrial customers shall be required to make a deposit.

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C. Institutional customers may be required to make a deposit if determined necessary by the Utility Administrator.

D. The County reserves the right to require an increase in the amount of previous deposit pursuant to Rate Schedule 1, if a customer is chronically delinquent.

E. Customers who have not been delinquent for the twelve (12) month period from the date of deposit or guarantee will receive a credit to their account. If the customer fails to qualify for a refund of the deposit on the first anniversary date of the deposit, that account may be reviewed on each subsequent anniversary date of the deposit. The amount of the deposit shall be credited if the customer has not been delinquent during the preceding twelve (12) months.

F. Each customer posting a security deposit shall receive in writing at the time of tender of deposit, a receipt as evidence thereof. The receipt shall contain the following minimum information:

1. Name of customer.
2. Date of payment.
3. Amount of payment.
4. Statement of the terms and conditions governing the payment, retention, interest and return of deposits.

G. The County shall maintain records of deposits and issue receipts of deposits in accordance with applicable requirements of state law and regulations.

Rule 17. Rendering and Payment of Bills

A. Bills will be rendered by the County or designated agent to the customer under the applicable Rate Schedule.

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B. When billing for multiple services at a residence, the use and charge attributable to each service shall be clearly set forth on the bill. Utility service to multiple locations billed to a single residential customer shall be separately stated for each location.

C. All bills for wastewater service are due when rendered, and are payable within thirty (30) days from date of bill, and if not so paid the bill shall be considered delinquent.

D. A customer shall be given at least fifteen (15) calendar days from the date the bill is deemed delinquent before the County may discontinue utility service or request the disconnection of the water utility service, pursuant to the requirements of Rule 12 and a Late Charge assessed according to Rate Schedule 4.

E. If the last day for payment of a bill falls on a Sunday, legal holiday, or any other day when the offices of the County regularly used for the payment of customer bills are not open to the general public, the final payment date shall be extended through the end of the next business day.

F. The word "month" or "regular billing period" as used herein and in the rate schedules are hereby defined as a thirty (30) day period or the elapsed time between two (2) successive meter readings approximately thirty (30) days apart.

G. For calculating variable charges and in the event of the stoppage of, or the failure by any meter to register the full amount of water consumed, or of the inaccessibility of the meter, the customer will be billed for such period on an estimated consumption based upon use of water in a similar period of like use; provided, however, that such period shall not exceed six (6) months.

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Rule 18. Estimated Bills

A. The County shall not render a bill based on estimated water use to a customer unless:

- 1. the utility is unable to obtain access to the customer's premises through no fault of its own for the purpose of reading the meter;**
- 2. a meter is defective or has been evidently tampered with or bypassed;**
- 3. weather conditions prohibit meter readings or where other force majeure conditions exist.**

If the County is unable to obtain an actual meter reading for these reasons, the County shall attempt to contact the customer and obtain access to the premises.

B. If the County underestimates a customer's water use and subsequently seeks to correct the bill, the customer shall be given an opportunity to participate in an installment plan with regard to the underestimated amount.

C. Meters will be read or water use data obtained at regular intervals, however, if a meter reading is missed, the County may bill the customer on an estimated consumption and the difference adjusted when the meter is again read. The basis for this estimate shall be the normal consumption for corresponding periods in the preceding year and/or normal consumption of preceding months.

Rule 19. Disputed Bills

A. The County agrees to promptly investigate any question as to accuracy of bills for service rendered. If the bill is in error, the County shall submit a corrected bill which reflects an increase to the customer as promptly as circumstances permit or give credit on a subsequent bill rendered to the customer in the amount of any over charge. The County will use its best efforts to explain the error to the customer.

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B. An equitable adjustment of the charges may be made in the event of an unforeseen or extraordinary circumstance not occasioned by the customer.

Rule 20. Settlement Agreements

A. Settlement Agreements shall be in writing and at the discretion of the County. When the County and a customer settle a dispute or when a customer does not dispute liability for an outstanding bill or bills but demonstrates an inability to pay the outstanding bill or bills when due, the County and the customer shall enter into a settlement agreement to pay the amount of the bill. The County is not required to enter into a settlement agreement with a chronically delinquent customer. However, if a chronically delinquent customer can demonstrate to the County that the customer does not have adequate financial resources to pay the outstanding bill without participation in the settlement agreement and because the customer has a low income and is elderly, disabled, or subject to other special considerations, the County shall give special consideration to such a customer in determining whether to extend a settlement agreement to that customer.

B. Every settlement agreement, involving an inability to pay an outstanding bill in full when payable according to Rule No. 17, shall provide that service will not be discontinued if the customer pays a reasonable portion of the outstanding bill upon signing the settlement agreement and agrees to pay the remaining outstanding balance in reasonable installments until the bill is paid. For purposes of determining reasonableness, the parties shall consider:

1. the size of the outstanding balance;
2. the customer's ability to pay;
3. the customer's payment history;
4. the time that the balance has been outstanding;

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5. the reasons why the balance has been outstanding; and

6. any other factors relevant to the customer's service.

C. A settlement agreement to pay an outstanding past due balance on a bill does not relieve a customer from the obligation to pay future bills on a current basis.

D. If the customer has entered into an installment plan pursuant to a settlement agreement, the customer shall receive a statement of:

1. the actual service charges incurred for the current billing period;

2. the amount of the installment payment due;

3. the total amount due {sum of (1) and (2)}; and

4. an acknowledgment of previous installment payments.

E. If a customer fails to comply with a settlement agreement, the County may discontinue service after notifying the customer by personal delivery of written notice or by first class mail that the customer is in default of the settlement agreement; stating the nature of the default and, that unless a payment which brings the settlement agreement current is made within seven (7) days from the date of notice, the County will discontinue service on a specified date.

F. The County and a customer may renegotiate the terms of a settlement agreement.

Rule 21. Limitations and Restrictions of Use

A. If an existing customer is planning further development, which will use unusually large quantities of water, the County shall be consulted in advance for its approval of such additional service and for the terms and advice as to conditions under which the wastewater will be collected from the premises of the customer.

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B. The County reserves the right to limit the size of service connections and to prohibit the customer's flow of excessive quantities of wastewater that exceed or strain the capacity of the County's facilities. Noncompliance of this rule by a customer shall constitute grounds for discontinuing service in accordance with Rule No. 12, Discontinuance and Denying Restoration of Service.

C. The County reserves the right to impose restrictions or limitations on wastewater services should an outside governing or regulatory body impose similar restrictions on the County.

Rule 22. General Prohibitions and Limitations on Discharge

The purpose of this rule is to establish limitations and prohibitions on the quantity and quality of wastewater, which may be lawfully discharged into the county system.

Pretreatment of some wastewater discharges will be required to achieve compliance with this ordinance. All users are required to reduce, eliminate, or otherwise prevent polluting substances from entering their wastewater stream by source reduction or waste minimization. The specific limitations set forth herein are necessary to enable the County to meet requirements contained in its permits, to protect the public health and the environment, and to provide efficient wastewater treatment and protect the health and safety of wastewater personnel. The County shall periodically review said limitations to insure that they are sufficient to meet the goals of this ordinance. The County shall recommend changes or modifications as necessary.

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A. Prohibited Pollutants

1. **Specific Prohibitions.** No user shall introduce into the county system any of the following pollutants which acting alone or in conjunction with other substances present in the wastewater could interfere with the operation of the county system:

(a) Pollutants which could create a fire or explosive hazard in the county system, including, but not limited to, wastewater streams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR.261.21;

(b) Pollutants which could cause corrosive structural damage to the county system, but in no case, discharges with a pH lower than 5.0 or higher than 11.5;

(c) Solid or viscous pollutants in amounts which could cause obstruction to the flow in the wastewater lines, or other interference with the operation of or which could cause damage to the county system, including grease, wax or other materials which tend to coat and clog a sewer line or other appurtenances thereto;

(d) Any pollutant which could cause interference in the county system or individual unit operations, including oxygen demanding pollutants (BOD, COD and the like), released in a discharge at a flow rate and/or pollutant concentration which could cause interference in the county system or individual unit operation;

(e) Any persistent pesticides or herbicides, such as dieldrin, aldrin, chlordane, endrin, heptachlor, toxaphene, lindane, dioxin, benzene hexachloride (BHC), and polychlorinated biphenyls (PCBs) or other toxic refractory organic chemicals shall not be discharged to a public wastewater system.

(f) Heat in amounts which will inhibit biological activity in the county system resulting in interference, but in no case heat in such quantities that the temperature at the treatment works influent exceeds 40° C. (104° F.). Unless a higher temperature is

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allowed in the user's wastewater discharge permit, no user shall discharge, into any public wastewater system or other appurtenance of the county system, wastewater with a temperature exceeding 60° C. (140° F.);

(g) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through; and in no case greater than 100 mg/l;

(h) Pollutants which result in the presence of toxic gases, vapors, or fumes within the county system in a quantity that may cause acute worker health and safety problems as determined by the County;

(i) Trucked or hauled pollutants, except at discharge points designated by the County.

(j) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the wastewater system for maintenance or repair; or pollution of receiving waters;

(k) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which subsequently imparts color to the treatment plant's effluent, thereby violating the County's permits;

(l) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the County;

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(m) Sludges, screenings, or other residues from the pretreatment of industrial wastes;

(n) Medical wastes, except as specifically authorized by the County in a wastewater discharge permit;

(o) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;

(p) Detergents, surface-active agents, or other substances which may cause excessive foaming in the county system;

(q) Fats, oils, or greases of animal or vegetable origin in concentrations greater than 300 mg/l;

(r) Wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limit established by the county in compliance with applicable state or federal regulations;

(s) A sludge discharge having a flow rate or containing pollutant concentration that will cause inhibition, pass-through, or sludge contamination of the county system, including, but not limited, the specific prohibitions defined in 40 CFR 403.5(b) to 403.12(f);

(t) Unusual concentrations of inert suspended solids (such as, but not limited to, fuller's earth, lime slurries, and lime residues) or dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate);

(u) Any pollutant, which would result in a violation of any statute, rule, regulation or ordinance of any public agency, including discharges prohibited by EPA.

2. For those situations in which a County system is connected to a municipal, water and sanitation district, or other system not owned by the County, the user must

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comply with the applicable municipal codes, ordinances and regulations of that municipality, the water and sanitation district or other system regarding prohibited discharges, industrial liquid waste, and wastewater pretreatment.

B. Wastewater Evaluation

1. The wastewater of a user shall be evaluated upon the following criteria:

(a) Whether the wastewater contains any element or compound which is not adequately removed by the treatment process and which is considered to be an environmental hazard by the County;

(b) Whether the wastewater causes a discoloration, foam, floating oil or grease, or any other condition in the quality of the County treatment systems effluent such that receiving water quality requirements established by law cannot be met;

(c) Whether the wastewater causes conditions at or near the county system, which violate any statute, rule, or regulation, of any public agency of the state or the United States;

(d) Whether the wastewater contains any element or compound known to act as a lacrimator, known to cause nausea, or known to cause severe odors constituting a public nuisance;

(e) Whether the wastewater causes interference with the effluent or any other product of the treatment process such as residues, sludges or scums rendering them to be unsuitable for reclamation or reuse;

(f) Whether the wastewater has constituents and concentrations in excess of those listed herein;

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(g) Whether the wastewater has a higher than normal COD (500 mg/l), BOD (250 mg/l), and/or TSS (300 mg/l) and will be subject to an extra strength surcharge.

2. The County shall establish reasonable limitations or prohibitions in the wastewater discharge permit of any user that discharges wastewater violating any of the above criteria as shall be reasonably necessary to achieve the purpose and policy of this ordinance.

C. National Categorical Pretreatment Standards.

Certain users are now or hereafter may become subject to National Categorical Pretreatment Standards promulgated by the EPA specifying quantities or concentrations of pollutants or pollutant properties which may be discharged into the county system. All users subject to a National Categorical Pretreatment Standard shall comply with all requirements of such standard, and shall also comply with any limitations contained in this ordinance. Where duplication of the same pollutant exists, the limitations which are more stringent shall prevail. Compliance with National Categorical Pretreatment Standards for existing sources subject to such standards or for existing sources which hereafter become subject to such standards shall be within three years following promulgation of the standards unless a shorter compliance time is specified in the standards. Compliance with National Categorical Pretreatment Standards for new sources shall be required upon promulgation of the standard. Except where expressly authorized by an applicable National Categorical Pretreatment Standard, no user shall increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitution for adequate treatment to achieve compliance with such standard.

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D. Prohibitions of Drainage or Ground Waters

1. Storm water, ground water, rain water, street drainage, rooftop drainage, basement drainage, subsurface drainage or yard drainage shall not be discharged to the County system unless a storm sewer or other reasonable alternative for removal of the drainage does not exist, and then only when the discharge is approved by the County.

2. Clean-up waters from ground water remediation sites or other non-standard industrial permitted sources will normally not be accepted into the County system. Exceptions will be considered on a case-by-case basis where a reasonable alternative for discharge does not exist, and then only when the discharge is approved by the County.

3. Any entity requesting a discharge of remediation water or any other non-standard industrial permitted discharge shall prepare a detailed proposal describing the proposed discharge's characteristics, including but not limited to: toxicity, biotreatability, analysis of alternatives, hazardous nature, quantity, duration, pass-through potential, county system biological inhibition potential and any other factors deemed appropriate by the County.

4. The County reserves the right, if the discharge is approved, to impose monitoring and analysis requirement on the entity making the discharge request which can include testing the discharge waters and the county system influent, effluent and sludge. The County reserves the right to deny any discharge request or to deny the continuation of a discharge previously approved if in the judgment of the County the continuance of the discharge is not desirable.

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E. Septic Tank or Chemical Toilet Discharges.

No user owning vacuum or cesspool-type pumping trucks or other liquid waste transport trucks shall discharge such waste into the county system without prior approval from the County.

F. Other Holding Tank Waste.

No user shall discharge any other holding tank or trap waste, including grit, grease, or hauled industrial wastes into the county system without prior approval from the County.

G. Limitations on Pollutant Concentration.

Based on the development of technically based local discharge limitations, and latest revisions, no user shall discharge wastewater into the wastewater system in excess of the concentration as set forth by the County's permit requirements for discharge or 40 CFR 403.

H. Pretreatment of Wastewater.

1. Pretreatment required. A user generating wastewater containing waste prohibited from discharge to the county system by this section and who desires to discharge the same to the county system shall pre-treat or otherwise dispose of the prohibited waste so as to make the wastewater discharged to the county system conform to the discharge standards, limits, requirements, and conditions established in this ordinance.

2. Pretreatment Facilities. User shall provide wastewater pretreatment as necessary to comply with this ordinance and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in this ordinance as specified by the EPA, the State, local limits, or the County, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the

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user's expense. Detailed plans describing such facilities and operating procedures shall be prepared by an engineer and submitted to the County for review, and shall be acceptable to the County before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the County under the provisions of this ordinance.

3. Additional Pretreatment Measures

(a) The County may require users to restrict discharge during peak flow periods, designate certain wastewater be discharged only into specific locations, relocate and/or consolidate points of discharge, separate wastewater streams from industrial wastewater streams, and such other conditions as may be necessary to protect the county system and determine the user's compliance with the requirements of this ordinance.

(b) The County may require any user discharging into the county system to install and maintain, on their own property and at their own expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit, as described in Rule 24, may be issued solely for flow equalization.

(c) Users with the potential to discharge flammable substance may be required to install and maintain an approved combustible gas detection meter.

I. Oil and Grease Discharge Limitations.

The County shall monitor wastewater discharge permit holders, automotive shops, vehicle fueling stations, septic tank pumpers, commercial food processors, oil tank firms and transporters, and others as appropriate. Existing sources must maintain their traps and separation-treatment systems to insure that grease and oil does not enter the

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county system. Dischargers shall be subject to monitoring, inspection, reporting and other requirements as determined by the County in its discretion. These dischargers may not be required by the County to apply for Wastewater Discharge Permits unless the County determines in its discretion that they are a significant source of prohibited pollutants, toxic pollutants in toxic amounts, extra strength discharges, or are otherwise controlled by federal regulations. Dischargers not in compliance shall also be subject to operation and maintenance costs necessitated by the oil and grease problem until the problem is corrected.

J. Surcharges.

A surcharge will be assessed against any user who discharges wastewater which is of greater strength than normal, or of greater strength than allowed by permit if applicable. Normal untreated wastewater is defined as:

1. Chemical Oxygen Demand (COD) less than or equate to 500 mg/l; or
2. Biochemical Oxygen Demand (BOD) less than or equal to 250 mg/l; and
3. Total Suspended Solids (TSS) less than or equal to 300 mg/l.

Users with discharge exceeding the parameters defined above for normal untreated wastewater may be assessed a monthly surcharge, which shall be computed as provided for in Rate Schedule 3.

K. Miscellaneous Provisions.

1. Pretreatment Charges. The County may adopt reasonable charges for reimbursement of costs of setting up and operating the County Pretreatment Program which may include:

- (a) Charges for the wastewater discharge permit process as described in Rule 24.

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(b) Charges for monitoring, inspection, and surveillance, including costs of sampling and analysis of user's discharge and reviewing monitoring reports submitted by users;

(c) Charges for reviewing and responding to accidental discharge procedures and construction;

(d) Other charges as the County may deem necessary to carry out the requirements contained in this ordinance. These charges relate solely to the matters covered by this ordinance and are separate from all other charges, fines, and penalties chargeable by the County.

Rule 23. Traps

A. Grease, oil and sand traps shall be provided and properly maintained by the user when, in the opinion of the County, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients, except that such traps shall not be required for private living quarters or dwelling units. Grease and oil traps shall be installed in all new service stations, garages, restaurants, and other new facilities wherein heavy discharge of grease and oil is to be expected. The user shall clean and maintain traps for proper functioning.

B. Manufactured traps acceptable to the County and properly sized may be used in lieu of on-site construction. Where possible, the trap shall be installed outside the building.

C. The County Utilities Department has design specifications for approved traps available for its customers.

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Rule 24. Wastewater Discharge Permits

A. Applicability

Any user who meets any of the following criteria shall be required to have a wastewater discharge permit:

1. Users who are subject to or who become subject to a Categorical Pretreatment Standard as that term is defined in 40 CFR 403.3(), whether or not the user discharges directly into the county system or by way of an intermediate system;

2. Process wastewater flow greater than 25,000 gallons per day; or

3. Those engaging in activity which:

(a) Results in effluent exceeding or with high potential to exceed the specific maximum concentration of parameters specified in the County Systems' discharge permits; and

(b) In the judgment of the County, the site's use is in an industrial class or category which may supply an appreciable contribution of pollutants to the county system.

B. For purposes of this Rule, when the context so indicates, the phrase PRETREATMENT STANDARD shall include either a National Categorical Pretreatment Standard or a pretreatment standard imposed as a result of the user's discharging any pollutant regulated by this ordinance. For purposes of this Rule, the term POLLUTANT shall include any pollutant identified in a National Categorical Pretreatment Standard or any pollutant identified in the County System's discharge permits.

C. Any users who are subject to or become subject to as defined in 40 CFR 403.3() must comply not only with the requirements of this ordinance but also requirements of the NMED, EPA or as described in 40 CFR 403.

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D. Application for Wastewater Discharge Permit.

1. Subject users shall obtain applications from the County. Variances shall not be granted except as allowed by EPA under regulation 40 CFR 403.13 for categorical industries and provided such variances allowed by EPA do not exceed the discharge limits established by this ordinance. The user shall submit to the County revised plans whenever alterations or additions to the user's premises affect points of discharge to the county system. All applications shall conform to requirements set forth in 40 CFR 403.12 to include the following information:

(a) The name and address of the user. If the user is a partnership or proprietorship, the names of all partners or proprietors must be submitted to the County along with the name of the authorized representative.

(b) The location of such user.

(c) Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be discharged to the county system.

(d) The average and maximum flow of the discharge from such user to the county system, in gallons per day.

(e) A site plan with sufficient detail to show all connections with county water and wastewater lines and the applicant's proposed location of a manhole or sanitary cleanout. Detailed plumbing plans shall be maintained on user's premises and made available for inspection upon request.

(f) The nature and concentration of pollutants in the discharge from each regulated process from such user and identification of any applicable Pretreatment Standards and Requirements. The concentration shall be reported as a maximum or

1194

average level as provided for in the applicable Pretreatment Standard. If an equivalent concentration limit has been calculated in accordance with any Pretreatment Standard, this adjusted concentration limit shall also be submitted to the County for approval.

(g) A statement, approved by an authorized representative of the user and certified by an engineer, indicating whether Pretreatment Standards are being met on a consistent basis and, if not, whether additional operation and maintenance procedures or additional pretreatment is required for the user to meet the Pretreatment Standards and Requirements.

(h) If additional pretreatment or operation and maintenance procedures will be required to meet the Pretreatment Standards, then the applicant shall provide a schedule by which the user will provide such additional pretreatment.

E. Incomplete Applications.

The County will act only on complete applications. Users who have filed incomplete applications will be notified by the County of the nature of the deficiency and will be given 30 days to correct the deficiency. If the deficiency is not corrected within 30 days, the County may deny the application for a wastewater discharge permit and notify the applicant in writing of such action.

F. Evaluation Of Applications

1. Within 45 days of receipt of complete applications, including revisions to previously approved applications, the County shall review and evaluate the applications and may propose such other special wastewater discharge permit conditions deemed advisable. All wastewater discharge permits shall be expressly subject to all the provisions of this ordinance and all other applicable ordinances, laws, or regulations.

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2. The County may also propose that the wastewater discharge permit be subject to one or more permit conditions in regard to any of the following:

- (a) Pretreatment Requirements;
- (b) The average and maximum wastewater constituents and characteristics;
- (c) Limits on rate and time of discharge or requirements for flow regulations and equalization;
- (d) Requirements for installation of manhole(s), sanitary cleanout(s), and appurtenance(s);
- (e) Specifications for monitoring programs which may include sampling locations, frequency and method of sampling, types and standards for tests and reporting schedule;
- (f) Requirements for submission of technical reports or discharge reports;
- (g) Requirements for maintaining records relating to wastewater discharge;
- (h) A reasonable schedule in compliance with this ordinance, not to extend beyond or such earlier date as may be required by other applicable law or regulation, whichever is sooner, to ensure the user's compliance with pretreatment requirements or improved methods of operation and maintenance;
- (i) Requirements for the installation of facilities to prevent and control accidental discharge or "spills" at the user's premises;
- (j) Other special conditions deemed appropriate by the County to insure compliance with this ordinance.

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3. The County may deny any application for a discharge permit.

G. Notification Of Proposed Permit Conditions; Right To Object.

1. Upon completion of evaluation, the County shall prepare and transmit a discharge permit and notify the applicant of any permit conditions which the county proposes.

2. The applicant shall have 30 days from the date of issue of the Wastewater Discharge Permit to file written objections with the County to any permit conditions that are more stringent than Pretreatment Standards or limitations in this ordinance or are otherwise not listed in either. The County shall initiate a response (verbal or written) within 30 days following receipt of the applicant's written objections, and attempt to resolve disputed issues concerning permit conditions.

3. If applicant files no written objection to the permit it shall remain in effect. If a subsequent agreement is reached concerning changes in permit conditions, the County shall modify the Wastewater Discharge Permit for the applicant with such conditions incorporated. In the event objections are filed by the applicant and there is no mutually accepted resolution of such objections, the County shall issue a final determination on the requirements of the Wastewater Discharge Permit.

H. Monitoring and Reporting Requirements.

1. Monitoring and reporting submitted under this section shall be in accordance with 40 CFR 403.12.

2. Notice of Violation/Repeat Sampling and Reporting. If sampling performed by a user indicates a violation, the user must notify the County within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the county within thirty (30) days.

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3. **Analytical Requirements.** Test procedures for measurements of pollutant amounts, characteristics or properties in effluent limitations guidelines and standards of performance and pretreatment standards must be employed as stated in 40 CFR part 136 unless specifically noted. For other sampling or analytical techniques not included in 40 CFR Part 136, sampling and analyses must be performed in accordance with procedures approved by EPA.

4. The reports required shall contain the results of sampling and analysis of the discharge, including the nature and concentration of the flow, or production and mass limits, where required, of pollutants contained therein which are limited by the applicable Pretreatment Standards. The frequency of monitoring shall be prescribed in the applicable pretreatment standard. All analyses shall be performed in accordance with procedures established by the EPA under the provisions of section 304(h) of the Act (33 USC 1314(h)) and contained in 40 CFR Part 136 and amendments thereto or with any other test procedures approved by the EPA or the County. Sampling shall be performed in accordance with the techniques approved by the EPA, or the County. If a user monitors any pollutant more frequently than required by the County, the results of this monitoring shall be included in the report.

I. Notification Of The Discharge Of Hazardous Waste.

Any user who commences the discharge of hazardous waste shall notify the County, the EPA Regional Waste Management Division Director, and state hazardous waste authorities, in writing, of any discharge into the county system of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other).

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All notifications must take place no later than 180 days after the discharge commences. Any notifications under this division need be submitted only once for each hazardous waste discharged. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical or ordinance pretreatment standards under any self-monitoring requirements.

J. Maintenance Of Records.

1. Any user subject to the reporting requirements established in this section shall maintain records of all information resulting from any monitoring activities required by this section. Such records shall include:

- (a) The date, exact place, method, and time of sampling and the names of the persons taking the samples;
- (b) The dates analyses were performed;
- (c) Who performed the analyses;
- (d) The analytical techniques/methods used; and
- (e) The results of such analyses.

2. Any user subject to the reporting requirement established shall be required to retain for a minimum of three years any records of monitoring activities and results and shall make such records available for inspection and copying by the County, New Mexico Environment Department, or the EPA. This period of retention shall be extended during the course of any unresolved litigation regarding the user or when requested by the County, New Mexico Environment Department, or the EPA.

K. Duration of Wastewater Discharge Permit.

Wastewater Discharge Permits shall be issued for a maximum period of five years. Notwithstanding the foregoing, users becoming subject to a National Categorical

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Pretreatment Standard shall apply for new permits on the effective date of such National Categorical Pretreatment Standard. The County shall notify in writing any user whom it has cause to believe is subject to a National Categorical Pretreatment Standard, of the promulgation of such federal regulations; provided that any failure of the County in this regard shall not relieve the user of the duty of complying with such National Categorical Pretreatment Standard. A user must apply in writing for a renewal of the wastewater discharge permit within not more than 90 days and not less than 30 days prior to expiration of the current permit. Limitations or conditions of a wastewater discharge permit are subject to modification or change as such changes may become necessary due to changes in applicable Standard(s), in the County's permit, in other applicable law or regulation, or for other just cause. Should such changes be necessary, a new permit will be issued which shall supersede the previous permit and be subject to the same 30-day opportunity for comment. Any change or new condition in a permit shall include a schedule for compliance. The user may appeal the decision of the County in regard to any changed permit conditions as provided in this ordinance.

L. Reports of Changed Conditions.

Each user must notify the County of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least 45 days before the change.

1. The County may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application.

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2. The County may issue a wastewater discharge permit or modify an existing wastewater discharge permit in response to changed conditions or anticipated changed conditions.

3. For purposes of this requirement, significant changes include, but are not limited to, flow increases of 20% or greater, and the discharge of any previously unreported pollutants.

M. Modifications.

The County may modify a wastewater discharge permit for good cause, including but not limited to, the following reasons:

1. To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;

2. To address significant alterations or additions to the user's operation, processes or wastewater volume or character since the time of wastewater discharge permit issuance;

3. A change in the county system that requires either a temporary or permanent reduction or elimination of the authorized discharge;

4. Information indicating that the permitted discharge poses a threat to operation and maintenance personnel, or the receiving waters;

5. Violation of any terms or conditions of the wastewater discharge permit;

6. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in the required reporting; and

7. To reflect a transfer of the facility ownership or operation to a new owner or operator.

1201

N. Transfer of Permit.

Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least 90 days advance notice to the County, and the County approves the wastewater discharge permit transfer. The notice to the County must include a written certification by the new owner or operator which:

1. States that the new owner and/or operator have no immediate intent to change the facility's operations and processes;
2. Identifies the specific date on which the transfer is to occur; and
3. Acknowledges full responsibility for complying with the existing wastewater discharge permit. Failure to provide advance notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer.

O. Revocation of Permit.

Any permit issued under the provisions of this ordinance is subject to being suspended or revoked in whole or in part by the County during its term for cause including but not limited to, the following:

1. Violation of any terms or conditions of the wastewater discharge permit or other applicable law or regulation;
2. Obtaining of a permit by misrepresentation or failure to disclose fully all relevant facts;
3. A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;
4. Failing to meet new National Categorical Pretreatment Standards; or
5. Violation of any provision of this ordinance.

1202

P. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in Section 15 of this ordinance. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state, and local law.

Rule 25. Line Extension Policy

The purpose of this section is to define the terms and conditions for a County sanitary sewer line extension to serve an applicant or group of applicants. Applicants for subdivision development shall refer and comply to the Dona Ana County Subdivision Regulations, Ordinance No. 166-96, as well as this wastewater ordinance.

A. The applicant requesting wastewater service requiring a line extension must request such service in writing. The request shall describe the following:

1. number of new connections proposed;
2. classification of proposed connections;
3. wastewater flow projections; and
4. property, plat, and/or subdivision details.

The County Utility Administrator shall review the application and make a determination for the availability and feasibility of providing such service. The terms and conditions shall be set forth in a line extension agreement to be executed by the County and the applicant.

B. Conditions of a Line Extension

1. The County may extend or approve the line extension in the streets, alleys, and/or easements, within the service areas in order to permit connections by applicant

1203

seeking wastewater service. The extension will be made from the nearest adequately sized wastewater line.

2. All line extensions shall be installed to the farthest property line of the lot or parcel to be developed or connected. All wastewater laterals shall be connected to the gravity wastewater line in a manner approved by the County.

3. The size and capacity of the line extension shall be determined by the capacity needs to meet the projected development within the drainage area of the service. In the event the County requires a larger line size than is required to serve the applicant's needs, the County may absorb the difference in investment between the applicant's required line size and the line size required by the County. Minimum wastewater line size is eight inches (8") diameter. The County shall be the sole judge of proper line sizing.

4. All line extensions will be constructed in existing public roads, streets, County-owned land, alleys, or easements. The applicant shall furnish such rights-of-way as are required without charge to the County within property owned by said applicant and shall assist the County in securing other rights-of-way necessary to provide service through property not owned by said applicant.

5. The County shall review, approve and inspect all design and construction of proposed line extensions. All line extensions shall be in accordance with and in compliance with all applicable technical provisions of county, state and federal laws. Where the wastewater system is connected to a municipal, water and sanitation district, or other system not owned by the County, the line extension will additionally be in accord with and will comply with applicable municipal codes, ordinances and regulation of that municipality, the water and sanitation district, or other system.

1204

C. The total cost for the line extension as set forth shall be paid by the applicant. The costs shall be subject to future refunds to that applicant, if wastewater service is provided to a new customer, under the following terms and conditions:

1. Connection is within ten (10) years from the date of the original line extension agreement between the County and applicant;
2. The new customer's property abuts applicant's line extension (other than at the end of applicant's line extension where the new customer's line extension is to begin);
3. The County connects the line extension for said new customer's wastewater service to applicant's line extension;
4. The refund amount to the applicant shall be determined based on a front foot basis for individual lots or on an acreage basis for undeveloped tracts. The amount shall be calculated as a percentage of the footage and/or acreage for the total parcels already connected and to be connected to applicant's line extension;
5. Refunds made under this provision shall not exceed the amount of applicant's contribution to construction less that portion needed to serve applicant.

D. The determination of whether the line extension for a new customer's wastewater service should be connected to an existing line extension shall be made by the County at its discretion based on engineering considerations and the County's plans for the development of its wastewater system.

E. Where extenuating circumstances exist and at the sole option of the County, an extension may be made under a special long-term contract providing the contract terms are such that no adverse effects will be imposed on County's existing customers.

F. Special conditions which affect the furnishing of wastewater service to an applicant such as elevation, terrain, capacity and other conditions resulting in increased

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costs to the County in providing wastewater service shall be taken into consideration by the County and the cost thereof shall be included in estimating the cost of providing service.

G. In addition to the costs for the sewer line extension, the property applicant must pay the Administrative Set-up Charge and the One-Time Charge as established in the Wastewater Ordinance.

H. The County shall not under any condition be required to make an extension that would be unprofitable and thereby cause undue hardship to existing customers.

I. The provisions of this Rule apply to connections to line extensions already in existence and line extensions installed after the effective date of this ordinance.

Rule 26. Infrastructure Transfer Policy.

The purpose of this section is to define the County policy for accepting ownership and operation and maintenance of wastewater infrastructure and facilities constructed after an approved development or building process as outlined in the County Subdivision Regulations, Ordinance No. 166-96, Zoning Ordinance and Building Permit Process.

A. All infrastructure to be transferred will be agreed upon prior to approvals as set forth in this section. Acceptance of the infrastructure and facilities shall be at the County's sole discretion.

B. All infrastructure to be transferred must have been constructed in accordance with the County's Zoning Ordinance, County Subdivision Regulations, Right-of-Way Ordinance, County Wastewater Ordinance, and applicable County design standards.

C. After final inspection and final certification by the County, the developer will provide As-Built Drawings, hard copy and electronic versions for the infrastructure to be transferred.

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D. The Developer will provide easements and title documents to the County on forms provided by the County or approved by the County.

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DOÑA ANA COUNTY WASTEWATER SYSTEM

RATE SCHEDULE 1

ADMINISTRATIVE CHARGES:

APPLICABILITY: County utility customers shall be charged an Administrative Set-up Charge to cover all costs related to the application process, including verifying service, locating the service line installation, and any other tasks necessary to establish availability of service. Other charges as set forth in this Rate Schedule may be required as determined by the Utility Administrator. Applicable gross receipts taxes will be added to all charges.

SERVICE APPLICATION: Customers must request service by completing an Application for Wastewater Service and User Agreement available at the offices of the Doña Ana County Utilities Department or designated agent. All Administrative Charges and other required charges must be paid or payment arrangements made prior to approving the customer's Application for Wastewater Service and User Agreement.

A. Administrative Set-Up Charge:

Customer Classification:		Non-Compliance to Mandatory Connection (> 6 months to connect)
Residential:	\$150.00	\$300.00
Commercial:	\$300.00	\$600.00
Institutional:	\$500.00	\$1,000.00
Industrial:	\$700.00	\$1,400.00

The Administrative Set-up Charge shall increase when the hook-up of any occupied home or business exceeds six (6) months as required by the Doña Ana County Wastewater Ordinance. For each wastewater service area identified, the County shall conduct an inventory of all dwellings at the time the "Notice of Availability" is announced. The announcement of "Notice of Availability" shall start the six-month mandatory connection period.

B. Stand-By Charge: All applicants that have paid the Administrative Set-Up Charge within the mandatory connection period but have not physically connected to the wastewater system shall be billed the minimum fixed monthly charge for the appropriate customer classification (Rate Schedule 3), beginning on the seventh month. If a customer has not paid the Administrative Set-Up Charge and is not physically connected to the wastewater system, the customer shall pay the increased Administrative Set-up Charge as described in Paragraph A, above, and the minimum fixed monthly charge for the

appropriate customer classification (Rate Schedule 3). All uncollected Stand-by charges must be paid prior to connection to the system.

C. **Customer Deposit:** A deposit may be required pursuant to Rule No. 16, Security Deposits, Guarantees of Payments. Initial deposit amounts are as follows:

Customer Classification:	
Residential:	\$100.00
Commercial:	\$150.00
Institutional:	\$150.00
Industrial:	\$250.00

D. **Installation Charges:** If a customer's property does not yet have a wastewater service connection to their property, but does have a main wastewater line within 300 feet of their property, the customer is required to pay for service connection installation charges including materials and labor. At the time of application for service, the County will provide the residential and small commercial prospective customer with a set of standards that describe the type of service required. The size of the installation shall be based on the recommendation of the customer's licensed plumber. Only licensed contractors are permitted to connect to the County's main wastewater line. The County shall determine the location of the wastewater service installation. Wastewater services involving an Industrial User, shall require the recommendation of a licensed plumber or engineer and shall comply with all applicable requirements of the customer's discharge permit.

If a customer chooses to have the County or its designated representative connect to the main wastewater line, the County charges will be based on actual costs plus an administrative fee of 10%.

E. **Exclusions:** Charges described in this Rate Schedule may not be applicable to wastewater system customers where the installation of new connections, wastewater lines and facilities have been completed with the support of federal, state, and/or other grant funds. Further, Dona Ana Village is excluded from this rate schedule until further action by the County. Dona Ana Village rates are presently provided for under a pre-existing and detailed contract which includes Dona Ana Village, the County and the City of Las Cruces as parties.

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DOÑA ANA COUNTY WASTEWATER SYSTEM

RATE SCHEDULE 2

ONE - TIME CHARGE:

APPLICABILITY: The One-Time Charge is applicable to all new customers who connect to the County's system. Service will be furnished in accordance with the County's Rules and Regulations addressing wastewater service. Applicable gross receipts taxes will be added to all charges.

A. One-Time Charge:

Water Meter Size:	
5/8" x 3/4"	\$1,000.00
1"	\$1,600.00
1 1/2"	\$2,500.00
2"	\$6,000.00

The One-Time Charge for customers with water meter size greater than 2" shall be determined on a case-by-case basis. The evaluation will include but is not limited to consideration of the volume and characteristics of wastewater discharge, pretreatment requirements, and the cost to the wastewater utility's infrastructure and treatment capacities. The determination shall be described and executed by contract.

B. Multi-unit Service Lines with Individual Meters:

A customer may request individual meters to be installed for a multi-unit property. A master meter shall be required and the One-Time Charge for the applicable meter size will be applied. For each individual meter requested to be installed beyond the master meter, a Multi-Unit Surcharge will be required at \$157.50 per unit.

C. Residential Volume Discounts:

In the case of a large subdivision (>40 lots), the County will offer volume discounts for the One-Time Charge (Residential classification only), when payments are made in advance of construction (60 days after subdivision approval). The discounts shall apply according to the following table:

Subdivision Size (Lots)	Discount Per Lot
40-100 Lots	10%
101-200 Lots	15%
>200 Lots	20%

D. Exclusions: Charges described in this Rate Schedule may not be applicable to wastewater system customers where the installation of new connections, wastewater lines and facilities have been completed with the support of federal, state, and/or other grant funds. Further, Dona Ana Village is excluded from this rate schedule until further action by the County. Dona Ana Village rates are presently provided for under a pre-existing and detailed contract which includes Dona Ana Village, the County and the City of Las Cruces as parties.

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DOÑA ANA COUNTY WASTEWATER SYSTEM

RATE SCHEDULE 3

MONTHLY USER CHARGES:

APPLICABILITY: The Residential and Commercial Rates are available only for normal wastewater dischargers at individual residences, individual dwelling units, individual farm units, apartments, and commercial establishments. Service shall be provided through a single wastewater service line at a location to be designated by the County.

Service will be furnished in accordance with the County's ordinances and Rules and Regulations addressing wastewater service, available at the County Utilities Department.

SERVICE AREA: The service areas are designated in the Doña Ana County Wastewater Ordinance (Section 5). The Utilities Department maintains maps of the service areas.

A. **Monthly Fixed and Variable Charges:** The charge for wastewater service provided shall be the sum of Fixed (F) and Variable (V). Applicable gross receipts taxes will be added to all charges.

	FIXED (F)	VARIABLE (V)
Customer Classification:	Minimum Charge (up to 7,000g)	Per 1,000g @ 80% of usage ¹
Residential:	\$21.00	\$1.40/1000g ²
Commercial:	\$42.00	\$1.40/1000g
Institutional:	\$60.00	\$1.40/1000g
Industrial:	\$100.00	\$1.40/1000g

1. Commercial, Institutional, and Industrial Variable Charge: Gallons in excess of 7,000 are charged at the rate of \$1.40 per 1,000 gallons as measured by taking 80% of the monthly water usage as determined from water records. Customer usage is measured monthly or estimated where water service data is not available.

2. Residential Variable Charge (RVC): Only residential customers within the Santa Teresa -- Border Area will be charged the RVC due to the debt burden required for the construction of the water and wastewater systems serving that area. There will be no variable charges for residential customers in all other Service Areas, unless the County determines that a variable charge is necessary for the financial viability of the utility. In the event that the County determines that a variable charge is required, the first 7,000 Gallons is included in the Fixed Monthly Charge as measured by the winter months average from water use records (December, January and February). All Gallons over 7,000 will be charged at the rate of \$1.40 per 1,000 gallons.

3. Monthly charges for new customers or customers for which water data is not available will be determined based on similar customer of the same classification. If and when water data is available the monthly charge shall be adjusted.

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B. Minimum Charge: The minimum charge under this Schedule shall be the Fixed Monthly Charge regardless of volume of flow measured.

C. Surcharge for Excess Waste Strength: A Surcharge shall be applied to all users for excess wastewater strength above domestic levels as defined by this ordinance. The Utility Administrator shall determine the charge on a case-by-case basis.

D. Exclusions: Dona Ana Village is excluded from this rate schedule until further action by the County. Dona Ana Village rates are presently provided for under a pre-existing and detailed contract which includes Dona Ana Village, the County and the City of Las Cruces as parties.

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DOÑA ANA COUNTY WASTEWATER SYSTEM

RATE SCHEDULE 4

SPECIAL CHARGES

APPLICABILITY: Applicable to special services as defined in the County's Rules and Regulations regarding wastewater service. Applicable gross receipts taxes will be added to all charges.

A. **Collection Charge:** If the customer does not pay for wastewater service within the time specified by the bill, the County shall charge \$5.00 or 15% of the outstanding balance, whichever is greater, for each month the bill is unpaid.

B. **Reactivation Charge:** Whenever service is discontinued for nonpayment of charges, nonuse, or similar reasons, as described in Rule No. 12, Discontinuance and Denying Restoration of Service, a charge of \$20.00 shall be assessed by the County for the cost of reactivating service during normal County business hours. If the customer requests reactivation of service after normal business hours, the County shall assess a charge of \$40.00.

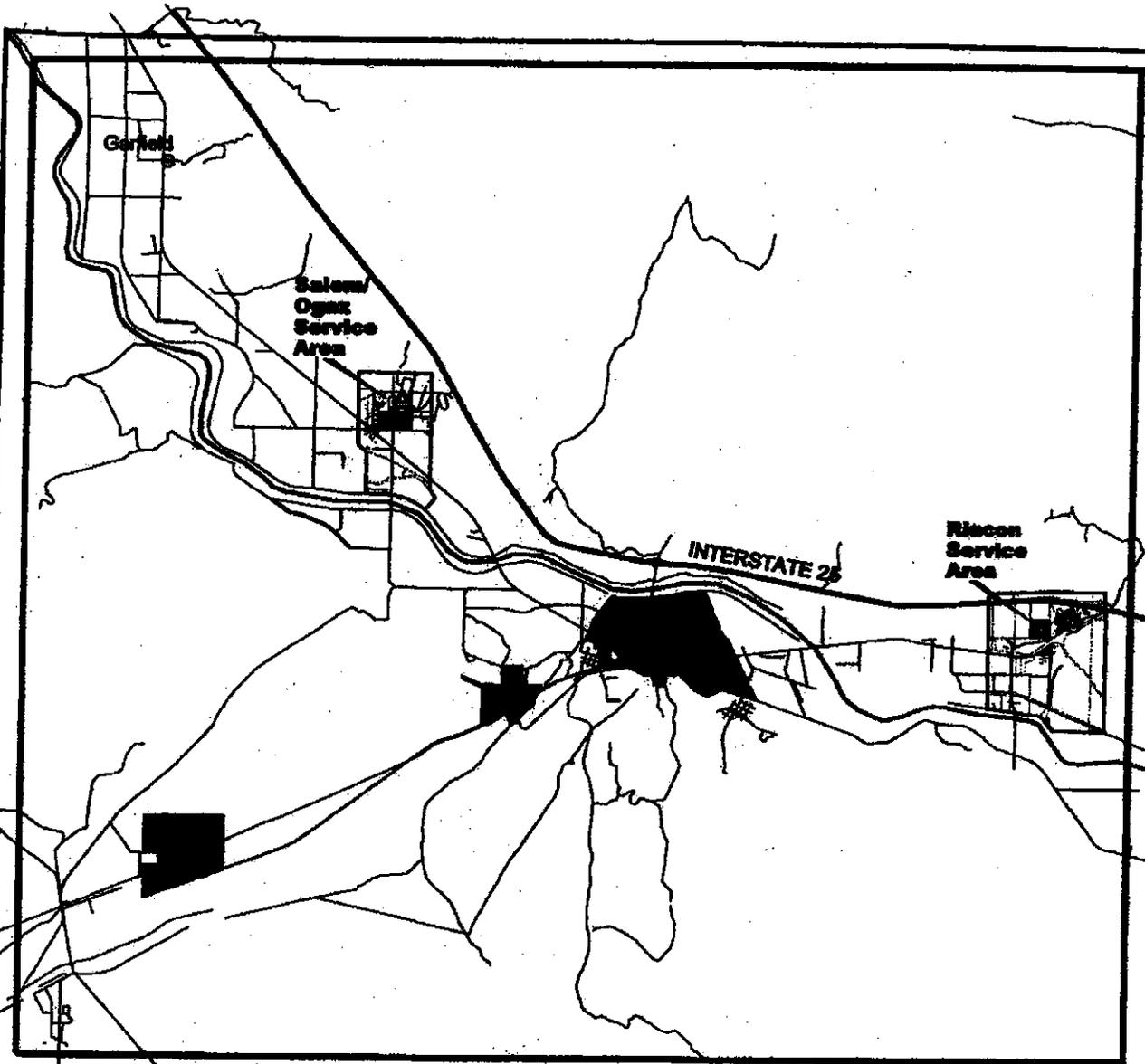
C. **Returned Check Or Bank Draft Charge:** The County shall assess a charge of \$25.00 to the customer's account balance in the event the customer's check or bank draft is returned for insufficient funds, cancellation of account or for any other reason attributable to the customer.

D. **Exclusions:** Dona Ana Village is excluded from this rate schedule until further action by the County. Dona Ana Village rates are presently provided for under a pre-existing and detailed contract which includes Dona Ana Village, the County and the City of Las Cruces as parties.

1214

EXHIBIT 1

Doña Ana County NORTHERN REGION Wastewater Service Area



May 2002 STATE PLANE NAD CENTRAL NAD 1983

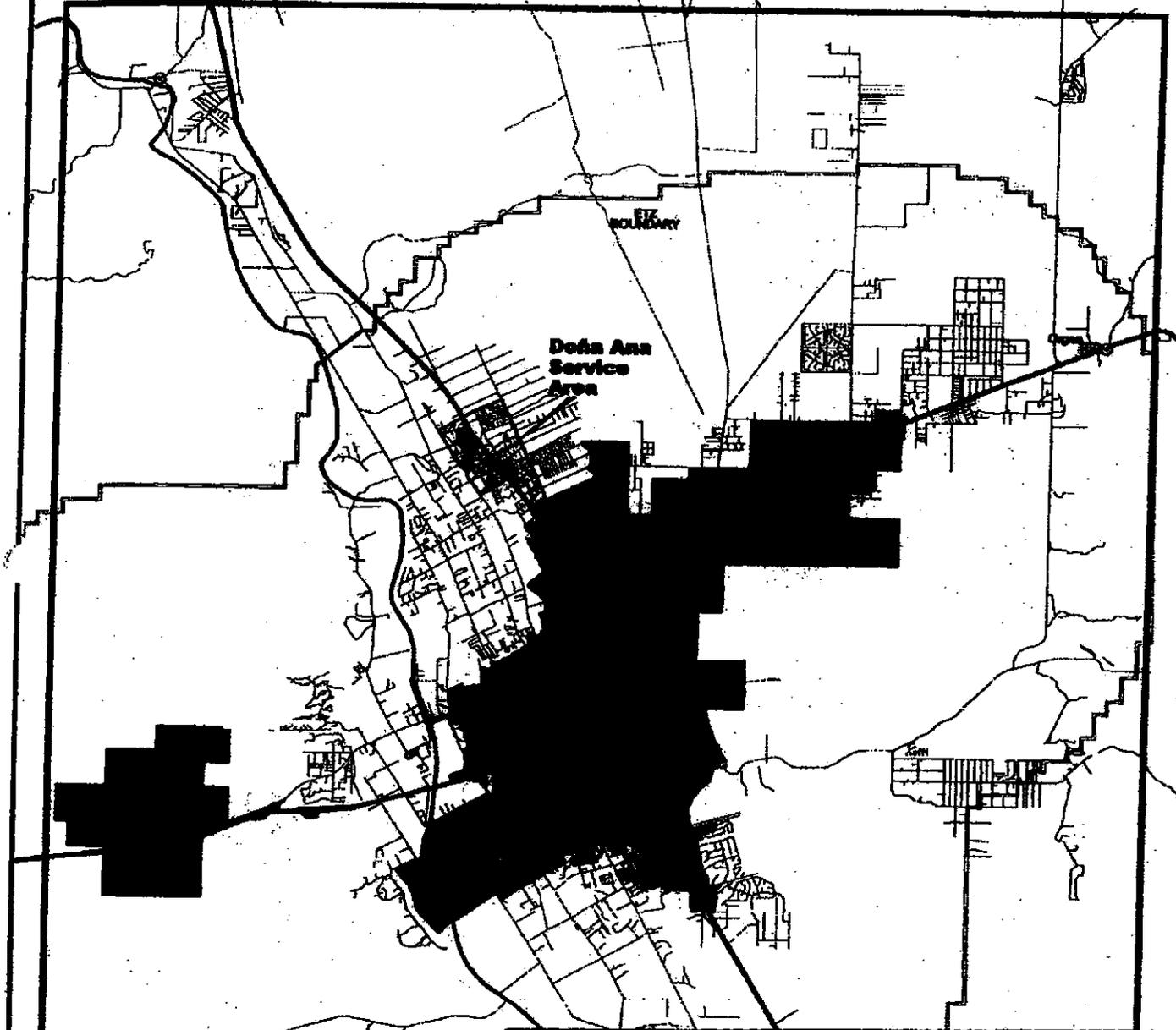
- Utility Service Area
 - Utility Region
 - Incorporated Community
 - Doña Ana County
 - Interstate & State Highways
 - Other Roads
 - File Grants
 - Nearby County Boundaries
- Data Courtesy of DAC Water Utilities Department

1215

EXHIBIT 2

Doña Ana County
LAS CRUCES REGION

Wastewater Service Area



1216



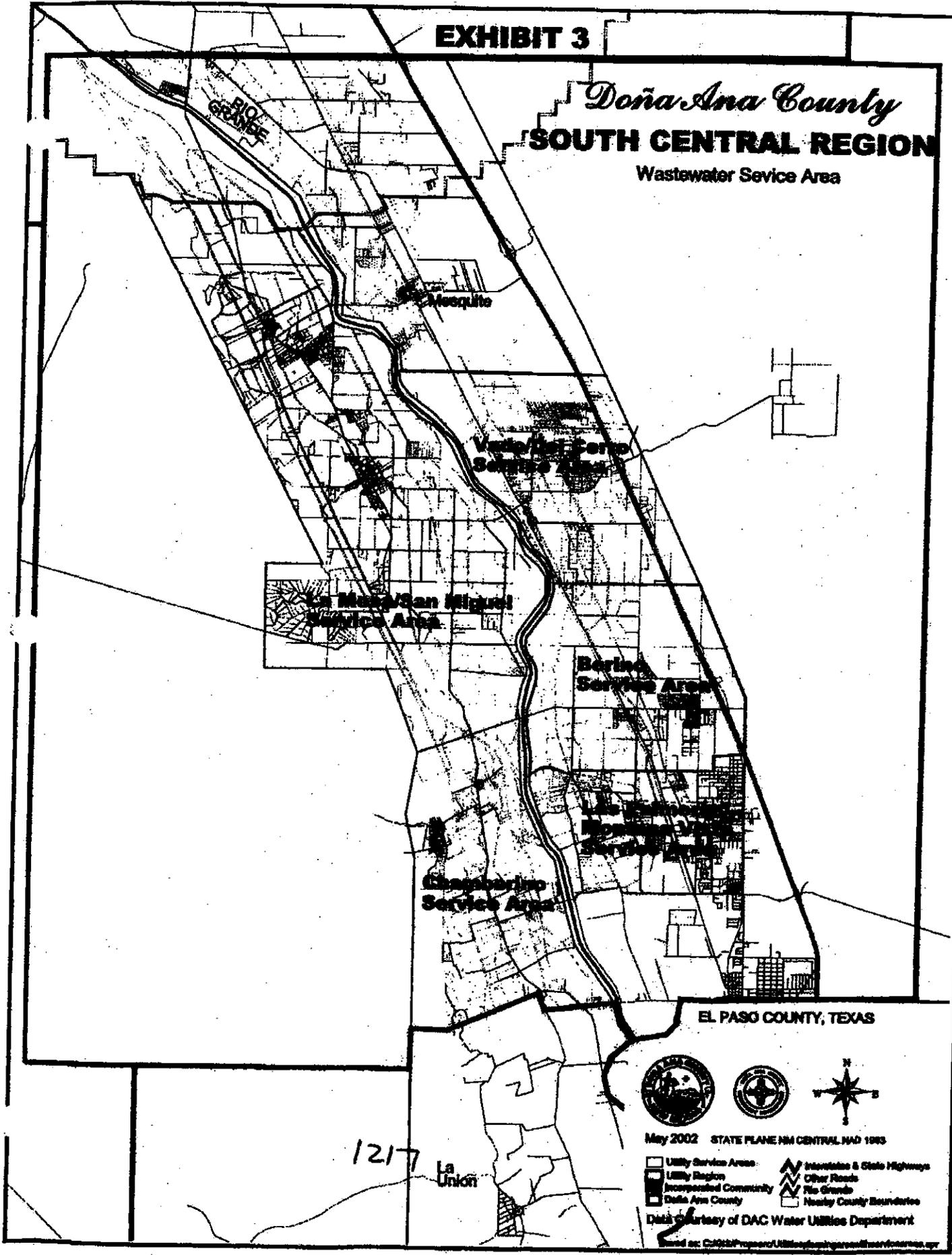
May 2002 STATE PLANE NM CENTRAL NAD 1983

- Utility Service Area
- Utility Region
- Incorporated Community
- Doña Ana County
- Interstates & State Highways
- Other Roads
- Pico Grande
- Nearby County Boundaries

Data courtesy of SAC Water Utilities Department

EXHIBIT 3

Doña Ana County
SOUTH CENTRAL REGION
Wastewater Service Area



EL PASO COUNTY, TEXAS

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La Union



May 2002 STATE PLANE NM CENTRAL NAD 1983

- Utility Service Area
- Utility Region
- Incorporated Community
- Doña Ana County
- Interstates & State Highways
- Other Roads
- Rio Grande
- Neighboring County Boundaries

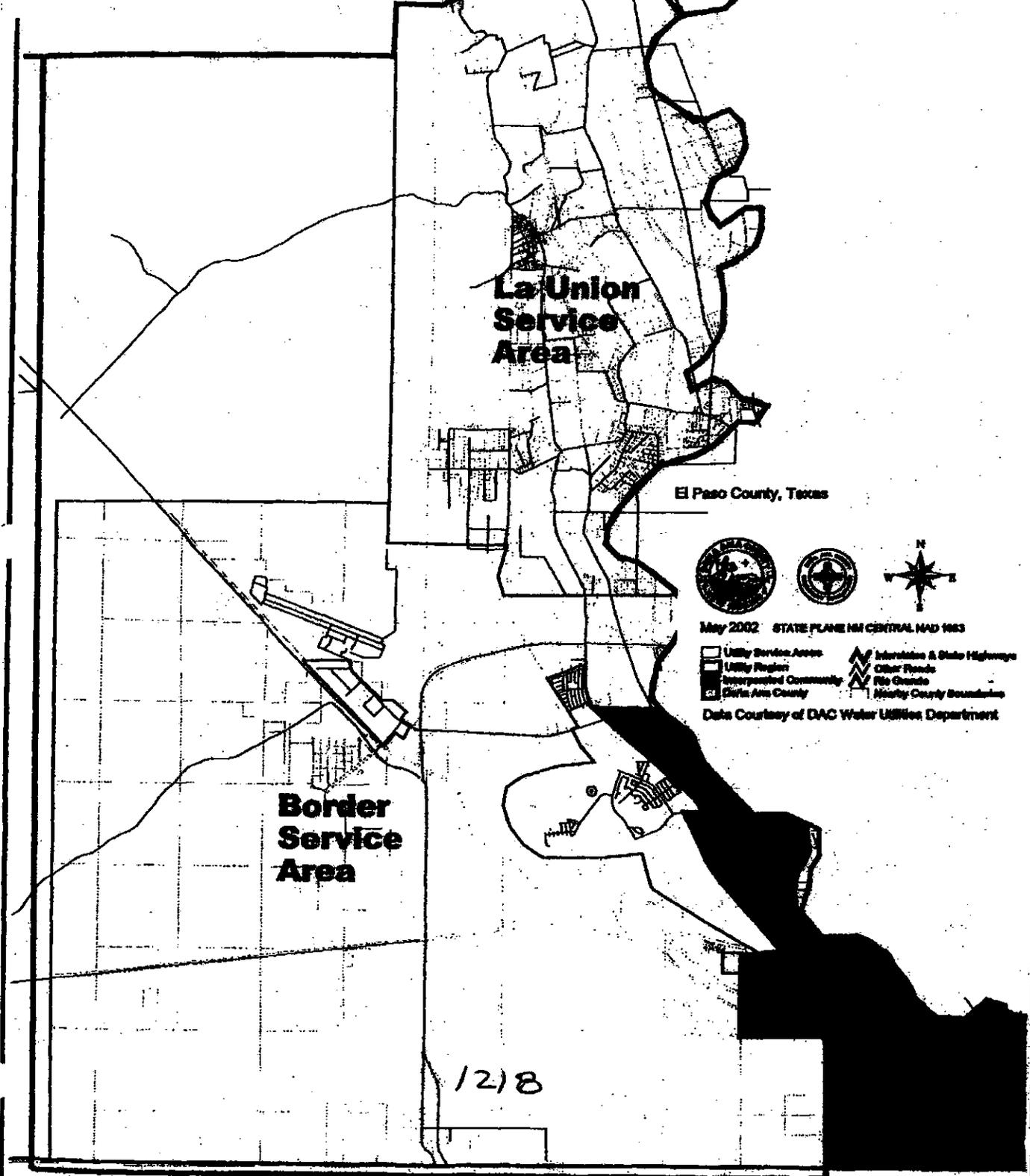
Data courtesy of DAC Water Utilities Department

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Doña Ana County
SOUTHERN REGION

EXHIBIT 4

Wastewater Service Area



El Paso County, Texas



May 2002 STATE PLANE NM CENTRAL NAD 1983

- Utility Service Areas
- Utility Region
- Incorporated Community
- Doña Ana County
- Interstate & State Highways
- Other Roads
- Rio Grande
- Nearby County Boundaries

Data Courtesy of DAC Water Utilities Department

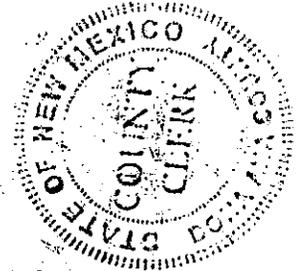
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EXHIBIT 5

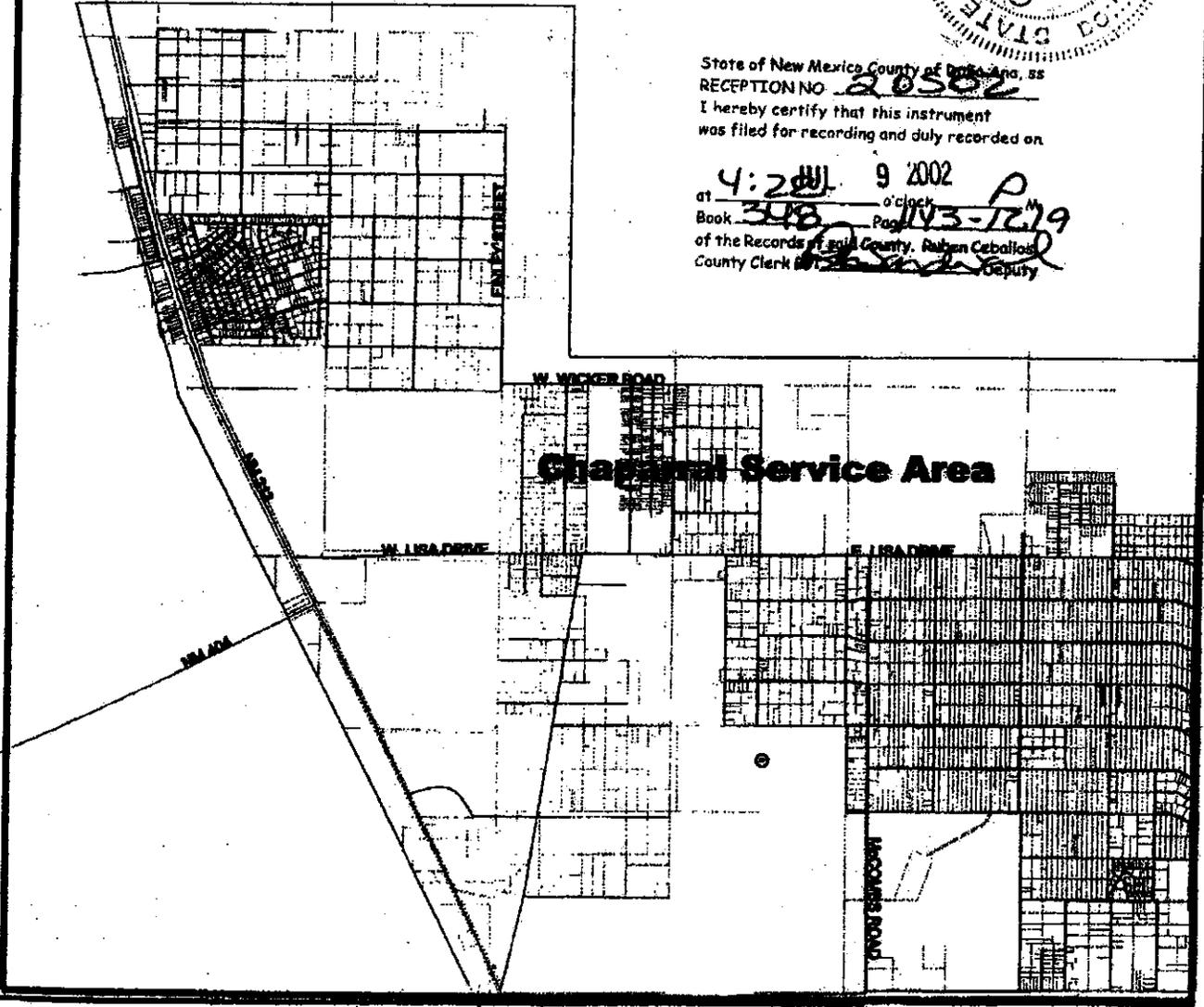
Doña Ana County CHAPARRAL REGION

Wastewater Service Area



State of New Mexico County of Doña Ana, ss
RECEPTION NO 20504
I hereby certify that this instrument
was filed for recording and duly recorded on

at 4:20 o'clock 9 2002 P
Book 348 Page 143-1219
of the Records of said County. Ruben Ceballos
County Clerk *[Signature]* Deputy



1219



May 2002 STATE PLANE NM CENTRAL NAD 1983

- Utility Service Area
- Utility Rights
- Incorporated Community
- Doña Ana County
- Interstates & State Highways
- Other Roads
- Rio Grande
- Nearby County Boundaries

Data Courtesy of DAC Water Utilities Department

APPENDIX F

ORDINANCE NO. 230-07: RESIDENTIAL AND COMMERCIAL SOLID WASTE COLLECTION AND DISPOSAL

ORDINANCE NO. ~~2007~~ 230-07

**AN ORDINANCE PROVIDING FOR RESIDENTIAL AND COMMERCIAL
SOLID WASTE COLLECTION AND DISPOSAL**

I. Purpose and Authority. This Ordinance supercedes Ordinance 184-99 and any amendment thereto, including but not limited to Amendment 2003-01. This Ordinance is enacted pursuant to the authority granted to the Board of County Commissioners of Doña Ana County, hereinafter "the Board", in the New Mexico Constitution and general laws of the State, including but not limited to NMSA 1978, Sections 3-48-1 et seq., 4-56-1 et seq., and 4-37-1. This Ordinance is enacted to protect and promote the health, safety, and general welfare of the inhabitants of Doña Ana County, hereinafter "The County", by establishing a general system for collection and disposal of solid waste throughout the unincorporated areas of the County.

II. Solid Waste System Established.

A. Definitions. The words, terms and phrases used in this Ordinance shall generally be interpreted consistent with NMSA 1978 Sections 3-48-1 et seq., 4-56-1 et seq., and 4-37-1, and the New Mexico Solid Waste Management Regulations (or substantially similar regulations subsequently issued by the State). The following words, terms, and phrases shall have the meanings ascribed to them below:

1. "Commercial user" means any person generating solid waste from any use other than a single-family dwelling unit.
2. "Convenience station" means a small solid waste transfer station operated by the County for disposal of solid waste produced incidental to the normal residential use of a

single-family dwelling owed by or under the control of the resident utilizing the convenience station.

3. **"Disposal facility"** means a permitted sanitary landfill or other acceptable method of solid waste disposal, including a convenience or transfer station, which operates in compliance with the New Mexico Solid Waste Management Regulations (or any subsequent regulations which substantially replace those regulations), or which meets the requirements or standards of the jurisdiction in which it is located.

4. **"Hazardous waste"** means substances defined as hazardous or toxic by the United States Environmental Protection Agency, the United States Resource Conservation and Recovery Act, the Federal Toxic Substances Control Act, the New Mexico Hazardous Waste Act, or other State or local law, and specifically includes radioactive, volatile, highly flammable, explosive, biomedical, infectious, and liquid waste, sludge, waste or residue from industrial processes or pollution processes, contaminated soil, anything contaminated with poly-chlorinated biphenyls (PCBs) or asbestos, outdated or contaminated or banned chemicals or commercial products, animal waste or body parts, grease trap residues, closed cartridges filters from dry cleaning establishments, and other similar wastes.

5. **"Multiple family dwelling unit"** means any structure designed for residential use by two or more families, consistent with the definitions in the County Land Use Regulations and Zoning Ordinance.

6. **"Person"** means and includes every person, firm, partnership, public or private corporation, association, trust, estate or any other legal entity subject to the County's jurisdiction.

7. "Premises" means any real property, whether public or private, including vacant lots or lots with any type of structure, and also includes realty and personal property on the property and within structures on the property.

8. "Private sanitation company" means any business registered with the New Mexico Environment Department as a "commercial hauler" and operates in compliance with the New Mexico Solid Waste Management Regulations, and which is also registered to do business in the County.

9. "Single-family dwelling unit" means a dwelling unit for one family as more specifically defined through the definitions in the County Land Use Regulations and Zoning Ordinance.

10. "Solid waste" means and includes but is not limited to any garbage, rubbish, or refuse, rejected or waste food, offal, swill, carrion, ashes, dirt, slop, wastewater, trash, weeds, briars, brush, junk automobiles or automobile parts, waste or unwholesome material or any kind, except sewage, and including residential, commercial, institutional, industrial and recreational waste. The term "solid waste" encompasses the full scope of authority under NMSA 1978, Sections 3-48-1 et seq., 4-56-1 et seq., and 4-37-1.

11. "Transfer station" means a registered or permitted facility managed for handling and storage of solid waste in large containers or vehicles for transfer to another facility.

B. Accumulation and Disposition of Solid Waste.

1. **Prohibited Accumulations.** No person shall allow any solid waste to accumulate upon premises, which he owns, rents, leases or otherwise occupies or controls except in the manner provided by this Ordinance.

2. **Acceptable Accumulations.** Building materials, pipes, lumber or boxes may be stored on the premises if the accumulation is evenly piled and stacked, and is for business purposes, or for a construction project for which a valid and current building permit has been issued, or for a construction or improvement project for which a permit is not legally required; any otherwise permissible accumulation shall not be allowed to become a feeding or breeding place for flies, insects or rodents, or to otherwise become unsanitary, unsafe, or similarly injurious to the public health and safety.

3. **Prohibited Acts.** It shall be unlawful for any person to scatter or distribute solid waste or to distribute the contents of any solid waste receptacles other than dispose of it in conformity with this Ordinance. It shall be unlawful for any person to sweep, place, throw, or deposit solid waste upon any street, alley, sidewalk, gutter, storm sewer, parkway, river, stream, lake, pond, arroyo, or other premises within the County, except in receptacles or containers consistent with the provisions of this Ordinance. It shall be unlawful to transport solid in such a manner as to cause it to be distributed onto such premises.

4. **Disposal Facilities.** All solid waste other than hazardous waste shall be conveyed to a disposal facility through a method authorized by and consistent with all provisions of this Ordinance. Solid waste deposited at any disposal facility under the control or management of the County becomes the property of the County, and it shall be unlawful for any person to, purchase, offer for sale, separate, collect, recycle or remove any solid waste from any such disposal facility without the approval of the County Manager, or to graze animals upon any area designated as a disposal facility.

5. **Hazardous Waste.** Hazardous solid waste shall be disposed of at a facility, which has been issued a permit by the New Mexico Environment Department (or comparable agency with jurisdiction in the location of the facility) for the disposal of hazardous waste.

C. Collection and Disposal of Solid Waste.

1. **Disposal Facilities.** The County shall ensure that sufficient disposal facilities are available to allow County residents and property owners to comply with the provisions of this Ordinance. Disposal facilities may include landfills, transfer stations or convenience stations, as established by Resolution of the Board, or as provided by private enterprises consistent with the terms of this Ordinance.

a. **Convenience stations.** Any person other than a commercial user may utilize any convenience stations provided by the County for the disposal of solid waste produced incidental to the normal residential use of a single-family dwelling unit. Any person who receives solid waste collection services from a private sanitation company may dispose of solid waste produced incidental to the normal residential use of a single-family dwelling unit owned or controlled by that person at any convenience station provided by the County. Commercial users and private sanitation companies shall not be allowed to use convenience stations.

b. **Tipping fees.** Private sanitation companies, except commercial users, and construction and demolition companies shall pay any and all tipping fees required for use of a particular disposal facility, including those operated by or under an agreement with the County.

c. *Containers.* Containers utilized for storage of solid waste on the premises, and for transportation of solid waste to a disposal facility, must be designed so as to fully enclosed and contain the solid waste, and must be leakproof for storage or transport of any solid waste.

d. *Multiple-family dwelling units.* Multiple-family dwelling units shall be considered a commercial user; any owner of a multiple-family dwelling unit who fails or refuses to comply with the commercial user requirements of this Ordinance shall be subject to prosecution for violation of this Ordinance, and to all other penalties allowed by law.

2. Private Sanitation Company Service.

a. *Frequency of service.* Solid waste collection services must be provided on at least a weekly basis, or more frequently if necessary to keep the premises free of solid waste consistent with the provisions of this Ordinance.

b. *Containers.* Containers utilized for the storage of solid waste on the premises between collections must be designed so as to fully enclose and contain the solid waste, and must be leakproof.

3. *Commercial users.* Unless exempt under this paragraph, all commercial users shall obtain solid waste collection services from a private sanitation company.

a. *Frequency of service.* Solid waste collection services must be provided on at least a weekly basis, or more frequently if necessary to keep the premises free or solid waste consistent with the provisions of this Ordinance.

b. *Containers.* Containers utilized for storage of solid waste on the premises between collections or other methods of disposal must be designed so as to fully enclose and contain the solid waste, and must be leakproof. *Self service exemption.* A commercial

user may be exempt from the requirement of obtaining collection services from a private sanitation company if the commercial user meets and follows all New Mexico Solid Waste Management Regulations in handling and transporting the solid waste produced incident to its commercial activities (other than as a commercial hauler). A commercial user shall not be required to register with the New Mexico Environment Department in order to be exempt under this paragraph. An exempt commercial user must comply with all other provisions and requirements of this Ordinance, including the frequency and container requirements of this paragraph.

4. Construction and Demolition Debris/Solid Waste Disposal. Commercial users in construction and demolition industries shall not be required to meet the requirements applicable for other commercial users for construction and demolition debris or solid waste produced incidental to construction and demolition operations, but shall instead comply with the provisions of the Section III of this Ordinance. Construction and demolition debris or other forms of solid waste produced by a commercial user incidental to construction and demolition operations shall not be disposed of at convenience stations.

III. Construction and Demolition Debris/Solid Waste Provisions

A. Solid Waste Containment Required. At all sites where streets, sidewalks, buildings or structures are being constructed, remodeled, repaired, demolished or maintained, the construction site shall be kept free from uncontained accumulations of solid waste materials (new or used) and construction and demolition debris, including but not limited to scrap or discarded pieces of wood, brick, sheetrock, tarpaper, cement, concrete, cinderblock, asphaltic concrete, and other building or construction products, as well as

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any containers and wrappers of such products. Accumulation shall be deemed contained when placed in approved storage containers appropriate for that type of solid waste or debris. Any accumulation otherwise permissible under this section shall not be allowed to become a feeding or breeding place for flies, insects or rodents, or to otherwise become unsanitary, unsafe, or similarly injurious to the public health and safety. The following types of solid waste accumulations shall not be required to be placed in approved storage containers if the specified conditions are met.

1. Major Building Demolition Waste. Solid waste produced by a major building demolition which is so large in scope or scale that it cannot reasonably be placed in approved containers shall be an exception to this section, provided all loose, readily windborne matter is contained and the remainder is either not an immediate hazard to the public, or the environment because of its nature or because of security measures on site. Immediately following completion of the demolition project, all solid waste on the site must be removed to an approved disposal facility.

2. Major Street Construction and Maintenance Project Waste. Solid waste from street construction, reconstruction or maintenance projects and street-pavement cuts which are so large in scope or scale that they cannot reasonably be placed in approved containers shall be an exception to this section, provided all loose, readily windborne matter is contained and the remainder is not an immediate hazard to the public. Immediately following completion of the demolition project, all solid waste on the site must be removed to an approved disposal facility.

3. Masonry Solid Waste. Rock, concrete, mortar, brick and cinderblock solid waste does not have to be placed in an approved container and may be collected into a pile on

the ground, but must be removed to a permitted disposal site immediately upon completion of the construction from which the waste was generated, or within a reasonable time after the work is abandoned. Extra concrete from cleaning delivery trucks must be placed on site, and not on developed roads or sidewalks. This concrete must subsequently be removed to a permitted disposal site.

4. **Roofing Materials Solid Waste.** Shingles, tarpaper and other solid waste from roofing jobs that are capable of readily becoming windborne do not have to be placed into an approved container, provided such waste is placed directly into a dump truck or similar truck for hauling to an approved disposal facility and is removed on a daily basis.

5. **Windborne Solid Waste.** Solid waste capable of being windborne shall be contained daily, except on windy days when shall be contained immediately. Windy days shall be those days when solid waste is observed becoming windborne.

B. Storage Containers.

1. Unless granted a specific exception within this article, solid waste materials from construction shall be deposited and stored within approved waste containers as follows:

a. **Sanitation department containers.** The following mechanically transported containers may be used for construction waste:

(i) Open-top containers, commonly referred to as roll-off containers, to be used for construction waste not capable of readily becoming windborne and acceptable for limited amounts of heavy items such as earth, bricks, concrete, and shingles.

(ii) Overhead-dump containers, having lids and at least three cubic yards capacity, to be used for lightweight construction waste only, including that capable of readily becoming windborne, and for earth, bricks, concrete, shingles and other heavy materials.

b. **Other containers.** Other containers, including but not limited to dump trucks and fenced enclosures, may be used for waste control, provided a request is submitted and approved with the building permit.

2. Containers having lids shall be kept closed at all times except when containers are being filled or emptied.

3. The number of containers at a construction site shall be sufficient to ensure compliance with this Ordinance.

4. Required containers shall be located not more than 200 feet from construction site, and may be shared by more than one construction site.

C. **Disposal.** Construction solid waste materials may be utilized for fill at non-landfill locations, provided that the person disposing of the material has the written consent of the property owner where the fill is being placed and a fill (grading) permit from the County. Any material used for fill must meet all State laws and regulations governing disposal of solid waste. Construction and demolition debris or other forms of solid waste produced by a commercial user incidental to construction and demolition operations shall not be disposed of at convenience stations.

D. **Responsibility.** It shall be the duty of any person holding a building permit to provide acceptable containers and to have all solid waste placed therein, and to have such containers emptied often enough to prevent their overflow. It shall further be the duty of the person holding a building permit and the property owner either to remove or cause to be removed all construction solid waste from the site to a disposal facility or to contract for the services of a private sanitation company to transport such waste to a disposal facility or approved fill site.

IV. Enforcement Provisions.

A. Abatement. In addition to any other penalty or remedy, including injunctive relief, if a property owner fails to abate a violation of this Ordinance within thirty (30) of receiving written notice of such violation, the County may elect to incur the cost of abatement and establish a lien against the property in the amount of the cost of abatement of the violation. The procedures for assessing and collecting said charges shall be consistent with the State law, including but not limited to NMSA 1978, 3-48-4 et seq.

B. Violations Subject to Prosecution. In addition to any other penalty or remedy, including injunctive relief, any person who violates any provision of this Ordinance shall be subject to prosecution consistent with State and local law, including but not limited to NMSA 1978, Section 4-37-3. Each violation of this Ordinance shall be subject to a fine of up to Three Hundred Dollars (\$300), up to 90 days imprisonment, or both, except that:

1. A fine of up to One Thousand Dollars (\$1,000) may be assessed against any person who discards or disposes of refuse, litter or garbage on public or garbage on public or private property in any manner other than by disposing of it in an authorized landfill or other disposal facility; and

2. A fine of up to Five Thousand Dollars (5,000) may be assessed against any person for the improper or illegal disposal of hazardous materials or waste in any manner other than as provided for in the Hazardous Waste Act, NMSA 1978, 74-4-1 et seq.

C. Enforcement Authority and Procedures. This Ordinance shall be enforced by the Doña Ana County Sheriff's Department and/or the Doña Ana County Environmental Codes Enforcement unit or other authorized County personnel. In enforcing this Ordinance, the County's personnel shall observe all of the legal rights granted its citizens

under federal or New Mexico law, including citizens' constitutional rights against unreasonable searches and seizures. All such searches and seizures shall be conducted in such a manner as to protect the citizens' U.S. Constitutional 4th Amendment rights. These protections include either an express, voluntary consent or a warrant to enter upon private property to conduct a search or seizure, absent a legally-recognized exception. If a complaint of a violation is received, or if evidence of a violation is apparent upon inspection of the property from a public way or by viewing the property from private property with the consent of the owner of the private property, authorized personnel may enter the property for the purpose of obtaining consent to further investigate the possible violation, or to attempt to obtain acknowledgement from the owner of the receipt of a citation for an apparent violation. If consent cannot be obtained from the property owner, a warrant shall be obtained from a court of competent jurisdiction prior to further inspection of the property.

V. Administration. Under the supervision of the County Manager, County staff is authorized to implement, manage, and enforce this Ordinance as amended.

VI. Fees. The County Utilities Department shall develop a schedule of fees and methods of payment to be used at all County disposal facilities. The fee schedule shall be approved and adopted by Resolution of the Board, after having given at least twenty days notice of the meeting and having published that notice once in a newspaper of general circulation in the county at least fifteen days prior to the meeting. The schedule will be reviewed by the County Utilities Department on no less than an annual basis.

VII. Conflicting Provisions. If any provision of this Ordinance is determined to conflict with a provision of any other applicable Ordinance, the stricter provision shall

apply. If any provision of this Ordinance is determined to conflict with a provision of any applicable State or federal law, the stricter provision shall apply, unless application of this Ordinance is preempted.

VIII. Severability. The provisions of this Ordinance are severable, and if any provision, sentence, clause, section, subsection, phrase, or any part thereof is found to be illegal, invalid, unenforceable, or inapplicable to any person or circumstance, the illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any remaining provision, sentence, clause, section, subsection, phrase, or part of the Ordinance, or its application to any other person or circumstance. It is hereby declared to be the intent of the Board of Commissioners of Doña Ana County that this Ordinance would have been adopted if such illegal, invalid, or unconstitutional provision, sentence, clause, section, subsection, phrase or part thereof had not been included, or if the person or circumstance to which the Ordinance or any part thereof is held in applicable had been specifically exempted.

IX. Effective Date. This Ordinance supercedes Ordinance 184-99 and any amendment thereto, including but not limited to Amendment 2003-01, and it shall be effective thirty (30) days after a signed copy is recorded in the County Clerks Office.

Adopted this 22ND day of MAY 2007.



**BOARD OF COUNTY COMMISSIONERS OF
DOÑA ANA COUNTY, NEW MEXICO**

[Signature]
Karen G. Perez, Chairwoman

[Signature]
D. Kent Evans, Vice-Chairman

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MAY 22 2007
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Osceo Vasquez Butler
Osceo Vasquez Butler, Member
Dolores Saldaña-Caviness
Dolores Saldaña-Caviness, Member

ABSENT

William J. McCamley, Member



ATTEST:

Rita Torres
Rita Torres
County Clerk

State of New Mexico
County of Bernalillo, ss
RECEPTION NO. 18286
I hereby certify that this
instrument was filed for
recording and duly recorded on
MAY 22 2007 A.M.
at 3:30 o'clock
Book 816 Page 816-829
of the Records of said County.
Rita Torres, County Clerk
BY: *[Signature]* DEPUTY

APPENDIX G

ORDINANCE NO. 194-2000 EROSION CONTROL REGULATIONS



DOÑA ANA COUNTY EROSION CONTROL REGULATIONS

**Ordinance No. 194-2000
Effective January 19, 2001**

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**DOÑA ANA COUNTY ORDINANCE No. 194-2000
EROSION CONTROL REGULATIONS**

ARTICLE 1. GENERAL PROVISIONS

Section 1.1. Authority and Purpose. The Board of Commissioners of Doña Ana County is authorized by statute, in particular NMSA 1978, § 4-37-4, to enact ordinances to protect and promote the health, safety, and general welfare of the residents of the unincorporated areas of Doña Ana County. The purpose of this Ordinance is to protect and maintain the natural environment and to reduce the negative health effects caused by the creation of fugitive dust, more specifically "PM10", which refers to a size of particulate matter within dust that has been identified by the scientific and medical communities and by the federal Environmental Protection Agency ("EPA") as a significant health risk in high concentrations in the air. This Ordinance is enacted consistent with the goals and policies of the Comprehensive Plans for Doña Ana County and for the Las Cruces Extraterritorial Zone, and as a part of New Mexico Environment Department's Natural Events Action Plan (NEAP) for Doña Ana County and the State of New Mexico. This Ordinance shall accomplish the requirements of these documents by preventing, limiting, or mitigating the effects of activities which create fugitive dust (which includes PM10's), or have a tendency to make land more vulnerable to natural erosion forces that create fugitive dust. The objective of the Ordinance is to ensure that all surface disturbance activities use erosion control measures to mitigate visible fugitive dust on an ongoing basis for the protection of health and safety of the residents of Doña Ana County. The Ordinance also attempts to ensure that when natural events do occur, such as fugitive dust creation through high winds, the contribution of human generated dust is limited in its negative health and safety impacts. Emissions that are regulated by federal or State law to require filtering or similar treatment prior to release into the air are not considered "fugitive", and are not regulated by this Ordinance.

Section 1.2. Applicability. Under the conditions outlined below, the provisions of this Ordinance shall apply to any human activity, operation and/or practices, or any condition caused by human activity, which generates dust, causes water erosion, or makes the land more vulnerable to erosion by natural erosion forces. In the development of County land for public purposes, County policies shall be consistent with the purposes of this Ordinance, and shall be conducted so as to minimize the creation or aggravation of erosive forces.

Section 1.3. Interpretation and Conflict. Where this Ordinance imposes greater restrictions than those imposed by other rules, regulations, agreements, or County Ordinances or Resolutions, the provisions of this Ordinance shall be prevailing and controlling. Where two or more provisions of this code are conflicting, the most restrictive shall apply.

Section 1.4. Severability. If any article, section, paragraph, sentence, phrase or part hereof is declared unconstitutional or invalid, the remaining portions shall apply.

Section 1.5. Appeal. A determination that a property requires an (Erosion Control Plan)

ECP or Erosion Mitigation Plan (EMP), or that a proposed ECP or EMP is insufficient, or both, shall be subject to administrative appeal to the County Manager, and then to the Board of County Commissioners. A property owner wishing to appeal a determination shall request an appeal in writing, directed to the County Manager.

Section 1.6. New Development. Any development that requires a permit under any County Ordinance, other than for construction of a single family dwelling unit (multiple applications within a subdivision shall not apply), shall require an Erosion Control Plan to be submitted consistent with Article 2. Grading for all construction, including single family dwelling units shall be limited to the building pad site, pond and driveway plus an additional five feet in all directions of these areas.

Section 1.7. Existing Conditions. The owner of any property that is determined to be in a condition vulnerable to erosion by natural forces due to human development of the property may be required to submit an Erosion Mitigation Plan (EMP) consistent with Article 2, if the condition of the property is determined to pose a significant health threat due to the nature or extent of the vulnerable condition of the property, or its location near concentrations of vulnerable populations, such as of school children, or ill or elderly persons.

Section 1.8. Exempt Activities. Although Doña Ana County encourages the use of reasonable Erosion Control Measures in all activities, the following activities are exempt from the regulations and restrictions of this Ordinance:

- A. Regular agricultural operations covered by the Right to Farm Act, NMSA 1978, §§ 47-9-1 through 47-9-7(1991), including cultivating, tilling, growing, and harvesting crops, and the raising of farm animals or fowl.
- B. Governmental activities during life threatening situations or other emergencies, or in connection with any officially declared disaster or state of emergency.
- C. Operations conducted by essential service utilities to provide electricity, natural gas, oil and gas transmission lines, telephone, water and sewage during or to avoid service outages and emergency disruptions.
- D. Temporary use of unpaved roads and parking lots that generate less than 20 vehicle trips per day for less than three (3) successive calendar days.

Section 1.9. Definitions. The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

“Active operations” means any human activity that is capable of generating, or generates visible fugitive dust, including bulk material storage, handling and processing; earth moving; construction/renovation/demolition activities; and the movement of motorized vehicles on any unpaved roadways and parking areas.

“Bulk material” means sand, gravel, soil, aggregate and any other inorganic or organic solid matter capable of releasing visible fugitive dust.

“Chemical soil stabilization/suppression” means a method of dust control implemented by any person to mitigate PM10 emissions by applying asphaltic emulsions, acrylics, adhesives, or any other approved material that are not prohibited for use by the New Mexico Environment Department, the Environmental Protection Agency, or any other law, rule, or regulation.

“Disturbed area” means any area in which the soil will be altered by grading, leveling, scraping, cut and fill activities, excavation, brush and timber clearing, grubbing, and unpaved soils on which vehicle operations and/or movement will or has occurred.

“Dust generating operation” means any activity capable of generating fugitive dust, including, but not limited to, activities associated with creating a disturbed area, construction and demolition activities, and the movement of vehicles on unpaved roadways or parking areas.

“Dust suppressant” means water, hygroscopic materials, or non-toxic chemical stabilizers used as a treatment to reduce visible fugitive dust emissions. Dust suppressants shall be used as recommended by the manufacturer and in concentrations and application frequencies sufficient to prevent violation of this Ordinance.

“Erosion Control Measures (ECM)” means techniques used to limit the emission and/or airborne transport of fugitive dust from its original site to accomplish satisfactory results for temporary and/or extended suppression of dust and PM10 emission(s).

“Erosion Control Plan (ECP)” means a written description of all Reasonably Available Control Measures (RACM’s) to be implemented at a work site and/or in transit to and from a work site for any earth moving, construction, or potential dust generating operation. Such written description may be incorporated into building and construction plans or a separate document submitted with said plans.

“Fugitive dust” means any particulate matter entrained in the ambient air that is caused from man-made and natural activities without first passing through a stack or duct designed to control flow, including, but not limited to, emissions caused by movement of soil, vehicles, equipment, and windblown dust. Excluded particulate matter includes matter emitted directly from the exhaust of motor vehicles, or from other combustion devices, portable brazing, soldering or welding equipment, and pile drivers.

“High wind conditions” means on-site hourly average wind speed greater than 15 m.p.h., gusts of 20 m.p.h. or an active Wind Advisory issued by National Weather Service for Doña Ana County.

“Native plants” means plants that are indigenous to the state from other places that have become established in wildlands without cultivation.

“Natural cover” means any vegetation that exists on the property, prior to any construction activity or achieved through vegetation restoration back to a natural state, including the placement of sod.

“PM10” means particulate matter, both filterable and condensable, with an aerodynamic

diameter less than or equal to a nominal ten (10) micrometers.

"Palliative" means any agent used to lessen or reduce dust emissions.

"Particulate matter" means any material emitted or entrained into the air as liquid or solid particulate, with the exception of uncombined water.

"Reasonably Available Control Measure (RACM)" means any device, system, process modification, apparatus, technique, or control measure, or combination thereof, which results in the lowest emissions rate possible taking into consideration the RACMs technological and economical feasibility as determined by approval of the Erosion Control Plan.

"Stabilized" or "Stabilization" means the ongoing process necessary to reduce the fugitive dust generating capability of a surface by paving, dust suppression, watering, compacting or revegetating the disturbed surface sufficient to prevent a violation of this Ordinance.

"Track-out" means visible bulk material deposited upon a paved public or private roadway and capable of going airborne due to mechanical actions.

ARTICLE 2. DEVELOPMENT STANDARDS AND PROCESS

Section 2.1. Erosion Control Plan (ECP) Requirements for Development. Other than for a single family dwelling unit, any grading, construction, demolition, or other development requiring a permit or other form of approval under any County ordinance shall have an approved Erosion Control Plan (ECP) in place prior to receiving a permit. The ECP may be separate documents or incorporated as part of required building and/or construction plans.

Section 2.2. Documentation. The following shall constitute the minimum information required within the ECP to be submitted as part of an application for building and/or subdivision construction to describe the Erosion Control Measures (ECMs) proposed for the project. For all subdivisions, ECMs shall be outlined and approved as part of the overall review of the subdivision construction drawings through the Engineering and Planning Departments.

- A.** Name(s), address(es) and phone number(s) of person(s) responsible for the preparation, submittal and implementation of the ECP , and for the dust generating operations generally.
- B.** A site plan or plat of survey of the site that describes:
 - 1. The total area of land surface to be disturbed and the total area of the entire project site, in acres or square feet, depending on scale;
 - 2. The operation(s) and activities to be carried out on the site;
 - 3. All anticipated sources of fugitive dust emissions on the site;
 - 4. Temporary drainage and/or ponding facilities to minimize soil erosion and localized flooding of adjacent properties from water utilized on site for development or for dust control;

5. Delivery, transport and storage areas for the site, including types of materials to be stored, and proposed maximum sizes of stockpiles for different types of materials.
- C. A description of ECMs or combination thereof to be applied during all periods of dust generating operations to each of the fugitive dust sources described on the site plan or plat. For each source identified at least one control measure must be implemented. The same control measure(s) may be used for more than one dust generating activity. Specific details must include:
1. If dust suppressants are to be applied, then the type of suppressant, method, frequency, and intensity of application, the number and capacity of application equipment to be used, and any pertinent information on environmental impacts and/or certifications related to appropriate and safe use for ground applications;
 2. The specific surface treatment(s) and/or other ECMs utilized to control material track-out and sedimentation where unpaved and/or access points join paved surfaces;
 3. For each fugitive dust source at least one auxiliary ECM designated as a contingency measure shall be described in the original control plan. Should the original ECM in the control plan prove ineffective, immediate and effective implementation of the contingency measure shall obviate the requirement of submitting a revised control plan; and
 4. ECMs to be implemented prior to any period of inactivity of ten (10) days or more, due to any reason other than extended rainfall.
- D. A description of ECMs or combination thereof to be used to minimize the negative effects of water usage on site during the development activities. All approved measures should be continued until final paving, wall or fence construction and landscaping is in place.
- E. The person responsible for implementing the objectives of the ECP shall keep accurate records and document all activities in carrying out the ECP. These records shall be made available upon request by the County staff.

Section 2.3. Control Plan Review and Approval. Review and approval of a proposed ECP shall be the responsibility of the County Engineering, Planning Departments or designee. Approval may be conditioned upon the implementation of additional measures, actions, or other activities, in addition to those included in the proposed ECP. Approval and issuance of the building and/or subdivision construction permit(s) and the approval of all outlined ECMs contained within the control plan or description shall constitute a mandate that the approved ECMs be implemented by the developer, contractor, builder, owner, and/or agents as part of construction activities.

Section 2.4. Erosion Control Measures (ECMs). Erosion Control Measures included with an Erosion Control Plan required by this Ordinance may include, but are not necessarily limited to, any one or more of the following measures:

2.4.1. General Guidelines.

1. Designing subdivisions or building sites to utilize existing, pre-development

- grades;
- 2. Watering disturbed areas on a regular and minimum basis throughout daily construction activities;
- 3. Applying palliatives or chemical soil suppressant/stabilizer for idle construction periods;
- 4. Constructing snow and/or wind fences;
- 5. Re-seeding or re-vegetation of graded or disturbed areas;
- 6. Grading for street and utility placement only as part of subdivision construction;
- 7. Building some or all interior and perimeter cinder block, rockwalls, and retaining walls as part of the overall construction of all subdivisions and not part of the individual building permit for each lot;
- 8. Retaining natural vegetation during the construction phase of buildings excluding the building pad site;
- 9. Utilizing existing or natural vegetation as part of the required landscaping for the site as elsewhere required within these design standards, to limit grading activities, to promote water conservation, and to reduce dust generation;
- 10. Installing vegetation or non-natural landscaping elements in the latter part of construction to reduce the amount of disturbed area and the potential for dust generation; or
- 11. Implementing any other reasonable dust suppressing agent or activity.

2.4.2. Active Operations in Construction Areas and Other Land Disturbances.

- 1. Short term control measures may include:
 - a. Regularly scheduled wet suppression;
 - b. Dust suppressants applied in amounts and rates recommended by the manufacturer and maintained as recommended by the manufacturer;
 - c. Upwind temporary windbreaks, including fabric fences with the bottom of the fence sufficiently anchored to the ground to prevent material from blowing underneath the fence;
 - d. Starting construction upwind and stabilizing disturbed areas before disturbing additional areas; and/or
 - e. Stopping active operations during high wind periods.
- 2. Long term control measures may include:
 - a. Site stabilization using dust suppressants applied in amounts and rates recommended by the manufacturer and maintained as recommended by the manufacturer;
 - b. Reseeding using native grasses;
 - c. Xeriscaping;
 - d. Tree planting; and/or
 - e. Permanent perimeter and interior fencing.

2.4.3. Specific Construction Guidelines. The following additional ECMs may be incorporated in a proposed ECP to mitigate the effects of the specified activities.

- 1. **Unpaved Roadways.**
 - a. Paving using asphalt, recycled asphalt, asphaltic concrete, concrete,

or double-penetration (consistent with subdivision or zoning requirements);

- b. Dust suppressants applied in amounts and rates recommended by the manufacturer and maintained as recommended by the manufacturer; Regularly scheduled wet suppression; and/or
- c. The use of traffic controls, including decreased speed limits with appropriate enforcement; vehicle access restrictions and controls; road closures and barricades; and off-road vehicle access controls and closures.

2. Trucks Hauling Bulk Materials on Public Roadways.

- a. Properly secured tarps or cargo covering that covers the entire surface of the load;
- b. Dust suppressants applied in amounts and rates recommended by the manufacturer;
- c. Maintain 6 inches of freeboard from the rim of the truck bed. Freeboard means the vertical distance from the highest portion of the load to the lowest part of the rim of the truck bed; and/or
- d. Prevent leakage from the truck bed, sideboards, tailgate or bottom dump gate.

3. Bulk Material Handling.

- a. Spray bars;
- b. Wetting agents (surfactants) added to bulk material;
- c. Wet suppression through manual application;
- d. Dust suppressants added to bulk materials in amounts and rates recommended by the manufacturer and maintained as recommended by the manufacturer;
- e. Stop bulk material handling during high wind conditions;
- f. Reduce process speeds; and/or
- g. Reduce drop heights.

4. Industrial Sites.

- a. Pave roadways and parking area with asphalt, recycled asphalt, asphaltic concrete, and concrete;
- b. Regularly scheduled vacuum street cleaning;
- c. Regularly wet suppression of unpaved areas;
- d. Dust suppression applied in amounts and rates recommended by the manufacturer and maintained as recommended by the manufacturer;
- e. Wind breaks;
- f. Enclosures;
- g. Increase wet suppression applications during high wind conditions;
- h. Slow active operations during high wind conditions; and/or
- i. Stop active operations during high wind conditions.

5. Demolition and Renovation Activities When Asbestos Containing

Materials Are Not Present: If asbestos containing material may be present, all demolition or renovation activity shall be performed in accordance with the federal standards referenced in 20 NMAC 11.64, Emission Standards for Hazardous Air Pollutants for Stationary Sources. In other instances, the following ECMs may be utilized:

- a. Constant wet suppression on the debris piles during demolition;
 - b. Dust suppression applied on the debris piles in amounts and rates recommended by the manufacturer;
 - c. Enclosures;
 - d. Curtains or shrouds;
 - e. Negative pressure dust collectors; and/or
 - f. Stop demolition during high wind conditions.
- 6. Milling, Grinding or Cutting of Paved or Concrete Surfaces.**
- a. Constant wet suppression;
 - b. Ongoing clean up of milled, ground or cut material;
 - c. Dust suppression applied in amounts and rates recommended by the manufacturer and maintained as recommended by the manufacturer.
 - d. Enclosures;
 - e. Negative pressure dust collectors; and/or
 - f. Curtains or shrouds.
- 7. Pressure Blasting Operations.**
- a. Use of non-friable abrasive material;
 - b. Curtains or shrouds;
 - c. Negative pressure dust collectors;
 - d. Constant wet suppression; and/or
 - e. Ongoing clean up of abrasive material.

ARTICLE 3. GENERAL NON-CONSTRUCTION ACTIVITY STANDARDS

Section 3.1. Ground Cover Removal Prohibited. No person shall disturb the topsoil or remove ground cover on any real property within the County unless reasonable actions are taken to prevent generation of dust caused by the disturbed condition.

3.1.1. Weed Eradication and Dust Suppression.

- 1. Weed eradication is limited to removal of specific weeds; clearing of the entire lot is prohibited.
- 2. Once weeds are removed or mowed, dust suppression can be achieved through watering, chemical suppressant application, or the expansion of natural vegetation areas on the site. Expansion of natural vegetation areas is encouraged.

3.1.2. Storage of Materials and Material Transport. Actions shall be taken to ensure that such areas or uses with the potential of becoming or generating fugitive dust and particulate matter, shall be covered, moistened, compacted, or otherwise treated to prevent fugitive dust creation.

ARTICLE 4. EXISTING CONDITIONS

Section 4.1. Existing Human Created Vulnerable Conditions. If the condition of a property is determined to pose a significant health threat, due to the nature or extent of existing development that makes the property vulnerable to natural erosion forces, or due to its location near concentrations of vulnerable populations, such as of school children, or

ill or elderly persons, an Erosion Mitigation Plan (EMP) shall be required.

Section 4.2. Determination. The initial determination that a property is in such a condition may be made by any law enforcement or code enforcement, or other County agent authorized to make such a determination, subject to review by the Planning Director.

Section 4.3. Plan Submission Requirement. Once the determination has been made in writing, the property owner shall be required to submit within thirty (30) working days a proposed Erosion Mitigation Plan, which may include any of the Erosion Control Measures (ECMs) presented in this Ordinance, or other reasonable plans for eliminating or mitigating the vulnerable condition of the property. The Plan may include a proposed time line for implementation.

Section 4.4. Review of EMP. Upon receipt of a proposed EMP by the County representative making the determination that a Plan is required, the EMP shall be submitted for review to the County Engineering and Planning Departments. The determination of whether the EMP is sufficient shall be made by the County Planning Director or other authorized County staff member. If the Plan is determined to be insufficient, that determination and the reasons there shall be provided to the applicant in writing, and the applicant shall be given ten (10) working days to revise the EMP to address the insufficiencies.

ARTICLE 5. ENFORCEMENT

Section 5.1. Enforcement Provisions. Any violation of the provisions of this Ordinance, including any failure to implement any ECM of an approved ECP or EMP, may be subject to any penalties or remedies allowed by law, including but not limited to a fine of up to Three Hundred Dollars (\$300), up to ninety (90) days in jail, or both, for each violation, as allowed by NMSA 1978, § 4-37-4, or as allowed consistent with any subsequent legislation providing for penalties for violations of county ordinances. In addition, the County may enforce the provisions of this Ordinance through the procedures in the County Abatement Ordinance, No. 169-96, or any similar ordinance subsequently enacted. The County may also pursue injunctive relief, or any other remedies available under the law.

Section 5.2. Effective Date. This Ordinance shall become effective thirty (30) days after an executed copy is recorded in the Doña Ana County Clerk's Office.

ADOPTED by the Board of Commissioners of Doña Ana County this 15th day of December, 2000.

Original Signed - Carlos E. Garza
Carlos E. Garza, Chairman

Original Signed - Joseph R. Cervantes
Joseph R. Cervantes, Vice-Chairman

Original Signed - Gilbert T. Apodaca
Gilbert T. Apodaca, Member

ATTEST:

Original Signed - Rita Torres
Rita Torres, County Clerk

Original Signed - Kenneth D. Miyagishima
Kenneth D. Miyagishima, Member

Original Signed - Miguel G. Silva
Miguel G. Silva, Member

*Filed at the Dona Ana County Clerk's Office
at 3:44 pm on December 19, 2000.
Book 247 Pages 333-342*

APPENDIX H

ORDINANCE NO. 236-08 DEVELOPMENT DESIGN STANDARDS



DEVELOPMENT DESIGN STANDARDS

ORDINANCE NO. 236-08

ADOPTED: JULY 22, 2008

EFFECTIVE: AUGUST 22, 2008

ORDINANCE NO. 236-08
AN ORDINANCE ADOPTING THE DOÑA ANA COUNTY
DEVELOPMENT DESIGN STANDARDS

WHEREAS, the Board of County Commissioners ("Board") held a public hearing and obtained input from the general public as to the Development Design Standards ("these Standards") and having received a positive recommendation from the Planning and Zoning Commission ("P&Z"); and,

WHEREAS, the Board finds that adopting this Ordinance will improve development standards and enhance the health, safety and general welfare of its residents; and,

WHEREAS, the Ordinance will provide minimum standards for all development within Doña Ana County; and,

WHEREAS, these Standards are an enhancement and modernization of the existing Design Standards and will supersede the standards that are currently contained within Articles 14.1 and 14.2 of the Subdivision Regulations; and,

WHEREAS, these Standards were drafted by an Ad Hoc Committee ("Committee") consisting of both public and private professional engineers, city and county staff members, including the MPO, and both members of the homebuilders and real estate associations; and,

WHEREAS, after the Board Work Session on March 8, 2008, the Committee held three additional meetings to obtain input from the Flood Task Force based on comments received at the Work Session; and,

WHEREAS, on May 22, 2008 staff and the Committee presented the proposed Ordinance to the P&Z at a public hearing and obtained overwhelming support from those present at the meeting; and,

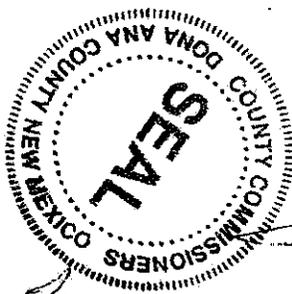
WHEREAS, the P&Z, by a vote of 7-0-0 recommended approval for adoption to the Board with the following conditions: 1) the document be severed from the Subdivision Regulations and become a free-standing Ordinance, 2) the drawings in the Appendix be updated to include the recommendations of the Las Cruces MPO and 3) the document include the Legal Department's recommendations and changes before it goes forward to the BOCC; and

WHEREAS, the conditions set forth by the P&Z have been satisfied.

NOW THEREFORE, the Board hereby approves and adopts The Doña Ana County Development Design Standards, attached hereto as Exhibit A, which provides minimum standards for all development within Doña Ana County in order to protect the public health, safety and general welfare of its residents.

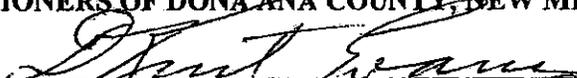
Passed, Approved and Adopted on this 22nd day of July 2008 by the:

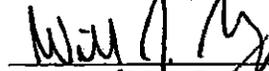
BOARD OF COUNTY COMMISSIONERS OF DOÑA ANA COUNTY, NEW MEXICO

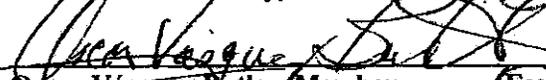


Attest:


Rita Torres
County Clerk


D. Kent Evans, Chair (For/ Against)


William J. McCamley, Vice-Chair (For/ Against)


Oscar Vázquez Butler, Member (For/ Against)

ABSENT

Dolores Saldaña-Caviness, Member (For / Against)


Karen G. Perez, Member (For) Against)

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SECTION 1. GENERAL PROVISIONS

Section 1.1 Title; Ordinances Superseded

This Ordinance shall be titled "The Doña Ana County Development Design Standards" and is referred to herewith as "these Standards." Upon the effective date of these Standards, Articles 14.1 and 14.2 of the Doña Ana County Subdivision Regulations, No. 166-96, as amended and Resolution Nos. 78-20 (Grading) and 28-83 (Clear Sight Triangle), are hereby superseded.

Section 1.2 Purpose

All development within Doña Ana County shall comply and adhere to these Standards and they shall be used in conjunction with the Doña Ana County Land Use Regulations and Zoning Ordinance No. 158-95, the Subdivision Regulations No. 166-96, the Erosion Control Ordinance No. 194-2000, the Extra-Territorial Zoning Ordinance No. 88-02 and ETZ Subdivision Regulations No. 88-01, all as amended. These Standards are to provide for the harmonious development of Doña Ana County in order to establish conditions favorable to the health, safety, convenience, and general welfare of residents of the County. More specifically, provisions of these Standards are designed to achieve the following objectives in newly developed and/or improved areas:

- A. Adequate provisions for light and air, access, open spaces, drainage and private property utilized by the public;
- B. Economy in governmental expenditure and adequate reimbursement of the County for services performed;
- C. Safe, convenient transportation of people, goods and vehicles; and
- D. Coordination of land development in accordance with orderly physical patterns as stated in adopted plans and policies as may have been or may hereafter be adopted by the Board of County Commissioners (BOCC).

Section 1.3 Statutory Authority and Jurisdiction

These Standards are applicable within Doña Ana County and certain portions of the Extra-territorial Zone, as required, except with in the incorporated municipalities within the County. They are being created pursuant to the enabling authority set forth in §47-6-1 et seq. NMSA 1978; §4-37-1 et seq. NMSA 1978; and §3-20-5, 3-20-6, 3-20-9 NMSA 1978, the Doña Ana County Comprehensive Plan and/or Vision 2040 and the County Land Use Regulations and Zoning Ordinance No. 158-95, all as amended and shall be applicable to all property within Doña Ana County, New Mexico, (except for municipal, state and federal land being used for public purposes).

Section 1.4 Severability

If any section, paragraph, sentence, phrase or part thereof is declared unconstitutional or invalid by a court of competent jurisdiction, the remaining portions shall not be affected.

Section 1.5 Indemnification

The permittee shall hold harmless Doña Ana County and it's duly appointed agents and employees against any action for personal injury or property damage sustained by reason of the exercise of any permit.

Section 1.6 Enforcement

The applicable permitting authority, code enforcement officers, County Attorney, County Sheriff, or the District Attorney may enforce these Standards. All substandard work shall be corrected within a timely manner. Upon discovery of the substandard construction, notification shall be provided by the County to the applicant to correct the inadequacies within a specified time period. Failure to correct the substandard work shall be enforced as provided by law, including but not limited to the specific provisions of Section 4-37-3 NMSA.

Section 1.7 Permits

- A. **Fees.** A permit shall be required for all construction under these Standards. The schedules of fees for permits are set by Resolutions adopted by the BOCC. All permits required for any development shall be approved by the appropriate reviewing departments prior to issuance.
- B. **Permit Expiration.** Whenever any work has begun prior to obtaining a permit, the permit fee shall be three (3) times the amount it would have been otherwise. Every permit issued by the County under the provisions of these Standards shall expire by limitation and become null and void if the construction or work authorized by such permit is not commenced within 60 days from the date of such permit. The permit shall also expire if the construction or work authorized by such permit is suspended or abandoned any time after the work is commenced for a period of 90 days. After 90 days a new permit shall be obtained and the fee shall be one half of the original permit and provided further that such suspension or abandonment has not exceeded 180 days. After 180 days of inactivity, a new permit shall be obtained, see Table 1.1 for permit expiration and fee requirements.

Table 1.1 Permit Expiration and Fee Requirements

Time	Fee
0-60 days	Obtain permit, pay fees construction shall commence
Abandonment > 90 days	½ original fee New permit
Abandonment > 180 days	Full fee New permit

Any resident holding a current permit may apply for an extension of time within which work may commence under that permit when the permittee is unable to commence work within the time required by this Section for good and satisfactory reasons. The County may extend the time for action by the permittee for a period not exceeding 90 days on written request by the permittee showing that circumstances beyond the control of the permittee have prevented action from being taken. No permit shall be extended more than once.

- C. **Suspension or Revocation.** The County may, in writing, suspend or revoke a permit issued under the provision of these Standards whenever the permit is issued in error or on the basis of incorrect information supplied, or in violation of an ordinance or regulation or any provisions of these Standards.

Section 1.8 Interpretation and Conflict

- A. The provisions of these Standards shall be considered the minimum requirements to meet the purpose expressed in Section 1.2 of these Standards.
- B. Where the provisions of any local ordinance or regulation impose greater restrictions than those of these Standards, the provisions of such document shall prevail.

- C. Any applicable provisions of Federal or New Mexico State Law, which impose a greater duty, standard or requirement than those contained herein shall supersede the provisions of these Standards.
- D. The County Engineer or their designee shall interpret the meaning of the provisions of these Standards. Disagreement with an interpretation may be appealed to the Design Review Committee (DRC). The DRC's findings may be appealed to the Board of County Commissioners.
- E. When two or more provisions of these Standards are conflicting, the most restrictive provision shall apply or the most applicable provision that is most appropriate will be determined by the Engineering Services Department.

Section 1.9 Appeals

Any aggrieved person or party may appeal a final decision made by the County or the DRC in applying these Standards to the BOCC upon written request and submittal of four (4) copies of the supporting documentation submitted to the Planning Department, with an appropriate filing fee as set by Resolution of the BOCC. The County shall schedule a hearing at the next available BOCC meeting.

Section 1.10 Variances

The DRC may grant variances to the requirements of these Standards, if the materials, methods, and work offered meet equivalent standards prescribed in these Standards and meet or exceed all other requirements for aesthetics and mechanical quality, effectiveness, durability and safety of all other County regulations.

Section 1.11 Penalty; Severability

Any person, firm, corporation or other entity violating these Standards shall be deemed guilty of a petty misdemeanor and upon conviction shall be punished by a fine not to exceed \$300 and/or 90 days in jail per offense. In case of a continuing violation, each day's violation shall be deemed a separate offense.

Section 1.12 Definitions

Acceleration Lane - A speed change lane for the purpose of enabling a vehicle entering a roadway to increase its speed to a rate to safely merge with through traffic.

Aggrieved Person or Party – A person or party who can demonstrate a specific personal or legal interest, as distinguished from a general interest, who has been or is likely to be specifically and injuriously affected by a final decision.

American with Disabilities Act (ADA) - The 1990 federal civil rights law that prohibits discrimination on the basis of disability. This law dictates specific levels of compliance for both the public sector (Title II: State and Local Governments) and the private sector (Title III: Public Accommodations).

Americans with Disabilities Act Architectural Guidelines (ADAAG) - The requirements for accessibility to buildings and facilities by individuals with disabilities under the Americans with Disabilities Act (ADA) of 1990. These scoping and technical requirements are to be applied during the design, construction, and alteration of buildings and facilities covered by Titles II and III of the ADA to the extent required by the regulations issued by Federal agencies.

Arroyo – A clearly defined natural channel formed by the passage of water and subject to flash flooding during seasonal or irregular rainfall events.

Average Daily Traffic (ADT) - The total volume of traffic passing a given point or segment of a road facility, in both directions, during a 24-hour period. It is commonly obtained during a given time period, in whole days greater than one (1) day and less than one (1) year, divided by the number of days in that time period.

Alley - A minor public way that is used primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

Arterial Streets - Are defined by:

Principal arterials provide higher speed travel and mobility for long distance trips. These roads function within the region or community to carry large volumes of traffic to minor arterials and collector routes. Access may be limited by medians.

Minor arterials serve a mobility function for longer distance trips but handles moderate volumes of traffic at moderate speeds. Minor arterials provide connections to collector routes, which serve communities and local areas. Access from some major traffic generators is allowed to minor arterials.

Association of American State Highway and Transportation Officials (AASHTO) – A standards setting body that publishes specifications, test protocols and guidelines used in highway design and construction.

Base Flood - A term used in the National Flood Insurance Program to indicate the minimum size flood to be used by a community as a basis for its floodplain management regulations; currently required by regulation to be that flood that has a one-percent chance of being equaled or exceeded in any given year. Also known as a 100-year flood or one-percent chance flood.

Base Flood Elevation (BFE) - The elevation for which there is a one-percent chance in any given year that flood levels will equal or exceed it. The BFE is determined by statistical analysis for each local area and designated on the Flood Insurance Rate Maps. BFE is also referred to as the 100-year flood elevation.

Berm – A bank or mound of earth, used especially as a water barrier.

Bicycle Lane (Bike Lane) - A portion of a roadway that has been designated by striping, signing, and pavement markings for the preferential or exclusive use of bicycles (AASHTO).

Board of County Commissioners (BOCC) – The governing body of Doña Ana County.

Channel - Any arroyo, stream, swale, ditch, diversion, or watercourse that conveys flow.

Clear Sight Triangle – Specified areas along intersection approach legs and across their included corners that are to be clear of obstructions that might block a driver's view of potentially conflicting vehicles. Requirements for maintaining a clear sight triangle are outlined in Appendix J.

Clearing - The removal of surface vegetation without disturbance to the root system.

Collector Street - A roadway that carries traffic from local to arterial streets and highways.

Compaction – The densification of a fill by mechanical means

County - Doña Ana County Staff and/or Administration

Crown - The cross slope or difference in elevation between the high and low point of a cross section of a street normally measured from centerline to edge of pavement or gutter line.

Cul-de-sac - A minor local street with only one (1) outlet and culminated by a turnaround.

Curb Cut -The removal or a modification of the vertical portion of the curb for the purpose of providing access or drainage.

Curb Return - A curved segment of curb used at each end of an opening in the roadway curb.

Cut – See ‘Excavation’.

Deceleration Lane - A speed change lane for the purpose of enabling a vehicle to slow to a safe turning speed when exiting a roadway.

Design Review Committee (DRC) - A committee consisting of the Directors of Public Works, Utilities, the Flood Commission, Planning, the Fire Marshal or their designees. The purpose of the DRC is to review major development proposals and requested variations to these Standards that were denied by County staff.

Design Storm - A storm that deposits a measured amount of precipitation within a stated period over a defined area that is used in calculating storm runoff.

Detention Basin (Detention Pond) – A water-storage facility which gradually releases water by means of an outlet

Development - A project involving property improvement and, usually, a change in land use character with the site.

Drainage - Water runoff.

Drainage Area (Drainage Basin) – An area enclosed by a topographic divide which contributes to the runoff at a particular location

Drainage Maintenance Agreement - An agreement signed by a property owner defining their responsibilities for maintaining all elements of the drainage system (see Appendix B).

Driveway - A point of vehicular access between an easement and/or a right-of way and an abutting property.

Driveway Width - Narrowest dimension across a driveway measured parallel with the edge of the traveled way.

Earthwork – The excavation, grading, filling or any other alteration of the contour, topography or natural cover of land.

Easement - A property owner's grant of specific purpose, use or uses on that owner's land that does not abridge the right of the fee owner to the use and enjoyment of that land. An easement may be for use by the general public, a corporation or a certain person or persons.

Engineer - A Professional Engineer who is qualified to practice engineering in the State of New Mexico as defined by *the Engineering and Surveying Practice Act*.

Erosion - The transportation of soil particles, or mass movement of soil (mass wasting), by water, wind, gravity, or mechanical means.

Erosion Control - Treatment measures for the prevention of damages due to soil movement from wind, water, gravity, or mechanical means.

Excavation - The removal of earth material by artificial means, also referred to as a cut.

Federal Emergency Management Agency (FEMA) - An agency of the federal government that serves as a single point of accountability for all Federal activities related to disaster mitigation, emergency preparedness, response, and recovery.

Fill - Deposition of earth materials by artificial means.

Flood - A general and temporary condition of partial or complete inundation of normally dry land areas.

Flood Insurance Rate Map (FIRM) - An official map on which FEMA has delineated both the special flood hazard areas and the risk premium zones applicable to a community.

Flood Control - The treatment measures taken necessary to protect life and property from the storm runoff.

Flood Hazard Area - An area subject to flooding from storm runoff.

Flood Plain - Any land area susceptible to being inundated by water from any source.

Frontage - The side of a lot abutting a street or roadway.

Grading - An excavation or fill or combination thereof, including clearing and grubbing.

Grubbing - The removal of stumps and roots.

Improvements - Includes, but not limited to infrastructure such as streets, curbs, gutters, sidewalks, storm drainage facilities, bicycle facilities, trails, grading, utilities or parts thereof.

Institute of Transportation Engineers (ITE) - An international educational and scientific association of transportation and traffic engineers and other professionals who are responsible for meeting mobility and safety needs.

Lane - The portion of a roadway for the movement of a single line of vehicles not including the gutter or shoulder of the roadway.

Level of Service (LOS) – Characterizes the operating conditions on the facility in terms of traffic performance measures related to speed and travel time, freedom to maneuver, traffic interruptions, and comfort and convenience.

Local Street - Are defined by:

Major: a roadway that carries traffic from minor local streets to collectors and arterials.

Minor: a roadway of relatively short length that provides access to major local and collector streets and is designed to discourage through traffic.

Lot – A portion of a subdivision or parcel of land described by metes and bounds held in separate ownership as shown on the records in the County Clerk’s Office.

Maintenance - The cleaning, shaping, grading and repair of roads, drainage, flood control and erosion control facilities and structures.

Major Arroyo - Any channel or watercourse that carries more than 100 cfs or has a contributing drainage basin of more than 40 acres.

Major Thoroughfare Plan – Las Cruces MPO Major Thoroughfare Plan or the El Paso Metropolitan Transportation Plan, as applicable.

On-lot Ponding - A retention area used to store runoff within an individual lot.

One-Hundred (100) Year Design Storm – The flood elevation that has a one-percent chance of being equaled or exceeded in any given year. It is also known as the base flood.

Parcel – See definition of lot.

Parking Area - A portion of a development set aside for off-street parking, see Ordinance No. 158-95, as amended, for parking standards.

Parkway - An area of a public street that is between the curb and sidewalk or between the sidewalk and the property line.

Public Rights-of-Way – Land area, property or interest therein, usually in a strip, acquired for or devoted to transportation and/or utility purposes that are acquired by the city, county, state or federal government for public use.

Retention Basin (Retention Pond) – A water-storage facility that has no outlet, or stores water for a prolonged period of time.

Roadway Maintenance Agreement –An agreement signed by a property owner defining their responsibilities for maintaining all elements of a roadway (see Appendix A).

Roadway - A public way (other than an alley), which has been dedicated or reserved by plat that affords the principal means of access to abutting property.

Runoff – Water from rain, snowmelt or irrigation that flows over the land surface and is not absorbed into the ground.

Shall - This term means “mandatory.”

Shared Use Path - A path physically separated from motorized vehicular traffic by an open space or barrier and either within the highway right-of-way or within an independent right-of-way (AASHTO).

Sidewalk - A pedestrian walkway with permanently improved surfacing.

Sight Distance – The length of the roadway ahead that is visible to the driver.

Slope – The measurement of an incline or decline (rise/run).

Soil Conservation Service (S.C.S.) also referred to as Natural Resource Conservation Service (NRCS)- An agency of the Federal Government that provides leadership in a partnership effort to help people conserve, maintain, and improve natural resources and the environment.

Special Flood Hazard Area (SFHA) – A portion of the floodplain subject to inundation of the base flood. Special Flood Hazard Areas in Dona Ana County currently include Zones A, AO, AH, and AE.

Stormwater – Runoff resulting from storm events.

Street - A public way (other than an alley) that has been dedicated, reserved by plat, easement or other instrument that affords the principal means of access to abutting property.

Structure – All construction, including residences, commercial buildings, free standing walls, antennas, signs, towers, bridges, culverts, or similar uses that may require a permit issued by Doña Ana County.

Surveyor - A person who is qualified to practice surveying in the State of New Mexico defined by the *Engineering and Surveying Practice Act*.

Swale (Roadside Swale) – A shallow ditch used to convey and/or store runoff

Ten (10) Year Design Storm - The flood elevation that has a ten-percent chance of being equaled or exceeded in any given year.

Tract – See definition of lot.

Watercourse - Any river, arroyo, creek, stream or other depression having definite limits and evidencing the regular or occasional flow of water.

Watershed – See ‘Drainage Area’.

Wide Curb Lane - The lane nearest the curb that is wider than a standard lane and provides extra space so that the lane may be shared by motor vehicles and bicycles.

SECTION 2. ACCESS REQUIREMENTS

Specific criteria and the administrative procedures for the design and location of driveways and median openings on County roads are identified in this Section. These criteria are based on established design standards and are meant to protect the public safety, maintain smooth traffic flow, maintain right-of-way drainage, and protect the intended function of the roadway.

Section 2.1 Access Permits

Applications for access permits shall be made by the property owner or property owner's authorized representative (permittee), who shall represent all parties of interest. Applications shall be made on the permit application form "Application for Permit to Construct Driveways in Public Rights-of Way" obtainable from the County Engineering Services Department, a sample application is in Appendix C. The County may refuse to accept a permit application when relevant information is missing or there is no written evidence of the ownership of the property surface rights provided in the application. The applicant shall be notified when information is missing from the application.

- A. Permit Application Forms. Completed permit application forms shall be submitted to the County Engineering Services Department. The County Engineering Services Department may require additional information relative to the evaluation of a permit application that may include, but shall not be limited to the following:
1. Roadway and driveway plan and profile;
 2. Drainage plan of the site showing impact to public right-of-way;
 3. Map and letters detailing utility locations before and after the construction of access in and along the roadway;
 4. Subdivision, zoning or development plan;
 5. Property map indicating other access and adjacent public roads and streets;
 6. Proposed access design;
 7. The intended use of the property;
 8. Traffic impact analysis;
 9. Grading permit; and
 10. Erosion control measures.
- B. Application Review Procedures. The review period begins with the acceptance of a complete permit application by the appropriate County-designated representative.
1. Upon acceptance of the application permit and supplemental information, the County Engineering Services Department shall use these Standards and any other applicable standards for evaluating and acting on the application. The application will be processed within ten (10) working days. Transmittal of a completed permit, approved by the County Engineering Services Department, or transmittal of a denied application constitutes action on the permit application.
 2. If the County Engineering Services Department denies an application, the County Engineering Services Department shall provide the applicant a copy of the application marked denied along with any attachments and a written explanation for the decision.
 3. If the County Engineering Services Department approves an application permit, the permit shall be prepared and transmitted to the applicant along with any additional terms and conditions established by the County Engineering Services Department. If the permittee does not agree to all terms and conditions of the permit, the permit shall be deemed denied.
 4. The permitted access shall be completed in accordance with the terms and conditions of the permit prior to being used for vehicular access. In accepting the permit, the permittee agrees to all terms and conditions of the permit. Should the permittee or applicant choose to appeal the denied application, or the terms and conditions of a permit, the appeal shall be filed
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within ten (10) working days of the date of transmittal of the notice of denial of transmittal of the permit, in accordance with Section 1. 9 of these Standards.

C. Construction Requirements

1. The permit shall be deemed expired if the access is not under construction within six months from the date of issue unless otherwise noted and approved by the County Engineering Services Department in writing. A six-month extension may be requested from the County Engineering Services Department. Any request for an extension shall be in writing and submitted to the County Engineering Services Department before the permit expires. Denial of an extension may occur only when the County Engineering Services Department ascertains and documents that unforeseen and significant changes in traffic operations, proposed access operation, or statutes and regulations that were not considered in the issuance of the permit have occurred. Any person wishing to reestablish an access permit shall be required to submit a new permit application.
 2. The permittee shall notify the County Engineering Services Department of the pending construction at least forty-eight (48) hours prior to any construction in County right-of-way.
 3. The County Engineering Services Department may inspect the access during construction and upon completion of construction to ensure that all terms and conditions of the permit are met. Property required for access improvements shall be dedicated, without cost to the County.
 4. The access construction as required by the terms and conditions of the permit shall be completed at the expense of the permittee. The County may bill the permittee for direct costs and labor provided by the County for the installation and relocation of all traffic control devices within the public right-of-way directly related to the use of the permitted access. Where construction of access requires the reconstruction of the existing roadway, the County may require the contractor or permittee to post a bond in an amount sufficient to ensure completion of the work.
 5. The permittee shall provide a traffic control plan in conformance with the *The Manual on Uniform Traffic Control Devices for Street and Highways*, as amended.
 6. The hours of operation/work on or immediately adjacent to the roadway may be restricted due to peak hour traffic demands and other pertinent roadway operating restrictions. Generally, the hours of operation/work shall be limited to daylight hours, Monday through Friday.
 7. A copy of the permit shall be available for review at the construction site. If necessary, minor changes and additions shall be ordered by the County to meet unanticipated site conditions and noted on the permit documents.
- D. Illegal Access to the Roadway. The County may install barriers across or remove any access that provides direct access to a County road that is constructed without an access permit or used in violation of these Standards or permit terms and conditions.
- E. Improvements to Legal Access. The property owner or the property owner's authorized representative served by legal access may make physical improvements to an access with the permission of the County. The applicant shall use the "Application for Permit to Construct Driveways in Public Rights-of-Way" form (see Appendix C). Review and processing of the permit application will be in accordance with these Standards. Denial of the application for access improvement does not constitute revoking access authorization.
- F. Revocations. Where a property is being redeveloped, reconstructed, or its basic vehicular usage change, the owner shall apply for a new access permit and reconstruct the driveways to comply with these Standards.

Section 2.2 Residential Driveway Requirements

The number of driveways and characteristics of construction are dependent on the classification of the residential street and the generation of traffic by the proposed development. Driveway permits shall be required for all lots unless shown on an approved set of subdivision construction drawings. Refer to Appendix G for the Drivepad and Intersection Design Drawings.

- A. Private driveway access to single family lots is not permitted on principal arterial, minor arterial or collector streets. However, if this is the only legal access to an existing parcel of land, one (1) driveway permit will be permitted. Access to single family lots is discouraged on major local streets. Where this condition occurs, the required width of the driveway is eighteen feet (18') for a one-way driveway and twenty five-feet (25') on a two-way driveway.
- B. In the case of a three (3) car garage, parking of recreational vehicles or boat parking, the drivepad can be increased to thirty-feet (30') in width after a site plan review for the permit is approved.
- C. A common driveway is a mutual entrance to two lots. The maximum width allowed is forty feet (40'). A letter of concurrence, signed by both property owners shall be provided prior to issuance of the permit.
- D. For lots with a forty foot (40') frontage or less, the driveway shall be located where it is common for two lots, and provides an on-street parking area, where permissible.
- E. The minimum distance between two (2) driveways on one (1) lot is twenty-two feet (22').
- F. The minimum length of frontage for two driveways is one hundred twenty feet (120').
- G. For corner properties, the location of the drivepad on local streets shall be a minimum of twenty feet (20') from the curb return.
- H. The driveway shall be designed so that the drainage patterns will not allow storm water to either enter or leave the public ROW, unless otherwise provided for in the original development.

Section 2.3 Non-Residential Driveways and Multi Family Housing Developments

The number of driveways and type of construction are dependent upon the classification of the street and the traffic to be generated by the proposed development. Refer to Appendix G for the Drivepad and Intersection Design Drawings.

- A. Street Classification. The County's street classification is determined by the analysis of its current functional classification and projected land uses and as defined by these Standards. The Major Thoroughfare Plan shall be used as a basis for the classification of streets and roadways within Doña Ana County.
- B. Traffic Generation Factors. Points of access shall be designed to a high standard to minimize operational and safety problems. Driveway characteristics may include: greater throat widths, curb returns, reduced entrance grades, and deceleration lanes.
- C. Spacing of Driveways from Intersections and Driveways. The distances in Table 2.1 shall be used as minimums for existing parcels less than two (2) acres in size when determining the spacing of driveways from intersections and/or other driveways.

Table 2.1. Spacing of Driveways from Intersections

Type of Roadway	Arterial		Collector		Local	
	Approach Distance	Departure Distance	Approach Distance	Departure Distance	Approach Distance	Departure Distance
Principal Arterial	300'	200'	200'	150'	150'	100'
Minor Arterial	200'	150'	150'	100'	100'	100'
Collector	150'	150'	100'	100'	75'	75'
Local	150'	150'	100'	100'	75'	75'

Notes: A. Additional distance may be required based upon queuing requirements.
 B. Multi-use driveways will be classified the same as local streets for the purpose of this Table.

D. Driveways with Median Access.

1. Streets with median channelization shall have driveways located with the centerline of the driveway approximately centered on the median openings. Where a driveway exists on the opposite side of the street, the centerline of the new driveway that utilizes the median opening shall be located within ten feet (10') of the existing driveway centerline. Driveways not meeting this criteria shall be located a minimum of seventy-five feet (75') from the existing median opening.
2. Driveways on streets without median channelization shall be constructed on opposite sides of the street. If driveways are not to be opposite each other, they are offset a minimum of fifty feet (50') for local streets and a minimum of seventy-five feet (75') for collector and arterial roadways. The centerlines shall be within fifteen feet (15') of each other.

E. Curb Return Construction. Curb returns may be allowed on arterials if vehicles are entering and exiting large-scale commercial/industrial developments. They may be permitted in other cases given sufficient traffic generation or substantial use by vehicles with a large turning radius.

F. Drivepad Construction Permits. Will be required on all private drivepad entrances to enter and exit all County roads.

1. Minor and Principal Arterials, Collectors, Major Local and Urban Streets:
 - a. Two-way drivepads require a thirty foot (30') minimum for right turn in and out (no left turn access). A minimum of thirty-six feet (36') with left-turn access. However, forty feet (40') is desirable.
 - b. One-way drivepads shall be twenty feet (20') to twenty-five feet (25') in width. These are only permitted where the circulation is self-enforcing, that is when angle parking and one-way aisles are used in establishing the one-way pattern from entrance to exit.
 - c. Drivepad widths for larger vehicles may be up to fifty feet (50') for tractor-trailer combinations and mobile homes.
2. Local Streets:
 - a. Twenty-five feet (25') minimum for two-way access; however, twenty-five feet (25') to thirty-five feet (35') may be permitted.
 - b. No backing from designated parking stalls into the streets is permitted.
 - c. Forty feet (40') to fifty feet (50') drivepads widths may be permitted where substantial large vehicle usage will occur.
 - d. Twenty feet (20') to twenty-five feet (25') for one-way drivepads (with appropriate signs and parking layout).

- G. Widths and Radii for Curb Return Entrances. The width and radius of the entrance are dependent upon the design vehicle.
1. All curb return entrances require handicap ramps and valley gutters.
 2. Additional right-of-way or public roadway easement may be required to be dedicated or granted.

Table 2.2. Arterial & Collector Streets

Design Vehicle	Radius at Back of Curb	Single Entrance Exit Widths		Divided Entrance/Exit Widths		
		No Median Access	With Median Access	Entrance	Exit	
					No Median Access	With Median Access
Car Only	20-30'	25-30'	36-40'	18'	18'	22'
SU-30*	25-30'	30'	36-40'	20'	18'	22'
WB-40**	30-40'	30-40'	40-45'	22'	20'	24'
WB-50***	35-40'	40-45'	45'	25'	20'	24'

Notes: * Single unit truck-30' long-wheel base 20' (refuse truck)
 ** Tractor trailer-50' long – wheel base 40'
 *** Tractor trailer-55' long – wheel base 50' (18 wheeler)

H. Striping and Signing.

1. Entrances and exits of any driveway shall be marked with arrows to define direction such as one-way exit and entrance signs and turn restriction signs. For further details on appropriate signing and striping used for entrances, see *The Manual for Uniform Traffic Control Devices (MUTCD)*, as amended.
2. The developer shall provide a certified traffic control plan for review and approval by the County Engineering Services Department in accordance with the MUTCD. The developer shall implement the approved plan at the developer's/applicant's expense for work within the County right-of-way.

- I. Grades. The maximum initial grades for curb return entrances with left turn access shall be a positive four-percent (+4%) for right turn in only entrances and a positive six-percent (+6%) for right turn out only entrances. Driveways are to be constructed to the street right-of-way line per County standard drawings except that a minimum of six and one half feet (6 ½') driveway depth shall be used.

- J. Visibility for Driveways. Visibility shall be maintained in accordance with the *AASHTO Guidelines for Intersection Visibility*. Landscaping, fencing and/or berming shall meet the requirements for driveway visibility. See Appendix J for the clear sight triangle design and requirements.

- K. Right Turn Deceleration Lanes for Tapers. A modified right turn deceleration lane or a taper is required on arterial streets where the right turning volumes will not exceed the following numbers in Table 2.3 for either the AM or PM peak of the adjacent street traffic.

Table 2.3. Right Turn Deceleration Lanes or Tapers

Taper Required	Design Speed of Roadway	Length
1 to 15 trips/day	45-50	150'
	30-40	100'
Deceleration Lane Required	Design Speed of Roadway	Length
15 or more trips/day	45-50	150'
15:1 taper	30-40	100'

Note: Additional right-of-way for deceleration lanes or tapers shall be dedicated, if necessary

- L. Left Turn Lanes. Left turn lanes shall be required if a driveway utilizing a median opening is constructed. The left turn lane provides for both the stacking and deceleration of left turning vehicles. Left turn lane lengths are dependent upon a number of factors including the cycle length of the upstream signal, left turn arrival rate, and queuing factor. For unsignalized left turns, the formula in Table 2.4 shall be used to determine turn bay length.

Table 2.4. Turnbay Length for Unsignalized Left Turns

Mean Arrival Rate Vehicles/Minute	Turnbay length	Width
0.25	100' taper	12'
0.25 – 1.0	50' + transition	12'
1.5	75' + transition	12'
2.0	100' + transition	12'
For mean arrival rates above 2 vehicles/minute the following formula should be used: $Length = VL/C * v * L$ Where: VL = number of left turns in the peak hour C = cycle length of upstream signal VL/C = mean arrival rate v = Poisson arrival factor for 95% confidence level L = average vehicle length – use 20' per vehicle for queues with 1% trucks		
Transitions		
Design speed	Taper Length	
30-55 mph	15:1 x lane width	

- M. Channelized Right and Left Turns. Right and/or left turn channelization shall be required based upon factors such as one-way roadways, the necessary restriction of movements at a driveway or to meet applicable standards as set forth in *NMDOT's State Access Management Manual*.
- N. Signalization. When a development causes a significant increase in traffic to warrant a signal (per MUTCD), the developer will be financially responsible for the signal installation as set forth in the *NMDOT State Access Management Manual*. A financial guarantee for a future signal shall be approved by the Board of County Commissioners.
- O. Abandoned Driveways. Any drivepad/driveway that has a change in use shall be replaced by the property owner with driveways meeting these minimum standards.
- P. Common Driveways. Driveways that straddle property lines, or share access shall be recorded by a grant of easement document prior to the issuance of an access permit. This easement shall also recognize any existing lot lines, utilities, or other easements.

- Q. Driveway Construction. Driveways and parking areas shall be constructed and surfaced per the approved design and specified in the permit application. No surfacing shall be placed upon a driveway until an inspection is made and the grading work is approved by the County Engineering Services Department.
- R. Lighting. Exterior lighting is required for all employee and visitor parking areas, walkways, building entrances and exits, and ingress and egress. No light standard shall exceed ten feet (10') in height unless the light standard has a light cutoff of ninety degrees (90°) or less, in which case the maximum height shall be thirty feet (30'). No light source shall be fixed to any building so that rays are perpendicular to the building face. All direct rays of the light source shall be confined to the site.
- S. Driveway Apron Maintenance. The County does not assume any responsibility for the removal or clearance of snow, sleet, ice, silt, vegetation, wind blown debris or the opening of windrows of such materials upon any portion of any driveway or entrance along any County road.
- T. Drainage. Drainage design shall conform to NMDOT requirements and to all applicable local regulations and requirements. Drainage on side ditches shall not be altered or impeded. The applicant/owner shall provide suitable and approved drainage structures as required by the County based on acceptable engineering practices. The following engineering practices and information shall be submitted by permit applicants when any changes are made in drainage conditions.
1. A report including a description of the existing drainage conditions, the proposed revisions and the effect of the proposed changes on existing conditions. It shall include, but not be limited to proposed drainage structures that shall carry the design flow of water in the side ditches.
 2. Maps and/or drawings shall address all pertinent features of the proposed modification. This may include, but not be limited to, site maps, drainage area maps, contour maps, grading plans, structure profiles, and channel profiles.
 3. Hydrologic and hydraulic calculations are required for design discharge, headwater elevations, tailwater elevations, flow depths and flow velocities in channels, design discharge, and headwater elevations in culverts.
 4. Pipe culverts placed parallel to roadways shall have a concrete blanket placed on both ends of the structure. The concrete blanket shall have horizontal two-inch steel pipes (extra strong AISC designation) placed such that the spacing shall not exceed twenty four inches (24") and shall be designed so that the grate can be lifted up or removed for cleaning purposes.

SECTION 3. ROAD DESIGN STANDARDS

The purpose of the Road Design Standards is to provide information for the establishment of access improvement requirements. This involves right-of-way requirements and design standards for all streets. General information regarding utility improvements is also provided. These shall be considered the minimum standards and nothing shall prevent the applicant's Engineer from applying greater standards to achieve the purposes outlined in Section 1.2 of these Standards.

Section 3.1 Lots

- A. All residential lots shall include a site that meets all relevant federal, state and local governmental regulations.
- B. Lots with double frontage shall identify the intended front of the lots for driveway and address purposes. Double frontage lots on adjacent cul-de-sacs shall not be permitted.
- C. Legal access to a public street within the development shall be required for all lots.
- D. All lots shall meet the requirements of *Doña Ana County's Land Use Regulations and Zoning Ordinance* and all other ordinances or laws governing lots.

Section 3.2 Driveways

- A. Driveways shall operate as at-grade intersections. They shall be designed to provide for adequate sight-distance, acceptable levels of traffic operations, and provide control and geometry that is consistent with the intensity of use of the driveway, the intended function of the roadway and to comply with these Standards.
- B. A permit shall be obtained from the New Mexico Department of Transportation (NMDOT) District Office for all driveways accessing state maintained roads prior to the approval of any construction documents.
- C. A driveway permit obtained from the County Engineering Services Department is required for all driveways accessing existing and proposed County roads prior to the approval of any construction documents or issuance of a building permit.
- D. Driveways shall be located in accordance with Section 2. If the spacing distance cannot be achieved, driveways shall be located as far as physically possible from the intersection. Exits and entrances will be spaced to create the safest possible condition for traffic movement and shall be justified by engineering analysis.
- E. Individual driveways from single-family residential lots are not allowed on arterial and collector streets, unless it is the only legal access available on an existing lot.

Section 3.3 Sidewalks

- A. Sidewalks within or adjacent to a subdivision shall be required along all streets where the average lot size of adjacent lots is less than three-quarters (3/4) of an acre.
- B. Sidewalks shall have a minimum width of four-feet (4'). When a sidewalk is utilized with a stand up type of curb, the sidewalk shall have a minimum thickness of four-inches (4"). When a sidewalk is built flush with the street without utilizing curb and gutter, or built at the back of a mountable curb, then the sidewalk shall have a minimum thickness of six-inches (6").
- C. Sidewalks shall be constructed out of concrete and shall be built at the time of roadway construction.

- D. Streetlights, power pole, fire hydrants, street signs or other types of obstructions shall not be permitted on the sidewalks or the designated walkway. If street obstructions are in the way of proposed sidewalks, the obstructions shall be relocated prior to construction of the sidewalk.
- E. Sidewalks shall meet the requirements of the American with Disabilities Act.

Section 3.4 Streets and Roads

If a County Design Standard does not exist for a particular project, the New Mexico Department of Transportation standards and all other relevant standards shall apply.

- A. The subdivider shall provide documentation proving that all roads to and within a development have unobstructed legal and physical access to a County- or state-maintained road.
- B. Width for roadways linking a development to a County- or state-maintained road shall be at least as wide as the widest roadway required by the Doña Ana County Development Design Standards for the type of development proposed or wider if determined by the traffic impact analysis.
- C. The layout of principal roads within a development shall be designed to join to principal existing streets in adjoining areas and to serve adjoining areas. The width of the right-of-way in a development shall be sufficient to ensure that future development needs will not be limited by narrow rights-of-way, per Engineering Services and Planning Departments.
- D. Street jogs with centerline offsets entering onto local streets shall not be less than one hundred twenty five-feet (125') apart. Centerlines of offset streets entering onto collector or arterial streets shall not be less than two hundred-feet (200') apart.
- E. All roads shall be provided with adequate grades and drainage, including the conveyance of collected runoff, and culverts or dip sections for the lateral passage of flows. Public road rights-of-way shall not be used for the storage or ponding of runoff. Easements, in addition to the minimum right-of-way widths within a roadway section, may be required for the conveyance and storage of storm runoff and utilities.
- F. Half-streets along perimeters of subdivisions that result in pavement widths less than twenty-four-feet (24') for residential and thirty six-feet (36') for non-residential uses, shall not be allowed. A greater width may be required based on a traffic impact analysis.
- G. Streets shall be laid out to intersect as nearly as possible at right angles, and in no case shall streets intersect at angles of less than seventy five-degrees (75°) for local roadways and ninety-degrees (90°) for collector and arterial streets.
- H. All dead-end streets shall terminate in a cul-de-sac having a minimum radius of fifty-foot (50') for residential and eighty-foot (80') for non-residential uses. Phased development or construction shall be provided with temporary turnaround easements with fifty-foot (50') radii for residential and eighty-feet (80') for non-residential uses as necessary at the end of each phase, constructed with base course and prime coat, and may be vacated upon extension of the road within a subsequent phase. Turnarounds, in phased development, are not required on streets less than 150' in length. Intermediate turnarounds may be required by the County.
- I. All roads proposed to be publicly maintained shall include dedication of adequate rights-of-way as identified in Appendix I for the appropriate street classification. Private streets and easements shall be allowed only in circumstances where a maintenance agreement and evidence of a properly created road easement is provided obligating individual landowners or homeowner's associations for maintenance of the private streets and/or easements. Easements and pavement widths and pavement sections for private streets and easements shall meet the requirements for

public streets of similar function. In no case shall private streets be designed in such a way as to prevent access and/or passage of emergency vehicles.

- J. Controlling access parallel to streets, i.e., reserve strips, is prohibited.
- K. All construction within the right-of-way or easement shall meet all applicable provisions of the Doña Ana County *Standard Specifications for Road Construction* and its amendments in effect at the time of submittal of a development. A deviation from the standards will be allowed only when testing of the materials and/or methods used shows the deviation to be equal or greater in quality to that of the "Standard Specifications".
- L. All utilities within public rights-of-way or easements shall be coordinated with and comply with the requirements of the utility company or provider and Doña Ana County Ordinance #176-98, as amended. Concrete collars for valves and manholes are required where such valves and manholes fall within the County right-of-way.
- M. Header curbs may be used when the roadways are not used to convey storm water and the flows do not parallel the road. With the approval of the County Engineering Services Department, two additional feet (2') of paving surface may be substituted for each header curb if the edge of the pavement surface is adequately protected against erosion.
- N. Public and private streets that exceed one thousand five hundred-feet (1500') in length may be required as determined by the County for secondary access designed to the specifications required by these Standards. Private access roads/drives shall be platted easements and shall be a part of the lot facing the easement.
- O. Road improvements shall be centered within the right-of-way or the easement unless considered a half-street as allowed within these Standards.
- P. The minimum rights-of-way radius at intersections shall be twenty five-feet (25') at the property line for all roadway classifications.
- Q. Where residential subdivisions are proposed along collector or arterial streets that prohibit direct access to the street, the developer shall provide an approved physical barrier including but not limited to solid wall or fence with landscaping along the right-of-way, and shall be built at the time of roadway construction. The barrier shall conform to the clear sight triangle requirements in Appendix J and shall be properly maintained.
- R. All signing shall be constructed with U channel posts or other as approved by the County Engineering Services Department, in accordance with the *Manual of Uniform Traffic Control Devices*, as amended.
- S. The design and construction of bicycle and pedestrian facilities is encouraged for all roadway cross sections.
- T. In areas of erosive soil characteristics in excess of a four percent (4%) grade, an additional four feet (4') of paving and types A and B curb and gutter or a six inch (6") asphalt dike shall be required.
- U. In areas where subsection applies, water shall be let out at the nearest natural or manmade stream or pond but shall not exceed the hydraulic carrying capacity of the road.

Section 3.5 Right-of-Way and Roadway Requirements

Major thoroughfares, collectors and arterials with medians shall be built from the outside edge of the right-of-way towards the center. The location of collector and arterial streets shall be generally guided by policy and specifically located as development occurs. Coordination between the County and the developer shall provide the appropriate classification and alignment of all major and minor roadways

within and abutting developments to encourage appropriate and efficient transportation circulation patterns.

- A. A subdivider shall be responsible for one hundred-percent (100%) of the street improvements within the boundaries of the development, or
- B. For streets adjacent to the development, the subdivider shall provide the following street improvements:
 - 1. Major and minor locals shall require a full street section.
 - 2. All collector, minor and principal arterial streets shall require a half-street section, including sidewalk, curb and gutter.
- C. Access requirements for developments shall consist of the following:
 - 1. Minimum access to the development shall be from a dedicated and accepted public right-of-way or public easement. The developer shall provide evidence that the linking road exists and has permission to construct the roadway. In instances where the access to a development is unimproved, it shall be the responsibility of the sub divider to design and construct, at a minimum, a minor local roadway from the development boundary to the nearest paved public roadway. A wider width may be required subject to the results of a Traffic Impact Analysis (TIA). If the roadway linked to the proposed development is classified as a major thoroughfare (e.g., a Collector or Arterial) the developer shall provide the equivalent of a major local roadway, designed and constructed to a cross section approved by the County Engineering Services Department from the boundary of the development to the nearest paved public roadway;
 - 2. Access to lots within a commercial or industrial development shall be from either a dedicated and accepted improved public right-of-way or an improved access established by a sixty-foot wide (60') permanent private road and/or access easement; a wider width may be required by these Standards or per the requirements of the Land Use Regulations and Zoning Ordinance.
 - 3. Access to lots within a residential development shall be from a dedicated and improved public right-of-way; and
 - 4. All developing parcels of property shall provide a minimum of fifty-percent (50%) of the necessary additional right-of-way for adjacent streets to conform to the required width as defined within these Standards for all roads classified Major Local and above. One hundred-percent (100%) of the required right-of-way shall be required for minor local streets.

Section 3.6 General Pavement Design Criteria

Refer to the *Doña Ana County Specifications for Road Construction* manual for material specifications.

- A. A pavement design report included with the final plat submittal shall include, but not be limited to:
 - 1. Soil profiles shall be obtained from soil borings performed within the proposed right-of-way and proposed borrow area, or in areas determined to yield representative soils. Roadway soil borings shall be taken at an interval of five hundred feet (500'). Additional soil borings may be required if soil characteristics change significantly. Soil borings shall be advanced to a depth of at least five feet (5'), or refusal, whichever is shallower. In "cut" portions of the roadway, the depth of borings shall be measured from the proposed finished grade elevation of the pavement. In "fill" portions of the roadway, the depth of borings shall be measured below existing grade. Soil borings are required to classify materials to determine the thickness of the layers of the road structure and to identify soils that are excessively expansive or resilient. Such soils shall receive special consideration by substitution with

- "engineered fill" or stabilization with a suitable admixture. Field conditions encountered with unsatisfactory materials shall be submitted with pavement design calculations along with satisfactory design solutions.
2. All calculations used in the design, including traffic volumes, soil types and structural numbers.
 3. A table showing material properties used in the design and R values of the soil.
 4. Laboratory test data indicating properties of materials tested.
- B. A registered Professional Engineer, licensed to practice in the state of New Mexico, shall perform pavement designs. The Engineer shall have demonstrated expertise in the design and analysis of rigid and/or flexible roadway pavements. All pavement design documents shall be referenced in the design notes. All designs shall be based on a minimum twenty (20) year life period.
- C. The minimum thickness for a pavement structure shall be: one and one half-inches (1-1/2") of plant mixed bituminous pavement overlaying four-inches (4") of base material, overlaying six-inches (6") of prepared subgrade. However, actual thickness will be determined from a pavement design analysis. Double penetration macadam surfacing may be allowed in areas for a temporary use.
- D. Double penetration surface treatment is considered to have no structural coefficient value.

Section 3.7 Dedications

Where the developer wishes to dedicate facilities and/or rights-of-way to the County, a written request by the entity to which the facilities and/or rights-of-way are to be dedicated shall be approved by the appropriate County departments and accepted by the BOCC. The dedicated facilities and/or rights-of-way shall be included in the subdivision's Disclosure Statement and the Terrain Management Plan.

Section 3.8 Traffic Impact Analyses (TIA)

A TIA is used to assess the effects of a particular development on the surrounding transportation network, to determine what provisions are needed for safe and efficient site access and traffic flow, and to establish mitigation requirements where off-site impacts require improvements. Off-site improvements shall not be required to be constructed by the developer in order to address existing transportation system deficiencies. However, any deficiencies in the LOS shall be corrected before a development/construction permit can be issued.

A Site Threshold Assessment (STA) application shall be required for all development excluding a single-family residential dwelling on an existing lot. Attached to the STA shall be a sketch showing traffic counts for pre- and post-development and traffic count data from the Institute of *Transportation Engineers (ITE) Trip Generation Manual*. The County Engineering Services Department will determine the level of TIA required based upon the review of the STA. Acceptable sources of traffic count data may be obtained from: the County Engineering Services Department, NMDOT, City of Las Cruces, the Metropolitan Planning Organization(s), the Regional Planning Organization or any other previously approved study. A Registered Professional Engineer, licensed to practice in the state of New Mexico, demonstrating expertise in traffic engineering shall prepare the TIA.

- A. The level and extent of the required residential TIA shall conform to the following warranting criteria, unless the County Engineering Services Department determines that a higher level is required based on surrounding existing and proposed development:
 1. A Level One TIA shall address safety issues related to and the impact of site generated traffic upon the intersection created at the primary point of access from the development to a

- County-maintained road, to be evaluated at the point in time after projected full build out and occupancy of the development (generally for 6 to 24 residential units);
2. A Level Two TIA shall incorporate the requirements of the Level One TIA, and shall also be expanded to address off-site roadway and intersection improvements that may be required due to a drop in Level of Service (LOS) or due to a compromise in safety that is caused by traffic from the development. It is to be evaluated at the time of projected full build out and occupancy of the development, and five (5) years from the projected full build out and occupancy (generally for 25 to 99 residential units); or
 3. A Level Three TIA shall incorporate the requirements of the Level Two TIA, and shall also be evaluated at an additional horizon year, which shall conform to the horizon year utilized by the Regional Planning Organization (RPO) or State Highway Plan for long term transportation system modeling, projection and planning (generally a twenty-year (20) horizon and for 100 or greater residential units).
- B. All non-residential development shall require a STA. The level and extent of the required TIA shall be determined by the County Engineering Services Department based on the review of the STA and will conform to the following warranting criteria:
1. A Level One TIA, generally for 1-24 peak hour trips
 2. A Level Two TIA, generally for 25-99 peak hour trips
 3. A Level Three TIA, generally for 100 more peak hour trips
- C. TIAs shall address the following:
1. Introduction and summary, consisting of:
 - a. The purpose and objectives of the report;
 - b. Principal findings and/or conclusions; and
 - c. Recommendations for improvements required to address impacts caused by traffic from the development upon the existing transportation system.
 2. Description of the proposed development, consisting of:
 - a. Description of the site location and study area;
 - b. Brief description of the development; and
 - c. Identification of any phasing or timing for implementation.
 3. Description and extent of study, consisting of:
 - a. Identification of study area, whether Level One, Two or Three; and
 - b. If level two or three, identification of areas of influence and traffic impact;
 4. Description of study time frames, consisting of:
 - a. Level One TIA, first year after projected full build-out and occupancy;
 - b. Two TIA, first year after projected full build-out and occupancy, and five (5) years after full build out; and
 - c. Three TIA, first year after projected full build-out and occupancy, five (5) years after full build out, and horizon year [generally twenty (20) years].
 5. Existing land use and development within the study area, including:
 - a. Existing land uses in the vicinity of the development;
 - b. Concurrent development, including any subdivisions or development approved or under construction; and
 - c. Future development currently in the planning stage.
 6. Description of existing conditions of the transportation system, including identification of existing:
 - a. Access and roadway characteristics, including the presence of any existing or future collector or arterial roads as identified on the Regional Planning Organization (RPO) Plan or State Highway Plan in the vicinity of the proposed development;
 - b. Traffic control and transportation system conditions;
-

- c. Safety issues and concerns, including, but not limited to, sight distance and accident rates; and
 - d. (Background) traffic volumes, including turning volumes, capacity and level of service.
7. Projected traffic and traffic impacts, consisting of:
- a. Computation of vehicle trips generated by the development, in accordance with the requirements of the *Trip Generation Manual*, Institute of Transportation Engineers, as amended.
 - b. Identification and discussion of estimated AM and PM peak hour traffic including turning volumes, daily and seasonal variations, if appropriate, and pass-by trips;
 - c. Trip distribution and assignment; and
 - d. Effects of site-generated traffic upon capacity, level of service, and safety of the roadway system.
8. Improvement analysis, including:
- a. Evaluation of number of lanes, lane and shoulder widths, lateral clearances, design speeds, deceleration/acceleration lanes, horizontal and vertical alignments, sight distance, pavement conditions, existing access and use, traffic control, and pedestrian uses; and
 - b. Identification of and cost estimates for transportation system improvements required to accommodate existing traffic, as well as existing and projected site traffic.
9. Findings and recommendations, including:
- a. Appropriateness and adequacy of site access;
 - b. Existing and projected traffic impacts; and
 - c. Required improvements, including those required as a condition of approval of the subdivision or development.
10. The following documents are incorporated by reference, and shall be used in the preparation of TIAs, including their data, requirements, and procedures:
- a. *Trip Generation Manual*, Institute of Transportation Engineers, as amended;
 - b. *A Policy on the Geometric Design of Highways and Streets*, American Association of State Highway and Transportation Officials as amended;
 - c. *Manual on Uniform Traffic Control Devices for Streets and Highways*, as amended.
 - d. *Highway Capacity Manual 2000*, Transportation Research Board, and the Highway Capacity Software, McTrans HCS2000, latest upgrade or the approved equal; and
 - e. *Access Management Manual*, New Mexico Department of Transportation, or other as amended applicable design standard.
- D. Designers shall strive to provide the highest LOS feasible with anticipated conditions. The minimum LOS shall be determined by the latest edition of AASHTO.
- E. Prior to final plat approval, improvement requirements determined to be necessary to maintain, restore or improve existing roadway LOS may be subject to a cooperative agreement between the County and the developer. The agreement shall be in place prior to the filing of the final plat.

Section 3.9 Roadway Cross Sections

General design criteria for all street classifications and cross sections, rights-of-way, pavement width, and general surfacing requirements shall conform to the requirements in Appendix I.

Section 3.10 Testing and Inspection of Construction

All testing and construction inspections for all developments shall adhere to the guidelines as set forth in *The Doña Ana County Specifications for Road Construction*.

- A. Before starting to work on improvements in a development, the developer shall arrange a conference with the County Engineering Services Department to review contract specifications, review partial release procedures, and otherwise familiarize the developer with the County's requirements and procedures for managing development of subdivisions. Individuals present at

the conference should be the developer, the County inspector, the County Engineer's representative and the contractor. The developer shall provide five (5) sets of approved construction drawings to be retained by the County at this meeting. Up to three (3) additional approved copies for the developer or his representative may be requested.

- B. The developer or contractor shall obtain all necessary permits prior to starting any grading or construction.
- C. The developer or contractor shall give the County Engineering Services Department a minimum of forty-eight (48) hours notice prior to commencing any construction or testing of material, including but not limited to the following:
 - 1. Sub-base, subgrade, and base course;
 - 2. Compaction;
 - 3. Concrete;
 - 4. Bituminous materials and asphaltic concrete;
 - 5. Double penetration surfacing (minor locals);
 - 6. All forms and steel used in pouring concrete; and
 - 7. Trench backfill.
- D. The contractor shall deliver test results of materials and construction in the development to the County Engineering Services Department as soon as they are available from the testing company. The County Engineering Services Department shall approve or reject the materials and construction based on the results of those tests.
- E. Testing of materials and construction fees shall be paid by the permit holder and the material-testing company. The material-testing company shall be approved by the County Engineering Services Department.
- F. The County Engineering Services Department shall have five (5) working days to respond to the results of materials tests.
- G. Re-testing of materials or construction due to failure to pass compliance tests shall be paid by the construction permit holder. Verification of payment for retesting shall be provided to the County Engineering Services Department prior to final acceptance.

Section 3.11 One-Year Construction Warranty

If, after final inspection and acceptance of work performed and prior to the expiration of one year from the date of acceptance or such longer period of time as may be prescribed by the law or by the terms of any applicable special guarantee required by the Contract documents associated with the approval of the subdivision, any work is found to be defective, whether the failure is due to construction or materials failure, the subdivider shall promptly and without cost to the County, in accordance with an Engineer's written instruction, either correct such defective work or, if it has been rejected by the County, remove it from the site and replace it with the terms of such instructions. The County may have the defective work corrected or the rejected work removed and replaced and all direct and indirect cost of such removal and replacement including compensation for additional professional services shall be paid by the developer. All subdivisions shall be insured by a One Year Warranty of Improvements that shall obligate the subdivider to repair to County standards any improvements that fail within one year of the County's final inspection of construction in the subdivision. In order to insure compliance with these Standards, all work performed in the construction of roads and drainage rights-of-ways of a subdivision shall be subject to a warranty binding the subdivider to such terms as are mentioned above. This warranty shall be in the format included in Appendix F of these Standards.

SECTION 4. TERRAIN MANAGEMENT

The Terrain Management Plan (Plan) shall address the control of drainage and erosion and shall include a grading and drainage plan that calculates and analyzes the measures necessary to adapt development to the existing soil characteristics and topography. All buildings shall not be inundated by water at the ground lines unless the buildings are flood proofed. The developer shall fulfill the proposals contained in the Plan and the Plan shall be reviewed and approved by the appropriate reviewing agencies. All Terrain Management Plans shall be certified by a Professional Engineer registered in the State of New Mexico and shall comply with the *Doña Ana County Flood Damage Prevention Ordinance*, as amended.

Landscaping shall be done in a manner to maintain clear sight triangles and shall be properly designed with irrigation systems. Please refer to the *Doña Ana County Land Use Regulations and Zoning Ordinance (No. 158-95*, as amended) for additional information regarding landscaping standards.

Section 4.1 Floodplain, Drainage and Terrain Management Report

The report shall be typed and bound on 8½" by 11" paper and be prepared using the Soil Conservation Service Method (SCS) as modified for NM or other method approved by the County. A grading and drainage plan shall be submitted for all subdivisions and non-residential development in accordance with the *Doña Ana County Development Design Standards*. When using the SCS method, the minimum initial time is five (5) minutes and the time of concentration shall be not less than ten (10) minutes. Any development seeking to modify a FEMA-designated one hundred (100) year flood plain shall have a drainage study that complies with all FEMA regulations. The Flood Commission shall pay for all submittal fees to FEMA, as funds are available. Compliance with all FEMA review comments shall be the responsibility of the developer. The Floodplain, Drainage and Terrain Management Report shall contain, at a minimum, the following elements:

A. Calculations, Analysis and Documentation for:

1. Peak flow from all off-site tributary drainage areas;
2. Peak flow within the proposed development for all on-site drainage basins for pre- and post-development;
3. Closed sub-basin analysis including identification of water into or out of sub-basins;
4. Potential drainage problems that are anticipated within the development and downstream from the development;
5. Effects of a ten (10) and one hundred (100) year twenty-four (24) hour storm events;
6. Routing and cumulative flows for ten (10) (if applicable) and one hundred (100) year twenty-four (24) hour storms at all critical points in the drainage system, which may include points of intersection, change of flow, change of slope, change of structural elements, and any other critical point in the drainage system;
7. Function, analysis and capacity calculations for all drainage system components that are part of the development proposal, which may include inlets, storm drains, channels, streets, culverts, ponds, swales, dams, berms, etc.; and
8. Overall drainage area boundaries and drainage sub area boundaries depicted on a map.

Section 4.2 Grading and Drainage Plan

The purpose of the Plan shall be to protect property from the effects of development. A Grading and Drainage plan shall be required for all developments. A grading permit shall be obtained from the County prior to the issuance of a building or construction permit.

- A. Drainage Report. A drainage report shall be required for all developments that meet any of the following criteria:
1. The entire development, or a portion thereof, lies within a FEMA Special or Flood Hazard Area or other flood hazard areas as determined by the DAC Office of the Flood Commission;
 2. Grades within the area to be developed in excess of four percent (4%); or
 3. A major arroyo, stream, or channel, exists within the area to be developed.
- B. Grading Plan Specifications. The Plan shall consist of the following details, at a minimum:
1. Contour mapping shall extend a minimum of one-hundred feet (100') beyond the development boundaries. The contour intervals shall be at an interval appropriate for the development.
 2. Spot elevations shall be used in conjunction with contours to define construction requirements and drainage patterns within the development.
 3. A benchmark approved by the County Engineering Services Department shall be used in determining the location of improvements within the development.
 4. A protected benchmark noted on the grading plan shall be established within or adjacent to the project limits.
 5. Descriptions shall be submitted of existing irrigation and drainage characteristic facilities and structures, such as ditches, drainage ways, gutters and culverts, including all pertinent information such as size, slope and material.
 6. Proposed drainage improvements related to development.
 7. All pertinent drainage information, including but not limited to drainage flow arrows, flow rates, volumes, proposed inflow and outfall points for runoff from the study area showing both the pre- and post-development conditions.
 8. Development limits and individual lots, including building envelopes, footprints, or pads if applicable, rights-of-way, easements, and proposed street improvements.
 9. The differential runoff between pre-development and post-development conditions shall be retained/detained in ponding areas, unless otherwise approved by the County.
- C. General Design Considerations. Compliance with the following criteria is essential to the proper preparation of a Plan:
1. Runoff analysis shall take into consideration all contributing runoff from areas outside the development. The analysis of storm runoff from existing developed area outside the development shall be based upon present land use and topographic features. Runoff from undeveloped land outside the development shall be calculated using coefficients appropriate for the current land use of the runoff source. When calculating the runoff from land outside the development area, the land area included shall be that area inclusive of the uppermost part of the watershed.
 2. Flow patterns in undeveloped areas adjacent to the proposed development shall be based on existing natural topographic features.
 3. Average land slope in both developed and undeveloped areas may be used in computing runoff. For areas that a plan has previously been approved, those slopes shall be used, unless additional information is requested by the County.
 4. Planning and design of drainage systems shall be such that flooding problems are not transferred beyond the project's boundaries.
 5. Outfall points shall be designed in such a manner that they will not cause damage to areas downstream due to increased flooding. Irrigation facilities shall not be used as outfall points

unless such outfall is shown to be without hazard and is approved in writing by the local irrigation district.

6. Drainage easements or dedicated rights-of-way may be required where concentrated flow occurs. Acceptance of the rights-of-way shall be approved by the County; any dedication of drainage system components shall be agreed to and accepted by the County, and included in the subdivision's Disclosure Statement per the County Subdivision Regulations.
7. Encroachment that impairs drainage easements or rights-of-way shall be prohibited.
8. On-lot ponding shall be permitted on lots greater than 0.750 acre. For lots between 0.500 and 0.749, on-lot ponding may be permitted providing the proposed on-lot slopes do not exceed four percent (4%) in the developed area of the lot and the permeability of the soil allows the pond to drain within seventy-two (72) hours. For lots less than 0.500 acres in size, alternative drainage plans on private lots may be approved as part of an overall drainage plan. The minimum depth of the pond shall be eighteen inches (18"). Secure fencing shall be required if the depth of the pond exceeds three feet (3'). Fencing may be eliminated with the approval of an alternative drainage design. The ponds shall be maintained by the property owners and shall be enforced through the Drainage Maintenance Agreement (see Appendix B). The side slopes (rounded to the nearest whole number) shall be treated with the applications found in Table 4.1.

Table 4.1. Treatment Applications for Ponding Areas

Side Slope	Typical Treatment Required or Other Acceptable Applications
2:1 or steeper	Grouted rock or concrete or Wire-tied Rip Rap
2:1 to 3:1	Hand placed rip-rap
Flatter than 3:1	Erosion control measures are required such as vegetation, landscape rock, etc.

9. All ponding areas are encouraged to be designed to compliment the landscape and return to native conditions.
10. Community ponding areas may be taken over by Doña Ana County upon mutual agreement between the developer and the County. Design considerations shall take into account location, depth, side slopes, erosion control, maintenance, access, landscaping and fencing. The ponds shall be offered for dedication and accepted by the BOCC and shall be subject to a one (1) year warranty period. The agreement shall be approved prior to final plat approval.
11. The primary purpose of streets is the safe conveyance of vehicular traffic. Any runoff carried by a street shall comply with the requirements of Table 4.2.

Table 4.2. Street Capacity Criteria

Street Type		Storm Type	
		10-year, 24-hour ¹	100-year, 24-hour ¹
LOCAL	Roadway Swales	Collected flow spread shall allow for 1-10' lane clear of runoff. ²	Collected flow shall be contained within right-of-way and/or easements.
	Cross Flow	N/A	Cross flow not to exceed 12" deep above pavement surface. ³
	Curb & Gutter	Collected flow spread shall allow for 1-10' lane clear of runoff. ²	Collected flow shall be contained within the curb and gutter. Crossing flow not to exceed 6" deep above pavement surface or gutter flowline. ³
COLLECTOR		Collected flow spread shall allow for 1-10' lane clear of runoff. Crossing flow cannot exceed 6" deep above pavement surface or gutter flowline. ³	Collected flow shall be contained within the curb and gutter. Crossing flow not to exceed 6" deep above pavement surface or gutter flowline. ³
ARTERIAL		Collected flow spread shall allow for 2-10' lanes clear of runoff. No crossing flow allowed on surface.	Collected flow cannot exceed 6" deep above gutter flowline. No crossing flow allowed at arroyos and channel crossings. Crossing flow not to exceed 3" deep at street intersections. ³

Notes:

1. Flows exceeding these criteria shall be removed from the street and conveyed by a storm sewer system or open channel system.
2. Flow collected in roadway swales shall be controlled in such a way as not to threaten the integrity of street pavements.
3. Crossing flow velocities shall be maintained at less than five feet (5') per second.

D. Single Family Residential Plans. For single family residential dwelling units on an existing parcel, outside of an approved subdivision, the applicant shall, at a minimum submit the following to obtain a grading permit, per Section 5:

1. A site plan delineating all structures, buildings, impervious surfaces, boundary lines and easements.
2. The size and location of the required ponding area.
3. Finished floor elevation of the improvement.
4. The existing and proposed topography.
5. Grading plans for any alteration to existing topography and/or drainage patterns.

Section 4.3 Construction Plans

A registered Professional Engineer licensed in the State of New Mexico that has experience and demonstrated competence in this area shall certify all construction plans. A traffic control plan shall be submitted and approved by the Engineering Services Department prior to issuance of a construction permit. The construction plans shall be submitted on 24" x 36" sheets, and shall contain at least the following:

A. General Requirements. Construction plans shall include at a minimum:

1. Title sheet;
2. Copy of proposed subdivision plat, showing existing and proposed easements and right-of-way;
3. Copy of final grading and drainage plan;

4. Plans and profiles for all components of the storm drainage system proposed to be constructed within and adjacent to the subdivision/development;
5. Details for all drainage system components as required to define structural or construction methods and requirements;
6. General construction notes;
7. Detail sheets;
8. Traffic control plan to include construction signing, permanent signing and pavement markings; and
9. A subdivision schematic indicating proposed permanent roadway signage.

B. Plan and Profile Details. Construction drawings shall include at a minimum:

1. North arrow and scale;
2. Subdivision/development limits and individual lot lines, existing and proposed easements and rights-of-way;
3. All street and paving improvements, including street names, and widths;
4. Existing and proposed utilities affected by the proposed construction;
5. Existing ground surface and proposed ground surface grades clearly delineated;
6. Project bench marks;
7. Information on proposed pipes and culverts including:
 - a. Stationing;
 - b. Profile;
 - c. Size of pipes;
 - d. Grades of pipes;
 - e. Length between manholes or other access points;
 - f. Construction details, station numbers, invert elevations and top elevations for all inlets and outlets, manholes, and all connections to existing drainage systems; and
 - g. Construction notes, including pipe composition and specification references as required; and
8. Details on proposed open channels including:
 - a. Stationing;
 - b. Profile indicating grade of invert of channel, top of lining (if any), and adjacent ground grade;
 - c. Typical cross sections;
 - d. Rip-rap details with rock gradation requirements;
 - e. Lining details;
 - f. Structural details; and
 - g. Construction notes and specification references as required.

C. Drainage Maintenance Agreement. This Agreement defines the responsibilities and requirements of the individuals or groups responsible for maintaining all elements of the drainage system, using the sample format provided in Appendix B. The Agreement shall be substantially in the form provided in the sample in Appendix B; however, it may be modified as needed to accommodate the specific drainage system as required by the Flood Commission.

Section 4.4 Geotechnical Analyses

A Geotechnical Analysis will be provided, unless otherwise exempted by these Standards, to assess the properties of soils within project areas shall, following all applicable ASTM Standards, be submitted to County Engineering Services and shall contain, at a minimum, the following criteria:

- A. A detailed description of the project area including proposed land use, terrain, slopes, drainage patterns and vegetation.
- B. A detailed description of the geology found in the general area of the project site.

- C. An outline and description of the methodology and procedures used in the sampling of soils within the project area.
- D. A site vicinity map of appropriate scale indicating the location of the project.
- E. A site map of appropriate scale indicating the location of the test borings.
- F. A boring log for each test hole location showing the depth of each soil sample retrieved, a visual description of each soil sample retrieved, the method of soil sampling, the thickness of each soil layer encountered, SPT results and any other applicable information gained during sampling.
- G. A summary of the laboratory analysis of each soil sample collected to include gradation, Atterburg Limits, moisture content, etc.
- H. A summary of the soil classifications determined for each soil sample.
- I. A summary of the soil bearing capabilities found within the project area, if applicable. Results of percolation test rates within the project area, if applicable.
- J. Foundation recommendations for structures within the project area, if applicable.
- K. Pavement design recommendations within the project area, if applicable.
- L. Recommendations for earthwork practices within the project area to include compaction, soil blending, over-excavation, benching, etc.
- M. Recommendations for inspection and material testing frequencies during the construction phases of the project.
- N. Structures built on unacceptable materials shall require an alternative design to include geotextiles, geogrid, limestone stabilization or other acceptable process approved by County Engineering Services.

Section 4.5 Driveway Culverts and Road Drainage Requirements

There are two systems that will provide storm water control in and along a roadway, curb and gutter designs and roadway swales. Alternate systems are encouraged and may be approved by the County Engineer. All systems shall be designed to provide a four-foot (4') shoulder/walking path that is not on the roadway surface or in the storm water runoff flow area necessary for a ten (10) year storm event.

- A. Curb and Gutter. The developer may use curb and gutter to control storm runoff flows (see Appendix H for acceptable curb and gutter design. In addition, swales behind the curb shall be used to contain a minimum volume of storm water equal to the volume of increased runoff from the site due to development of the roadway. Erosion control and energy dissipation measures shall be designed and installed at the boundary of any development using curb and gutter with outlets for storm water flows onto an unlined surface.
- B. Roadway Swales. Roadway swales may be used to convey and/or store storm water flows along the roadway, under the following conditions:
 1. Swales shall be designed for velocities not to exceed those listed in Table 3.1 in Section 4.6.
 2. Storm water storage requirements for swales shall be based on the fully developed storm water flow conditions of the development. Roadway swales with a longitudinal slope of less than one-half percent shall be constructed within an easement outside the road right-of-way, and shall be sized to contain a minimum volume that represents the increase in storm water runoff due to development. Swales shall also be designed to control the increased runoff due to roadway development.

3. Conveyance capacities of swales shall be based on the developed flow and any existing or anticipated exterior flows entering the development. Swales shall be designed as channels per Section 4.6. Underground drainage systems may be used if the inlets will not present a maintenance problem and concentrated flows at any outlet will not cause any damage to adjacent lands. Swales for roadway gradients of 0.0051 feet per one foot (0.0051 ft/1.0 ft) or greater shall be analyzed and designed for conveyance of the maximum storm runoff (100 year storm) from the development site and any existing external flows routed through the development.
4. For swales that require conveyance of flow to maintain existing drainage patterns, the driveway crossings shall be incorporated in the roadway/swale drainage system. Driveway crossings may consist of a minimum of a "dip section" with six inch (6") thick concrete (concrete used in the right-of-way shall have a minimum strength of three thousand pounds per square inch (3,000 psi). Driveways subjected to non-residential traffic shall be designed and properly reinforced. The dip section shall be shown to have adequate cross sectional area and slope to convey the 10-year storm. Other methods to convey storm runoff across driveways may be used if the design is reviewed and approved by the County Engineer. The depth for a dip section shall be a minimum of eight inches (8").
5. Ponds located on private property that are not designed to convey storm runoff to another location are not required to be interconnected through driveway crossings. They may interconnect provided that no landowner is required to "store" any additional storm water on his/her property, without the landowner's consent (a purchaser of property with storm water storage requirements made by the developer of the property as part of the development approval process shall be responsible to meet the development conditions of storm water drainage).

C. Storm Drains and Storm Inlets. Storm drains and inlets shall be of sufficient capacity to adequately convey the expected runoff from the 100-year 24-hour storm. The storm drain system and subsequent storm inlets shall commence at all locations where the allowable street capacity is exceeded or at locations where ponding of water is likely to occur.

1. Minimum Pipe Diameter. The minimum allowable pipe size to be used in storm drains shall be a minimum of twenty-four inches (24") in diameter.
2. Minimum Culvert Cover. The minimum culvert cover shall be one foot (1'), but additional cover may be required by design.
3. Allowable Pipe Materials/Applications for Storm Drains. PVC, HDPE, RCP Class III, IV or V and CMP application is dependent on soil conditions and pipe application. All pipes and conduits shall be designed to withstand all anticipated structural loads. NMDOT standards shall be the minimum used.
4. Allowable Pipe Materials for Culverts. RCP and CMP Applications are dependent on soil conditions and pipe application. All pipes and conduits shall be designed to withstand all anticipated structural loads. NMDOT standards shall be the minimum used.
5. Manhole Spacing. The maximum allowable spacing between manholes or other provisions for clean-outs shall not exceed those listed in Table 4.3.

Table 4.3. Maximum Allowable Manhole Spacing

Pipe Diameter	Maximum Allowable Spacing Between Manholes
24" – 36"	400'
42" – 60"	500'
Greater than 60"	750'

Note: Additional manholes will be required with a change in vertical or horizontal deflection greater than the manufacturer's installation specifications.

6. Calculation Flow Capacities in Drainage Conduits. The capacities of conduits shall be computed using Manning's formula with flow nomographs, recognized accepted standards or computer analysis. The value of the roughness coefficient (n) to be used shall not be less than those specified in Table 4.4. Included in the table are roughness coefficients that can be used in open channel flow calculations. The average full-flow velocity in conduits shall not be less than two-feet per second (2 fps).

Table 4.4. Values for n for the Manning Formula

	Flow Condition	Roughness Coefficient (n)
Conduits	Plastic Pipe, PVC, HDPE	0.009
	Smooth Metal	0.010
	Ordinary Concrete	0.013
	Concrete Pipe	0.015
	Corrugated Metal Pipe	0.023
Natural Channels	Clean, straight, no pools	0.029
	As above with weeds & stones	0.035
	Winding, pools and shallows, clean	0.039
	Very weedy	0.040
Lined Channels	Smooth finish	0.015
	Unfinished	0.017
	Brick, Dressed Stone	0.016
	Smooth Earth	0.018
	Firm Gravel	0.020
	Mortared stone	0.020
	Dry rubble or rip-rap	0.033
	Rough asphalt	0.016
	Smooth asphalt	0.013

7. Storm Drainage Inlets. Storm drainage inlets may be a combination curb/gutter or curb opening inlet or off-road sump inlet. Combination curb/gutter inlets or off road sump inlets shall be used at all points where ponding or sump conditions exist. The theoretical capacity and spacing of storm inlets will be analyzed using the criteria outlined in these Standards. The allowable capacity will be determined using the reduction factors listed in Table 4.5. These reduction factors compensate for debris plugging, pavement overlaying, variations in design assumptions and other factors that decrease capacities. The size of outlet pipes from storm water inlets shall be based upon the theoretical capacity on the inlet, but in no case shall pipes be smaller than twenty-four inches (24") in diameter.

Table 4.5. Inlet Reduction Factors

Inlet Type	% of Theoretical Capacity Allowed
Combination Opening with Grate	65%
Curb Opening Only	85%
Grate Only	50%

Notes:

1. Computations for storm drain and inlet design capacities shall be submitted as part of the storm Drainage Report.
2. The details of the proposed storm drain system, inlets and manholes shall be addressed in the Drainage Report and shown on the construction drawings.
3. Theoretical flow capacities shall be reduced by the reduction factors outlined in this Table to obtain design flow capacities.

D. Crossing Structures and Culverts. Crossing structures and culverts shall be sized to comply with the requirements of Table 4.2 and shall convey the 100-year storm through the structure with additional design that provides for overflow capacity in the event that the culverts capacity is reduced due to trash or debris accumulation. All drainage structures shall be designed with emergency overflow that will help convey the major storm event. In no case shall a crossing structure or culvert have a diameter of less than twenty-four inches (24"). In determining the amount of overflow required, the following capacity credit in Table 4.6 shall apply:

Table 4.6. Capacity Credit For Structures

Cross Section Area of Structure	Capacity Credit % of Full Flow Capacity	% of Major Storm Flow to be added to Culvert Capacity or Considered as Overflow
Less than 20 sq. ft.	0%	100%
20 sq. ft. or greater	50%	50%

The emergency overflow onto streets shall be taken into account when analyzing storm runoff and allowable street capacities for the major storm. The following design criteria shall be used for all culvert designs:

1. Culvert. All inlet and outlet structures shall be designed to convey the flow of water and address traffic loading and debris at all stages of flow.
2. Inlets. Culvert inlets shall be designed to minimize entrance and friction losses. Inlets shall be either flared-end sections or headwalls with wing walls. Projecting ends will not be acceptable. Provisions shall be made to resist possible structural failure due to hydrostatic uplift forces.
3. Outlets. Culvert outlets shall be designed to avoid sedimentation, undermining the culvert or erosion of the downstream channel. Outlets shall be either flared-end sections or headwalls with wingwalls. Additional outlet control in the form of rip-rap, channel shaping, etc., may be required where excessively high discharge velocities occur.
4. Slopes. Culvert slopes shall not allow silting, excessive velocities or scour. The minimum slope of culverts shall be limited to 0.5%.
5. Headwater. The headwater to diameter ratios should not exceed the criteria in Table 4.7.

Table 4.7. Recommended Maximum Headwater to Diameter Ratios

Storm Frequency	HW/D
10-year	1.0
100-year	1.25

Any ponding above culvert entrances is unacceptable. Such ponding may cause property or roadway damage, culvert clogging, saturation of fills, detrimental upstream deposits, or inundate existing or future utilities or structures.

6. Tailwater. The height of tailwater at outlets shall have a headwater to diameter ration of less than 1.0
7. Dip Section and Low Water Crossings shall be concrete and designed in accordance with the criteria in Table 4.2, and shall provide for erosion protection at the edges of pavement.

Section 4.6 Open Channels

- A. General Criteria. Channel capacities shall be computed using the Manning formula for uniform flow. Open channels shall be designed for a 100-year storm with analysis showing the effects of the 10-year storm. Channels shall have subcritical flow characteristics, be wide and natural in appearance and functional. Analysis and proposed solutions for anticipated erosion problems shall be in the drainage plan. Channels shall be designed to avoid flows at or near critical depth.
- B. Hydraulics. The type of channel cross sections shall be most suited to the location and use. The drainage report and design hydraulics of flow in channels shall include analysis of the hydraulics indicating the following parameters for existing and proposed channels and drainage ways:
 1. Flow cross section geometry for each different configuration of proposed channel shape in critical areas and channels left in their natural state;
 2. Flow cross sectional area;
 3. Wetted perimeter;
 4. Hydraulic radius;
 5. Manning’s roughness coefficient (n);
 6. Flow velocity;
 7. Design discharge;
 8. Bed slope;
 9. Froude number; and
 10. Freeboard requirements.
- C. Erosion. All channels shall be designed with the proper and adequate erosion control features and shall comply with Ordinance No. 194-2000.
- D. Water Surface Profile. A water surface profile for the major storm runoff shall be computed for all channels and clearly shown on final drawings submitted for approval. Computations for the water surface profile shall utilize standard backwater methods, taking into consideration all losses due to velocity changes, drops, bridge and culvert openings, and other obstructions. Computations shall be submitted with the final design plan. The energy gradient line should also be computed and shown on the final drawings.
- E. Channels. Mild slope channels shall be classified as channels whose slope maintains flows with a Froude number of 0.8 or less. Drops may be used to maintain this criterion. Unlined channels can be used when the Froude number is 0.8 or less. Maximum velocities of unlined channels shall follow the requirements in Table 4.8. Side slopes of 4H:1V shall be considered a normal minimum. Any side slope steeper than this will require approval from the County.

Table 4.8. Maximum Velocity of Unlined Channels and Swales

Cover	Classification of Soils	
	Erosion Resistant (clay) Soil	Easily Erosive (sandy) Soil
No Cover, Dirt Lines	4.0 fps	2.5 fps
*Buffalo Grass, Bluegrass, Smooth Brome, Blue Gramma, Native Grass Mix	7.0 fps	5.0 fps
*Lespedeza, Lovegrass, Kudzu, Alfalfa, Crabgrass	4.5 fps	3.0 fps

Note: *Grass cover assumed to be a good stand and well maintained

- F. **Lined Channels.** Channels exhibiting hydraulic characteristics that result in a Froude number of 0.8 or greater during the initial or major storm will require stabilization in the form of a lining. These channels are defined as those exhibiting characteristics that would require lining of the channel to ensure structure stability, to achieve the desired design life of the channel, and to protect areas adjacent to the structure. Contributing factors in the analysis of channel lining requirements include an urban setting, bed slope, flow rate, soil type and stability, and any flow conditions that cause velocity changes.
- G. **Lining Materials.** Lining material shall be composed of one of the following:
1. Concrete of sufficient strength and thickness to support all design loads, including maintenance equipment, with a minimum cross section of four inches (4") thick, three thousand pounds per square inch (3000 psi) minimum compression strength concrete. Roughening of concrete surfaces is encouraged. Roughening may be accomplished by use of derbies, exposed aggregate, or other suitable methods approved by the County Engineer.
 2. Asphalt of sufficient strength (including base materials) to support all anticipated design loads, including maintenance equipment. Asphalt lining shall be of a mix design that will resist damage due to erosion for the design life of the lining that shall be twenty (20) years;
 3. Rip-rap set in concrete or mortar, shall have the rock size and weight sufficient to resist displacement of the rock by the energy present in the flow of the major storm event. Rip-rap may be stabilized by grouting, can be set in concrete, or may be wire-tired. Standard gabions may be used to stabilize soil under some conditions.
 4. Other material, such as soil cement may be used when approved by the County Engineer.
- H. **Depth of Flow.** Considering velocities involved and land area needed for drainage easements, the depth of flow shall be kept to a minimum. The maximum design depth for the major storm runoff shall be four feet (4') in open channels, unless otherwise authorized by the County.
- I. **Freeboard.** The design of channels shall take into account requirements for freeboard to provide a factor of safety against splash and hydraulic jump phenomenon. For conditions of uniform flow, the minimum lined elevation shall include freeboard above the flow surface of the major storm and be calculated using the following equation:
- $$\text{Freeboard (in feet)} = d/4 + 0.025*(v) *(d)^{1/3}$$
- Where d=depth of flow in feet (ft)
- Where v = velocity of flow in feet per second (fps)

For conditions where the total energy content of the flow shall be considered, such as bends, drops, abrupt changes in grade or areas, convergence of flows, obstructions within the channel, and other conditions that may produce a hydraulic jump, the minimum freeboard above the flow surface of the major storm runoff shall be calculated using the flowing equation:

$$\text{Freeboard (in feet)} = 0.5 + (v^2 / (2 * g))$$

Where g = gravitational constant 32.2 fps²

Where v = velocity of flow in feet per second (fps)

Minimum freeboard under bridges shall be two feet (2').

Section 4.7 Detention and Retention Regional Pond Design

- A. The use of on-site detention or retention is required for the purpose of limiting the major (100-year) storm runoff rates to historical levels. The type of design for each facility is subject to approval by the County. Detention pond facilities shall be designed using a storage outflow relationship for the facility and a flood hydrograph routing procedure. Off-site runoff entering the development may occur in the drainage basin, and if this is the case, the analysis for the ponding facility shall take the flows into account. Off-site runoff shall be analyzed and may be routed around the ponding facility. However, entrance and exit points of storm runoff shall not be altered. For any ponding facility design, a soils report shall be included. This report shall include, but not be limited to: soil boring logs, water table elevations and soil classifications. Sufficient and representative soil borings shall be required to characterize the infiltration capacity of the soils located at the pond bottom. An operation and maintenance plan acceptable to the County shall be submitted for ponds that do not drain within seventy-two (72) hours. The banks of any pond shall be no steeper than a 4H:1V slope unless an access ramp for vehicles is provided and measures are taken to provide erosion protection of the banks. All detention or retention facilities shall be provided with a minimum twenty feet (20') access easement for operation and maintenance of the facility. Any deviation from side slope standards shall be justified by a geotechnical analysis and shall be approved by the County Engineer. The minimum freeboard shall be one foot (1'). The pond shall be located a minimum of five feet (5') from property lines and ten feet (10') from any structures.
- B. The construction plans shall show the locations of all structures and how the required volume will be controlled on site. Details on walls and berms to control or direct runoff, asphalt and lot grades, dimension and method of overflow of the storage area shall also be depicted. The following are acceptable types of drainage structures.
1. Open ponds offer the maximum amount of storage for a given land area and are recommended in areas having good percolation of water into the soil. Open ponds shall have a minimum depth of eighteen inches (18") with the top of the pond located no closer than five feet (5') from the property lines and ten feet (10') from structures. An operation and maintenance plan acceptable to the County shall be submitted for ponds that do not drain within seventy-two (72) hours. Pond bottoms shall not be located in poor percolation rate layers such as clay soil types.
 2. French drains are acceptable in areas with poor percolation rates and shall only be used to provide increased percolation rates. French drains shall have an open pond above the rock level with a minimum depth of twelve inches (12").
 3. Dry wells are generally used for drainage areas of one acre or less and are designed exclusively to accept rooftop runoff from residential and commercial buildings. They are similar to infiltration trenches but smaller with inflow from pipe and commonly covered with soil. The well shall be placed at a depth sufficient to contain the required storage volume.

Section 4.8 Drainage System Operations and Maintenance

Proper operations and maintenance of storm drainage and flood control facilities includes both cleaning and minor repair to the facilities as well as completely rebuilding some facilities that have, through weathering or lack of maintenance, been rendered useless or present a threat to public safety. In order to increase system efficiency maintenance guidelines are outlined in Table 4.9 and shall be incorporated in the Drainage Maintenance Agreement as provided in Appendix B. The sample Drainage Maintenance Agreement in Appendix B shall be adopted by operators of private drainage systems to establish maintenance procedures of those systems in accordance with Table 4.9. The Agreement is to be signed and recorded as a condition of final plat approval and shall be disclosed and acknowledged by subsequent property owners.

Table 4.9. Maintenance Guidelines

Facility	Maintenance, As Necessary	Inspection
Channels	May – October	Semi-annual
Pump Stations	May – October	Semi-annual
Detention and Retention Facilities	May – October	After any major storm greater than 1” within a 24-hour period
Storm Sewer Systems	Annual	Bi-annual
Storm Sewer Inlets	After rainfall events or bi-weekly during rainy periods	Semi-annual

Section 4.9 As-Built/Record Drawings

An As Built/Record Plan shall be submitted after project completion to ensure that the construction complies with the approved plans. The As Built/Record Plan shall be stamped and certified by a licensed NM Professional Engineer.

SECTION 5. GRADING, DRAINAGE AND EROSION CONTROLS

The provisions of these Standards are to complement the County and ETZ's Subdivision Ordinances, Zoning Ordinances, and the Development Design Standards, and to make the uses permitted by these Standards more feasible and acceptable in the interest of the individual property owner, the adjacent property owner and the general public. The purpose of these Standards are to ensure that proposed grading shall result in the minimum possible disturbance of the terrain and natural land features necessary to construct residences or other permitted buildings or structures, or to conduct other legal land uses; prevent grading that unnecessarily changes the terrain, other natural features, or creates flood problems that will have an adverse effect on the physical character or economic viability of the community; and ensure that grading shall not adversely affect the natural topographic drainage features, arroyos, water courses or other drainage features or alter natural surface runoff.

Section 5.1 General Provisions

- A. No grading shall be done within the County without complying with the requirements of these Standards. A grading permit shall be obtained from the County prior to the start of construction. A copy of the grading permit shall be posted on site during hours of operation.
- B. Work for which a grading permit has been issued under these Standards shall be executed in conformance with the grading plan approved by County Engineering or the Flood Commission and shall not be abandoned or left incomplete. Failure to continue significant work on a site once grading has begun may be determined by the County to be an abandonment of the work required by the permit, and such abandonment will constitute a violation of these Standards.
 1. The permittee is responsible for notifying the County within seven (7) days of stoppage for extenuating circumstances.
 2. Having persons or equipment at a site, but not performing the work, is not construed to be significant work.
 3. Projects shall not be considered complete until notice of termination has been made in accordance with all County and State regulations, and the National Pollutant Discharge Elimination System requirements.

Section 5.2 Clearing and Grubbing

- A. Clearing and Grubbing may require a grading permit as determined by the County based on the following circumstances:
 1. The grading of a driveway/access or road to a site;
 2. To clear vegetation when work is necessary to allow proper preliminary engineering on the site;
 3. To provide security for a site from unauthorized grading or dumping by clearing, loosening and berming the soil in a narrow band around the perimeter of the property;
 4. The construction of building pads; and
 5. For such other purposes as the County may determine are proper but does not entail reshaping or contouring of the land to any significant degree.

Section 5.3 Exceptions from Permits

Exceptions concern only the obligation to apply for a permit, and do not relieve the landowner from complying with the remaining provisions of these Standards. Grading permits will not be required under the following circumstances:

- A. Residential new construction, remodeling, additions or other alterations to existing structures are exempt from the requirements of Section 5.4 provided that they meet the following conditions:
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1. Average slopes across the area to be developed in excess of four (4%) percent are not disturbed; and
 2. Existing drainage patterns are not changed on the property, do not change the location of entrance or exit points or that would increase the amount of stormwater runoff leaving the property.
- B. Commercial new construction, remodeling, additions or other alterations to existing structures are exempt from the requirements of Section 5.4 provided that they meet the following conditions:
1. Less than 1,000 square feet of total land area and less than six (6) inches in depth is disturbed;
 2. Average slopes across the property are greater than four (4%) percent are not disturbed; and
 3. Existing drainage patterns are not changed on the property, do not change the location of entrance or exit points or that would increase the amount of stormwater runoff leaving the property.
- C. Other Exceptions to where the work is:
1. Routine agricultural or land management operations necessary for cultivation of the soil of a farm or ranch (NMSA 47-9; "Right to Farm Act");
 2. Trenching operations for the construction or repair of pipelines and other underground utilities; or
 3. Small in depth, area or effect such as, but not limited to, tree planting, intermittent and minor landscaping.

Section 5.4 Grading Permit Application

Any person requiring a grading permit under these Standards shall apply to the County and shall complete all necessary forms and support documentation. The application will be signed by the owner of the property where the work is to be performed or by his/her duly authorized representative. The applicant shall ensure that all application data is correct. Any falsification of application data shall invalidate the permit.

- A. Grading permit shall be issued by the County based on the following:
1. Submittals shall be prepared and certified by a New Mexico Professional Engineer.
 2. Grading permits shall be reviewed by Engineering Services and/or the Flood Commission and issued based upon approved final subdivision plat, building or such other site improvement plans as necessary for development of the property on which such permit is required.
 3. Removal of more than 50 yards shall require disclosure of disposal site.
 4. On-site processing of material is limited to those used for preparation or construction of improvements within the site covered by the grading permit.
 5. A grading plan shall show the methods of dust, erosion and drainage control.
 6. A drainage report, as outlined in Section 4 of these Standards shall be required, if the:
 - a. Average slope across the property is greater than four (4%) percent;
 - b. Site lies within a FEMA Special Flood Hazard Area;
 - c. Roadway improvements are proposed; or
 - d. Any alteration of a watercourse or an introduction of an obstruction or structure.
 7. The grading permit shall only be issued in conjunction with a complete set of approved construction plans.
- B. Every application will contain the following information:
1. Location, nature and extent of the proposed work and a general statement as to the intended use of the site. Changes in the intended use of the land involved will require reapplication for a permit.

2. The names, addresses and phone numbers of the owner(s) of record of the property on which the work is to be performed.
 3. The names, addresses and phone numbers of the persons, contractors, or organizations that will perform the work and of the person who will be in effective control of the work.
 4. For all roads or other excavations where the volume of earth to be moved exceeds 1,000 cubic yards, cut and fill map showing the height of cuts and fills at a maximum of 50 foot intervals and at any major breaks in the terrain shall be required.
 5. Timeframe for work to start and to be completed.
 6. Any additional related information required by the County that may be reasonably required to carry out the purpose and intent of these Standards.
- C. An application for a grading permit shall include a topographic and boundary survey and grading plan with elevation contours shown at not more than two foot (2') intervals on slopes up to 30% and signed by a New Mexico licensed Professional Engineer and five foot (5') intervals on slopes greater than 30% that shows:
1. All areas with slopes 0-20%; 21-30%; and 31% and greater, differentiated through shading, tone, color or line weight;
 2. All areas to be graded on the site and the final contours to be achieved by the grading;
 3. All finished floor or grade elevations;
 4. The location of temporary erosion structures and methods used, including staging and stockpile areas;
 5. All facilities for control and disposition of stormwater runoff;
 6. All significant trees and areas with substantial grass coverage to be removed;
 7. A construction schedule when the project will be developed in phases;
 8. The location of fencing around the areas to be protected;
 9. The ratio of horizontal to vertical measurement for cut and fill slopes;
 10. The total volume, in cubic yards, of earth to be moved; all existing disturbed areas; and
 11. FEMA flood hazard areas and FIRM information.
- D. Applicants shall comply with the Environmental Protection Agency (EPA), the Federal Emergency Management Agency (FEMA), New Mexico Environment Department (NMED), the United States Army Corps of Engineers (USACOE), Office of the State Engineer (OSE) and/or other agencies as the County deems necessary or as applicable by law. It is the responsibility of each applicant to determine whether additional notification or permitting is required.

Section 5.5 Liability Insurance Required

General liability insurance shall be required as a condition for issuance of a grading permit.

- A. Procurement and maintenance of such liability insurance policy shall be the sole responsibility of the applicant.
- B. Before any grading permit is issued, the applicant shall attach a copy of a current certificate of insurance as evidence of general liability and contractual insurance to the application. The minimum limit of liability shall be three hundred thousand dollars (\$300,000) COMBINED SINGLE LIMIT. Such policy certification shall provide that the insurance cannot be canceled or the limit of coverage reduced without thirty (30) days written prior notice to the County. Failure to provide the insurance certification or failure to meet the minimum liability insurance requirements will result in no permit being issued. Should the liability insurance policy expire or be canceled, the County shall revoke any outstanding grading permit under such policy.
- C. The applicant shall be required to enter into a hold harmless agreement with the County protecting the County, any of its departments, agencies, officers, or employees from all cost, injury and damage incurred by the applicant and from any other injury or damage to any person

or property whatsoever caused by any activity, conduct, or event arising out of any act authorized by the permit. The County shall provide the approved form for this hold harmless agreement.

Section 5.6 Approval, Denial, Expiration and Revocation of Permit

- A. The grading permit will be issued by the County upon verification and approval of the information contained within the permit application.
- B. The County can refuse to issue any grading permit whenever the proposed grading is contrary to the provisions of these Standards.
- C. If any person does any grading or otherwise disturbs the ground cover of any property within the County without a grading permit, he/she shall apply for a grading permit and shall be subject to a triple permit fee.
- D. All permits issued shall expire within one year of issuance of the permit with a maximum of a one-year extension, providing extension is requested prior to expiration of initial permit.
- E. After written notice, the County may revoke a permit issued under these Standards if it finds that the work being done is in violation of these Standards, any other ordinance or law or creates a hazard to persons or property. Upon revocation of a permit, all grading shall cease. A decision to revoke a permit may be appealed in accordance with the provisions of Section 1.9.

Section 5.7 Grading on Holidays and Weekends

No grading of any kind, except as permitted below, shall be permitted on holidays and weekends unless the landowner or his/her authorized representative has received approval by the County by noon of the day before the holiday or by noon on Friday. A holiday shall be defined as an official County holiday for County employees and the weekend shall be defined as the time period between 5:00 p.m. on Friday and 7:00 a.m. on the following Monday or next working day. Grading will not be permitted within three hundred feet (300') of a residentially zoned area before 7:00 a.m. or after 5:00 p.m. on weekends and holidays. Failure to notify the County shall be considered a violation of these Standards. Notification is not required if the grading is performed in connection with a County, state or federal public works project that is supervised by an inspector provided by the government entity.

Section 5.8 Removing Hazardous Conditions

- A. If the County finds that the grading (either completed or in progress) is causing a hazard to persons or property, it shall notify the owner or his authorized representative and require that the hazard be removed or eliminated as soon as practicable depending upon the degree of urgency with the hazard involved. If such action is not completed within the time limit stated within the notice, the County may require that reasonable temporary protective measures be provided in the interim.
 - B. If materials are washed or deposited upon streets, alleys or other public property as a result of improperly controlled grading of higher or adjacent lands, the County shall notify the owner or his authorized agent to remove such material and restore the streets, alleys or public property to their original condition within 24 hours. Failure to comply with such notice shall be a violation of these Standards.
 - C. In addition, if the owner fails to comply with such notice as provided in A or B above, the County may authorize the work to be done by County sources or by contract. A report shall be prepared for the BOCC covering the actual cost of doing work. After notice and an opportunity to be heard, the BOCC may, by resolution, determine the actual cost of doing work and declare this amount, plus the cost of recording the resolution, to be a personal liability of the owner of the land and a lien on the land, payable within ten days after adoption of the resolution, and thereafter bearing the twelve percent (12%) simple annual interest until paid. A copy of the resolution,
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authenticated by the acknowledgement of the County Clerk shall be filed for record in the office of the County Clerk. Notice of the hearing before the BOCC shall be in writing and delivered in person or sent by certified mail with return receipt requested to the owner and to holders of recorded liens on the property. If after reasonable diligent efforts the person to be notified of such hearing cannot be found, notice may be given by one publication in a newspaper of general circulation within the County.

- D. Materials from a grading site that are spilled or deposited onto public streets shall be removed by contractor or permittee on the same day. Whenever ramps are required to cross County rights-of-way, approval shall be obtained.

Section 5.9 Responsibilities of the Landowner or his/her Authorized Representative

Under these Standards the landowner or his authorized agent will be responsible for:

- A. Obtaining a permit, if required, for any grading. A sample application for the permit is in Appendix D of these Standards.
- B. Obtaining the services of a Professional Engineer, licensed to practice in the State of New Mexico.
- C. All the legal duties, obligations or liabilities incident to ownership of the property while the work of grading is in progress or after the completion of the work. Neither the issuance of a permit nor the compliance with the provisions of these Standards shall relieve any person or owner from any responsibility for damages to persons or property otherwise imposed by law, nor impose any liability upon the County, or any official of the County, for such damages.
- D. Installing the appropriate devices, structures, landscaping and facilities and executing soil stabilization, erosion control, handling of materials in conjunction with any proposed grading so as to fulfill the intent and purpose of these Standards.
- E. The continued maintenance and repair of all retaining walls, cribbing, drainage facilities, slopes, landscaping, soil stabilization and erosion control measures and any other protective devices located upon his property and constructed pursuant to the permit.
- F. Applying for a grading permit to coordinate and obtain clearance from all utilities with a property interest within the boundaries of the permit. Failure to clear any such utility may result in an immediate suspension of the grading permit.
- G. Replacing any surveying and/or property monuments that may be disturbed during grading operations. Monuments shall be certified by a registered New Mexico Professional Surveyor.
- H. Notifying New Mexico One Call within 48 hours of start of construction.

Section 5.10 Responsibility and Authority of Doña Ana County

The County, under the authority of these Standards shall be responsible for:

- A. Reviewing all grading permit applications as submitted under the requirements of Section 5 of these Standards and issuing or denying of grading permits within 10 working days.
 - B. Performing or obtaining all the appropriate tests and inspections to assure that the conditions of the permit and intent and purpose of these Standards have been fulfilled. Unforeseen testing requirements shall be the applicant's responsibility at the time of application.
 - C. Imposing such conditions and specifications on the issuance and duration of the grading permit as may be reasonably necessary to cause the work to fulfill the intent and purpose of these Standards. These conditions and specifications shall include, but will not be limited to, the following:
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1. Interim and permanent soil erosion control and land management requirements including provisions for:
 - a. Disturbed soil surface treatments (emulsions, mulches, seeding, and the like);
 - b. Protective drainage measures for surface drainage and subsurface water where required;
 - c. Terracing and use of dikes and berms;
 - d. Paving and other miscellaneous related measures;
 - e. Retaining walls; and
 - f. Approved development plan.
2. Compaction requirements in fill areas.
 - a. Unstabilized slopes shall be no steeper than 4:1, unless a structural alternative or some other measures applying professional engineering standards is provided. Cut or fill for roads shall not exceed fifteen feet (15') in height;
 - b. On-site cut slopes shall not exceed ten feet (10') in height. In no case shall the height of the cut exceed the height of the building; or
 - c. On-site fill slopes shall not exceed fifteen feet (15') in height. Retaining wall for fill slopes shall be no greater than fifteen feet (15') in height.
3. Working procedures and safety requirements:
 - a. Protective fencing;
 - b. Excavation slope limitations, shoring and bracing in accordance with OSHA guidelines and procedures;
 - c. Traffic control requirements concerning transportation of material on public ways;
 - d. Limitations on the amount of area that may be disturbed by grading operations;
 - e. Work scheduling requirements; and
 - f. Stockpiling and reuse of topsoils.

Section 5.11 Engineering Control for Grade

The requirement for grading permits may differ due to local conditions of the land use, proposed site development, drainage patterns, topography, soil conditions, soil type and other items. The principal burden of designing a proper plan for grading shall fall upon the landowner, developer, contractor, or engineer concerned with the project. In view of this circumstance, the following requirements have been developed as an aid for operations covered by these Standards. Under no circumstances should these conditions be construed to replace the basic requirements of judgment, experience or competence that are a part of good engineering and land development. The County, in order to assure that the correct grading practices are followed as directed by this statement of purpose, may impose any of the following requirements as part of the issuance of a grading permit.

- A. Soil Erosion Control Guidelines. The requirements for soil erosion control measures depends largely upon the extent of the destructive and nuisance potentials due to erosion that may develop from the work to be performed. Thus, the need for erosion control measures is largely determined by prevailing winds, drainage patterns, soil characteristics and the proximity and potential hazards to downwind and downstream residences, businesses, thoroughfares and other facilities.
- B. General Principles of Effective Erosion Control. The following general principles indicate the general measures of erosion control that when properly applied reflect compliance with the grading plan requirements:
 1. Development plans for any project site should be as effectively fitted to existing topography and soils as practical so as to create the least erosion potential possible.
 2. All grading shall be performed in a manner that has no adverse effect on adjacent properties; clearing shall be kept to a minimum, and stabilization of bared earth surfaces shall begin promptly upon completion of construction activities.

3. Unless a site specific grading plan is approved by the County, grading for a building site is limited to fifteen horizontal feet (15') beyond the outer edge of the building pad, patio, driveway, road, parking area or other constructed facility, except as necessary:
 - a. For the construction of stormwater runoff management measures in compliance with these Standards; or
 - b. To accommodate required horizontal to vertical measurements for cut and fill slopes.
- C. Specific Erosion Control Measures. Erosion control methods for disturbed project areas are as proposed. Other erosion control methods and mitigation may be proposed, but requires prior written approval by the County and shall not violate any additional regulations or ordinances:
1. Wind erosion. The following methods of wind erosion control may be required:
 - a. Watering. During and after completion of site grading, the project area shall be completely watered as required to control wind erosion.
 - b. Wind fencing. Reusable wind fencing may be employed to reduce the effects of wind erosion. The fencing should be located immediately adjacent to critical project areas.
 - c. Disturbed surface treatments. Other measures that may be employed for control in critical areas are the use of materials such straw, mulch nettings, emulsion, mulch and seed mixture, rip-rap paving, landscaping, or other approved methods.
 2. Water erosion. Where drainage patterns, soil characteristics and proximity to downstream development suggest that water erosion may cause hazards or damage to public or private property, the following control measures may be required:
 - a. Permanent storm drainage facilities, paving and other related facilities shall be constructed as soon as practicable to reduce water erosion problems.
 - b. Where clearing and grubbing, excavation, stockpiling, fill or grading operations will result in long term exposure to rainfall and runoff, the following temporary control measures may be required:
 1. Temporary diversion and interceptor ditches to intercept runoff and divert it to a safe outfall before destructive erosion can occur on the project area.
 2. Temporary ponded rainfall storage cells or benched terraces to capture and retain rainfall to allow for disposal by percolation into the soil.
 3. Contour ripping may be employed on medium to mild slopes to retard runoff and to better induce disposal of rainfall by percolation.
 4. Disturbed surface treatments. Other measures that may be employed for control in critical areas are the use of materials such as straw, mulch nettings, emulsion, mulch and seed mixture, rip-rap paving, landscaping, or other approved methods.
 - c. Special care will be taken to ensure that the slope faces of cut, fill or natural slope are completely protected from excessive erosion due to stormwater runoff. This may be accomplished by:
 1. Construction of berms and swales on the top and/or tow of slope to provide protection from runoff. Swale inverts may be required to be paved.
 2. Grading of area adjacent to slopes shall drain away from the slope face, where possible.
 3. Construction of bench terraces in slopes of thirty or more feet (30' +) in height. A bench terrace should be at the mid-height of a thirty foot (30') high slope and should be no more than twenty feet (20') vertical apart on slopes in excess of thirty feet (30') in height. The bench should be constructed in such a way as to collect rainfall and direct it to a point of safe discharge. The invert of the bench terrace may be required to be paved to prevent the percolation into the slope.
 4. No stormwater storage should be allowed at, or adjacent to, the top of a slope or escarpment.

5. Cut and fill should be set back a minimum of five feet (5') from property lines and fences. Walls, buildings or structures should be set back from cut or fill slopes sufficiently to allow access to the top of the slope for maintenance purposes and to assure the stability of the slope and security of the foundation of the buildings and structures.
 6. Drainage facilities should be provided to protect slope faces from erosion. Subsurface drainage facilities should be provided where needed to intercept seepage that would affect slope stability, building and structure foundations or create undesirable saturated conditions.
- D. Earthwork for Extended Periods of Time. Where any project area is to be exposed to the effects of wind or water for extended periods of time, erosion control measures shall be continued and/or maintained until natural growth comparable to that removed by the work has been reestablished or until a stable, final development project has been wholly completed.
- E. Earthwork Requirements. The requirements for earthwork are generally fulfilled through application of the requirements of engineering. All permitted earthwork shall be designed by a registered Professional Engineer licensed in the State of NM. An approved grading plan stamped and certified by a licensed NM Professional Engineer will generally govern in determining the specific requirements of significant earthwork.
1. General.
 - a. Fill material will be free of material detrimental to construction of stable fills.
 - b. Excavations will not be made close to property lines as to endanger adjoining property without providing support and protection to prevent damage due to erosion, sliding or settlement.
 - c. Fills will not be placed where they can slide or wash onto the property of others; nor will they be placed where they can cause encroachment upon arroyos or other natural drainageways without provision of facilities to assure the capacity of the drainageway as approved by the County.
 - d. Fill material placed above the top of an existing or proposed surface with a slope steeper than three (3) feet horizontal to one (1) foot vertical shall be set back from the top of the slope face at least five (5) feet.
 - e. Prior to placing fill on natural surfaces, all organic material shall be removed and the natural surface shall be scarified to a depth of twelve inches.
 - f. Temporary drainage facilities will be provided to protect the earthwork from erosion, overflow or ponding generally indicated as in paragraph D.2.
 2. Compaction.
 - a. Load bearing fills upon streets, alleys or public facilities are to be located shall comply with the requirements of the County road standards as to the quality of fill materials, placement and compaction. The plasticity index (PI) of structural fills shall not exceed a value of twelve (12) without specific recommendations from a New Mexico registered Engineer.
 - b. Non-load bearing fills shall be compacted to a minimum density of ninety percent (90%) as per the American Society for Testing and Materials (ASTM D-1557). Fills will be placed and compacted to minimize erosion and produce a stable surface.
- F. Other Conditions. The following conditions may be imposed by the County:
1. Flagmen may be required as part of the grading permit.
 2. Any use of vibratory rollers shall be approved by the County.
 3. The County shall be notified twenty-four (24) hours in advance of any work; such as placing curb, pavement and storm sewer in County right-of-way.
-

4. The County may impose hours of operation and truck routes to be based on individual site locations and shall be indicated on the permit.
5. Limits on the amount and length of time materials may be stockpiled.

Section 5.12 Engineering Controls for Stormwater and Drainage Runoff.

A. Stormwater and Drainage Runoff

1. Flood control studies shall be performed by a qualified design engineer licensed within the State of New Mexico and a completed drainage report shall be submitted to the County for approval. The County will approve or require additional information or modifications to the report. Stormwater drainage report, runoff report and designs shall be approved before a grading permit is issued.
2. Analysis of any and all watershed areas affecting the proposed site development and the design of flood control/drainage structures shall be incorporated into the report.
3. Total surface runoff from the proposed improved site into existing or future developments shall not exceed the runoff from the area of land prior to development. The engineer may utilize retention/detention ponds, swales, drainage channels, pumping facilities or any other approved methods to restrict runoff to accomplish this task.
4. Surface and subsurface drainage shall not be altered or diverted in any way that creates drainage or flooding to adjacent and/or downstream properties.

B. Stormwater Drainage Improvements

1. Construction plans and details for drainage structures shall be included in the basic improvement plans for the proposed site development. All drainage structures shall be designed to carry the 100-year storm water runoff. All drainage ponds shall be designed to hold the 125% volume of the 100-year storm runoff. All plans and details for drainage structures shall be subject to review and approval by the County.
2. The design engineer shall be responsible for showing all necessary supporting calculations, data and criteria on plans, specifications and in a drainage report with respect to flow capacities, structural soundness, public safety, etc.
3. All drainage structures and construction methods shall conform to the *New Mexico Standard Specifications for Public Works Construction*, as amended. Drainage structures and construction details shall be clearly indicated on the construction plans.
4. Drainage/flood control facility maintenance plans shall be submitted as part of the drainage report.
5. All water containment structures, which have water open to the air, shall empty either through percolation into the soil or through outlet structures designed to ensure a controlled release of water that will not cause flooding or erosion. An operation and maintenance plan acceptable to the County shall be submitted for ponds that do not empty within seventy-two (72) hours.
6. Ponds with depths greater than four feet (4') or slopes greater than 3:1 shall be fenced.

SECTION 6. FIRE PROTECTION

Access roads to all developments shall meet the provisions of Doña Ana County's Zoning Ordinances and shall be improved and maintained in accordance with the current Doña Ana County adopted fire code.

Water supplies and fire hydrants shall be located, positioned and constructed in accordance with the current adopted Doña Ana County adopted fire code. Such equipment shall be installed and maintained to meet fire flow, be compatible with fire department equipment and shall be approved by the County Fire Marshal's Office.

The fire protection plans shall be submitted along with the final plat and shall be stamped and certified by a licensed NM Professional Engineer indicating that the fire plans meet the specifications of the Doña Ana County adopted fire code. A letter from the local water district stating that the water supply and fire hydrants shall be maintained by that local water district shall be submitted with the plans.

SECTION 7. WATER AND WASTEWATER FACILITIES

All water and wastewater facilities shall meet the requirements of the American Water Works Association (AWWA), the New Mexico Standards for Public Works Construction (NMSPWC) and Dona Ana County's Water and Wastewater Specifications, where appropriate. If a proposed utility is to be owned and maintained by the County or any utility company, the design shall be reviewed and approved by the appropriate utility company.

APPENDICES

Appendix A. Road Maintenance Agreement

This Road Maintenance Agreement, between (state the name of the present real property owner exactly as shown on the real estate document conveying title to the present owner and state the legal status of the owner, for example, "single person", "husband and wife," corporation of the state of X," "partnership")

(owner) (his, her, their, or its) heirs, executors, successors, assigns and transferees, whose address is

and the County of Doña Ana, a New Mexico political subdivision (County), whose address is 845 N. Motel Blvd., Las Cruces, New Mexico 88007, is made in Las Cruces, Doña Ana County, New Mexico and is entered into as of the date owner signs this Agreement.

1. Recital.

Owner is the owner of certain real property located at (give general description, for instance, subdivision, lot and block or street address:)

in Doña Ana County, New Mexico (the property).

Pursuant to County ordinances, regulations and other applicable laws, the owner is required to construct and maintain certain roadway and drainage facilities on and /or running to or from the property, and the parties wish to enter into this Agreement to establish the obligations and responsibilities of the parties.

2. Description and Construction of Roadway Facilities.

Owner shall construct the following "roadways" within the property and/or roadways linking the development to the nearest County- or state-maintained roads at owner's sole expense in accordance with the standards, plans and specifications approved by the County:

[Name(s) of roadway(s)]

The roadway is more particularly described in the attached Exhibit A. The owner shall not permit the roadway to constitute a hazard to the health or safety of the general public.

3. Maintenance of Roadways.

The owner shall maintain the Roadway at owner's expense in accordance with the approved construction, grading and drainage plans.

4. County's Right of Entry.

The County has the right to enter upon the property at any time and perform whatever inspection of the Roadways it deems appropriate, without liability to the owner.

5. Demand for Removal, Construction or Repair.

The County may send written notice (Notice) to the owner requiring the owner to construct, remove or repair the roadway within 60 Days (Deadline) of receipt of the Notice as provided in Section 11, and the owner shall comply with the requirements of the Notice. The owner shall perform all the required work by the deadline, at the owner's sole expense.

6. Failure to Perform by Owner and Emergency Work by County.

If the owner fails to comply with the terms of the Notice by the deadline, or the County determines that an emergency condition exists, the County may perform the work itself. The County may assess the owner for the cost of the work and for any other expenses or damages that result from owner's failure to perform. The owner agrees to promptly pay the County the amount assessed. If the owner fails to pay the County within thirty (30) days after the County gives the owner written notice of the amount due, the County may impose a lien against owner's property for the total resulting amount plus interest.

7. Liability of County for Repair after Notice or as a Result of Emergency.

The County shall not be liable to the owner for any damages resulting from the County's repair, removal or maintenance following notice to the owner as required in this Agreement or in an emergency situation, unless the damages are the result of reckless conduct or gross negligence of the County, subject to the provisions of the NM Tort Claims Act.

8. Indemnification.

- A. As a part of the consideration for this Agreement, subject to the provisions of the New Mexico Tort Claims Act and all other applicable New Mexico laws, the County does not agree to hold the owner harmless from any liability that may arise from owner's use or misuse of the roadway and the property.
- B. The owner hereby agrees to hold harmless, indemnify and defend Doña Ana County, its officers, agents and employees from and against any and all liability, suits, actions, claims, damages, costs of defense and fees arising out of or resulting from the owner's and/or any of his employee's, agent's, or officer's conduct, performance, act(s), errors or omission(s), relating in any manner whatsoever to this Agreement.

9. Cancellation of Agreement

This Agreement may be canceled and owner's obligation released by the County by mailing to the owner notice of the County's intention to record a Cancellation and Release with the Doña Ana County Clerk. The Cancellation and Release shall be effective thirty (30) days of mailing the notice to the owner unless a later date is stated in the notice or the Cancellation and Release. After the effective date, the County will record the Cancellation and Release with the Doña Ana County Clerk.

10. Assessment.

Nothing in this Agreement shall be construed to relieve the owner, his heirs, assigns, transferees and successors from an assessment against owner's property for improvements to the property under a duly authorized and approved Special Assessment District or applicable law. The Parties specifically agree that the value of the roadway will not reduce the amount assessed by the County.

11. Notice.

For the purpose of giving formal written notice to the owner, owner's address is:

Notice may be given to the owner either in person or by mailing the notice by regular U.S. mail, postage paid. Notice will be considered to have been received by the owner within six (6) days after the notice is mailed if there is no actual evidence of receipt. The owner may change owner's address by giving written notice of the change by certified mail, return receipt requested, to the County Engineering Services Department, 845 N. Motel Blvd., Las Cruces, New Mexico 88007.

12. Term

This Agreement shall continue until terminated by the County pursuant to Section 9 above.

13. Binding on Lot Owner's Property.

The Agreement and obligations of the lot owner set forth herein shall be binding on lot owner, his/her heirs, assigns, transferees and successors and on lot owner's property and shall constitute covenants running with the lot owner's property until released by the County.

14. Entire Agreement.

This Agreement contains the entire agreement of the parties and supersedes any and all other agreements or understandings, oral or written, whether previous to the execution hereof or contemporaneous herewith.

15. Construction and Severability.

If any part of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, the remainder of the Agreement will remain valid and enforceable.

16. Captions.

The captions to the sections or paragraph of this Agreement are not part of this Agreement and will not affect the meaning or construction of any of its provisions.

17. Acknowledgment by Lot Owner (Buyer).

By signing this form, the lot owner (buyer) acknowledges the lot location and their responsibility for the proportional share of the maintenance costs in accordance with the ratio of the total number of lots owned divided by the total number of lots within the subdivision.

LOT OWNER (BUYER)

By: _____

Dated: _____

(STATE OF NEW MEXICO)

ss

(COUNTY OF DOÑA ANA)

The foregoing instrument was acknowledged before me this _____ day of _____, 20 ____

by (name of person signing:) _____

(Title of capacity, for instance, "President" or "Owner":) _____

of (name of the entity that owns the property if other than the individual signing, for instance, the name of the corporation, partnership, or joint venture:) _____.

My Commission Expires: _____.

Notary Public

SUBDIVIDER (Seller)

By: _____

Dated: _____

(STATE OF NEW MEXICO)

ss

(COUNTY OF DOÑA ANA)

The foregoing instrument was acknowledged before me this _____ day of _____, 20 ____

by (name of person signing:) _____

(Title of capacity, for instance, "President" or "Owner":) _____

of (name of the entity that owns the property if other than the individual signing, for instance, the name of the corporation, partnership, or joint venture:) _____.

My Commission Expires: _____.

Notary Public

Appendix B. Drainage Maintenance Agreement

This Drainage Maintenance Agreement, between (state the name of the present real property owner exactly as shown on the real estate document conveying title to the present owner and state the legal status of the owner, for example, "single person", "husband and wife," corporation of the state of X," "partnership")

(owner) (his, her, their, or its) heirs, executors, successors, assigns and transferees, whose address is

and the County of Doña Ana, a New Mexico political subdivision (County), whose address is 845 N. Motel Blvd., Las Cruces, New Mexico 88007, is made in Las Cruces, Doña Ana County, New Mexico and is entered into as of the date owner signs this Agreement.

1. Recital.

Owner is the owner of certain real property located at (give general description, for instance, subdivision, lot and block or street address:)

in Doña Ana County, New Mexico (the property).

Pursuant to County ordinances, regulations and other applicable laws, the owner is required to construct and maintain certain drainage facilities on and /or running to or from the property, and the parties wish to enter into this agreement to establish the obligations and responsibilities of the parties.

2. Description and Construction of Drainage Facilities.

Owner shall construct the following "drainage facilities" within the property and/or running to or from the development at the owner's sole expense in accordance with the standards, plans and specifications approved by the County:

The Drainage Facilities are more particularly described in the attached Exhibit A. The owner shall not permit the drainage facilities to constitute a hazard to the health or safety of the general public.

3. Maintenance of Drainage Facilities.

The owner shall maintain the drainage facilities at owner's expense, per Table 4.9 of the Doña Ana County Development Design Standards and in accordance with the approved construction, grading and drainage plans.

4. County's Right of Entry.

The County has the right to enter upon the property at any time and perform whatever inspection of the drainage facilities it deems appropriate, without liability to the owner.

5. Demand for Removal, Construction or Repair.

The County may send written notice (Notice) to the owner requiring the owner to construct, to remove or repair the Drainage Facility within 60 Days (Deadline) of receipt of the Notice as provided in Section 11, and the owner shall comply with the requirements of the Notice. The owner shall perform all the required work by the deadline, at the owner's sole expense.

6. Failure to Perform by Owner and Emergency Work by County.

If the owner fails to comply with the terms of the Notice by the deadline, or the County determines that an emergency condition exists, the County may perform the work itself. The County may assess the owner for the cost of the work and for any other expenses or damages that result from owner's failure to perform. The owner agrees to promptly pay the County the amount assessed. If the owner fails to pay the County within thirty (30) days after the County gives the owner written notice of the amount due, the County may impose a lien against owner's property for the total resulting amount plus interest.

7. Liability of County for Repair after Notice or as a Result of Emergency.

The County shall not be liable to the owner for any damages resulting from the County's repair, removal or maintenance following notice to the owner as required in this Agreement or in an emergency situation, unless the damages are the result of reckless conduct or gross negligence of the County, subject to the provisions of the NM Tort Claims Act.

8. Indemnification.

A. As a part of the consideration for this Agreement, subject to the provisions of the New Mexico Tort Claims Act and all other applicable New Mexico laws, the County does not agree to save owner harmless from any liability that may arise from owner's use or misuse of the roadway and the property.

B. The owner hereby agrees to hold harmless, indemnify and defend Doña Ana County, its officers, agents and employees from and against any and all liability, suits, actions, claims, damages, costs of defense and fees arising out of or resulting from the owner's and/or any of his employee's, agent's, or officer's conduct, performance, act(s), errors or omission(s), relating in any manner whatsoever to this Agreement.

9. Cancellation of Agreement

This Agreement may be canceled and owner's obligation released by the County by mailing to the owner notice of the County's intention to record a Cancellation and Release with the Doña Ana County Clerk. The Cancellation and Release shall be effective thirty (30) days of mailing the notice to the owner unless a later date is stated in the notice or the Cancellation and Release. After the effective date, the County will record the Cancellation and Release with the Doña Ana County Clerk.

10. Assessment.

Nothing in this Agreement shall be construed to relieve the owner, his heirs, assigns, transferees and successors from an assessment against owner's property for improvements to the property under a duly authorized and approved Special Assessment District or applicable law. The Parties specifically agree that the value of the roadway will not reduce the amount assessed by the County.

11. Notice.

For the purpose of giving formal written notice to the owner, owner's address is:

Notice may be given to the owner either in person or by mailing the notice by regular U.S. mail, postage paid. Notice will be considered to have been received by the owner within six (6) days after the notice is mailed if there is no actual evidence of receipt. The owner may change owner's address by giving written notice of the change by certified mail, return receipt requested, to the County Flood Commission, 845 N. Motel Blvd., Las Cruces, New Mexico 88007.

12. Term

This Agreement shall continue until terminated by the County pursuant to Section 9 above.

13. Binding on Lot Owner's Property.

The Agreement and obligations of the lot owner set forth herein shall be binding on lot owner, his/her heirs, assigns, transferees and successors and on lot owner's property and shall constitute covenants running with the lot owner's property until released by the County.

14. Entire Agreement.

This Agreement contains the entire agreement of the parties and supersedes any and all other agreements or understandings, oral or written, whether previous to the execution hereof or contemporaneous herewith.

15. Construction and Severability.

If any part of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, the remainder of the Agreement will remain valid and enforceable.

16. Captions.

The captions to the sections or paragraph of this Agreement are not part of this Agreement and will not affect the meaning or construction of any of its provisions.

17. Acknowledgment by Lot Owner (Buyer).

By signing this form, the lot owner (buyer) acknowledges the lot location and their responsibility for the proportional share of the maintenance costs in accordance with the ratio of the total number of lots owned divided by the total number of lots within the subdivision.

LOT OWNER (BUYER)

By: _____

Dated: _____

(STATE OF NEW MEXICO)

ss

(COUNTY OF DOÑA ANA)

The foregoing instrument was acknowledged before me this _____ day of _____, 20 ____

by (name of person signing:) _____

(Title of capacity, for instance, "President" or "Owner":) _____

of (name of the entity that owns the property if other than the individual signing, for instance, the name of the corporation, partnership, or joint venture:) _____.

My Commission Expires: _____.

Notary Public

SUBDIVIDER (Seller)

By: _____

Dated: _____

(STATE OF NEW MEXICO)

ss

(COUNTY OF DOÑA ANA)

The foregoing instrument was acknowledged before me this _____ day of _____, 20 ____

by (name of person signing:) _____

(Title of capacity, for instance, "President" or "Owner":) _____

of (name of the entity that owns the property if other than the individual signing, for instance, the name of the corporation, partnership, or joint venture:) _____.

My Commission Expires: _____.

Notary Public

Appendix C. Application for Permit to Construct Driveway in Public R-O-W

REF: RESOLUTION NO. 78-21 (Standard Specifications)

DATE: _____
APPLICANT: _____ PERMIT NO.: _____
MAILING ADDRESS: _____

DATE ISSUED: _____ PERMIT FEE: _____
APPROXIMATE STARTING DATE: _____ DATE EXPIRES: _____
CONSTRUCTION VALUE: _____ BUILDER/CONTRACTOR NM/LIC#: _____
CONSTRUCTION ADDRESS: _____ () Commercial Property
SUBDIVISION: _____ LOT NO.(s): _____

COUNTY ROAD NAME/#.: _____ ROAD SURFACE: _____

THE APPLICANT UPON ACCEPTING THE APPROVED PERMIT WILL BE IN COMPLIANCE WITH THE FOLLOWING TERMS AND CONDITIONS:

- _____ All drainage will be taken care of within your property.
- _____ Comply with all local codes and ordinances.
- _____ Repairs and maintenance of driveway shall be the responsibility of the applicant.
- _____ The driveway will require 2 ½ inch base course and 1 ½ inch asphalt with a 10 foot radius.
- _____ Remove existing sidewalk, curb and gutter and install with new concrete drive pad (s) consisting of construction of a combination of curb and gutter to include public sidewalk curb ramps that meet with ADA specifications.
- _____ Construct and maintain a gate/cattle guard and additional fence in good repair and to keep the same closed to livestock.
- _____ Install a minimum of one (1) 24 inch CMC plus rip-rap or headwall placed on both ends of the structure.
- _____ Mailboxes installed within public right-of-way shall be constructed in conformance with the rules and regulations of the U.S. Postal Service, as well as to standards established by AASHTO.
- _____ A stop sign and hardware shall be installed in compliance to MUTCD.
- _____ Acceleration/Deceleration lanes require AASHTO specifications.

NOTIFY COUNTY ENGINEERING SERVICES DEPT. 48 HOURS PRIOR TO DRIVEWAY CONSTRUCTION

A copy of the approved driveway permit and an acceptable traffic control plan shall be in the possession at the job site while the driveway is under construction.

Please Read Carefully

I hereby acknowledge that I have read and understand this application/permit and verify that the above is correct and agree to comply with all County resolution/regulations and state law regulating construction. The issuance of this permit shall not prevent the County or State from thereafter requiring the correction of and error. I will call for the inspections as indicated above (575) 525-6164.

SIGNATURE OF APPLICANT: _____ DATE: _____

ISSUED BY: _____ DATE: _____

(DAC DESIGNEE SIGNATURE & TITLE)

Appendix D. Application for a Grading Permit

REF: RESOLUTION NO. 78-21 (Standard Specifications)

DATE: _____

APPLICANT: _____ PERMIT NO.: _____

MAILING ADDRESS: _____

DATE ISSUED: _____ PERMIT FEE: _____

APPROXIMATE STARTING DATE: _____ DATE EXPIRES: _____

CONSTRUCTION ADDRESS: _____

SUBDIVISION: _____ LOT NO.(s): _____

BUILDER/CONTRACTOR NM/LIC#: _____

THE APPLICANT UPON ACCEPTING THE APPROVED PERMIT WILL BE IN COMPLIANCE WITH THE FOLLOWING TERMS AND CONDITIONS:

RECEIPT OF GRADING AND DRAINAGE PLAN:

- _____ One Lot Residential Site Plan
- _____ Full Grading and Drainage Plan and Report per the Doña Ana County Development Design Standards, as amended.

GENERAL LIABILITY INSURANCE REQUIRED:

- _____ A copy of a current certificate of insurance as evidence of general liability and contractual insurance is attached.

OTHER CONDITIONS:

- _____ Flagmen/women are required.
- _____ Use of vibratory rollers is approved by the County.
- _____ The County shall be notified twenty-four (24) hours in advance of any work; such as placing curb, pavement and storm sewer in County right-of-way.
- _____ The hours of operation are limited to: _____.
- _____ Truck routes to be used are limited to: _____.
- _____ Limits on the amount and length of time materials are stockpiled: _____.

NOTIFY COUNTY ENGINEERING SERVICES DEPT. 48 HOURS PRIOR TO DRIVEWAY CONSTRUCTION

A copy of the approved driveway permit and an acceptable traffic control plan shall be in the possession at the job site while the driveway is under construction.

Please Read Carefully

I hereby acknowledge that I have read and understand this application/permit and verify that the above is correct and agree to comply with all County resolution/regulations and state law regulating construction. The issuance of this permit shall not prevent the County or State from thereafter requiring the correction of and error. I will call for the inspections as indicated above (575) 525-6164

SIGNATURE OF APPLICANT: _____ DATE: _____

ISSUED BY: _____ DATE: _____
(DAC DESIGNEE SIGNATURE & TITLE)

Appendix E. Site Threshold Assessment (STA)

A Site Threshold Assessment (STA) is required of all developing or redeveloping properties within Doña Ana County.

Permit Application

Applicant Name: _____

Business Name: _____

Business Address: _____

City: _____ State: _____ Zip Code: _____

Site Description

Development Type	Site Information (fill in all that apply)			
Residential	Building Size (sf)		Dwelling Units	
Retail	Parcel Size (ac)		Rooms	
Office	Roadway Frontage (ft)		Beds	
Industrial	Parking Spaces		Students	
Institutional	Employees		Seats	
Lodging	Other		Fuel Pumps	
Restaurant			Courts	
Convenience/Gas			Storage Units	
Other				

The STA examines existing roadway volumes and anticipated site trip generation for the purpose of determining if additional analyses are required. If the site characteristics and the trip generation estimate for a proposed development do not satisfy the requirements for a TIA, as determined by the County Engineering Services Department, the STA should be approved and the traffic study requirement for the proposed development will be complete. If additional analysis is required based on the results of the STA, the County Engineer should indicate to the applicant the level of analysis that is required.

Existing Roadway Data

Road Name: _____

Road AADT: _____ Count Year: _____ Number of Lanes (two-way): _____

Trip Generation

ITE Trip Generation Land Use Category: _____

AM Peak Hour Trips Enter: _____ Exit: _____

PM Peak Hour Trips Enter: _____ Exit: _____

To be filled out by the County Engineering Services Department

Exceeds Threshold? Y or N If yes, is a TIA Required? Y or N

Notes: _____

Appendix F. One-Year Warranty of Improvements

This Agreement is made and entered into this ___ day of _____, 20____, by and between _____, hereinafter referred to as The Developer(s), and the Board of County Commissioners of Doña Ana County, New Mexico, hereinafter referred to as The County.

WHEREAS, is/are The Developer(s) of the subdivision known as (Subdivision Name), (hereinafter "The Subdivision") in Doña Ana County, New Mexico; and,

WHEREAS, in order to comply with the Doña Ana County Subdivision Regulations as they pertain to The Subdivision, certain performance guarantees for the improvements to The Subdivision are required; and

WHEREAS, The Subdivision has received final approval by the County, and The County has released The Subdivision's final subdivision plat for filing.

NOW, THEREFORE, in consideration of the premises hereinabove expressed and the terms, covenants, conditions and agreements hereinafter stated, The Developer(s) and The County agree as follows:

1. _____ is/are The Developers of The Subdivision known as _____, in Doña Ana County, New Mexico, and in order to comply with the Doña Ana County Subdivision Regulations in force at the time of The County's approval of The Subdivision, certain performance guarantees for the improvements to The Subdivision are required.
2. The Developer(s) shall indemnify The County from any and all costs expenses, damages, liabilities and fees to attorney(s) that The County suffers and/or incurs as a result of the Indemnitee having to repair the improvements in The Subdivision to County standards and specifications.
3. The Developer(s) shall, for a period of one year dating from the date of final inspection by The County of the improvements in The Subdivision, repair to County standards and specifications the improvements for The Subdivision in compliance with the Doña Ana County Subdivision Regulations and their subsequent amendments and such improvement plans in effect as of the date of final approval of The Subdivision by The County.
4. The law of the State of New Mexico shall govern this Agreement.
5. Any covenant, term, agreement, condition or provision herein contained that is held to be invalid by any court of competent jurisdiction shall be considered deleted from this Agreement, but such deletion shall in no way affect any other covenant, term, agreement, condition or provision herein. Indemnitee in its rights contained in the valid covenants, terms, agreements, conditions or provisions of this Agreement.

WITNESS THEREOF, the parties have executed this Agreement on the date and year first written above.

INDEMNITOR(S)/DEVELOPER(S) _____

ACKNOWLEDGEMENT

By: _____ Dated: _____

(STATE OF NEW MEXICO)

ss

(COUNTY OF DOÑA ANA)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____

by (name of person signing:) _____

(Title of capacity, for instance, "President" or "Owner":) _____

of (name of the entity that owns the property if other than the individual signing, for instance, the name of the corporation, partnership, or joint venture:) _____

My Commission Expires: _____

Notary Public

INDEMNITEE/THE COUNTY _____

Chair

ATTEST: _____

Doña Ana County Clerk

APPENDIX I

NOTICES FOR COUNTY- OWNED/OPERATED INDUSTRIAL ACTIVITIES

APPENDIX J

MONITORING/ASSESSMENT PLAN



MONITORING/ASSESSMENT PLAN

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1.0 BACKGROUND

Doña Ana County (County) has developed a Storm Water Management Program (SWMP) as required by NPDES General Permit No. NMR040000 (Permit) for discharges from Small Municipal Separate Storm Sewer Systems (MS4). Part 5 of the Permit requires the SWMP be *“designed to reduce the discharge of pollutants from the MS4 to the maximum extent practicable, to protect water quality and to satisfy applicable surface water quality standards.”*

Reducing the discharge of pollutants to the maximum extent practicable is achieved by the County implementing six Minimum Control Measures (MCMs). The MCMs are:

- Public Education and Outreach on Storm Water Impacts
- Public Involvement/Participation
- Illicit Discharge Detection and Elimination
- Construction Site Storm Water Runoff Control
- Post-Construction Storm Water Management in New Development and Redevelopment
- Pollution Prevention/Good Housekeeping for Municipal Operations

The SWMP contains Best Management Practices (BMPs) for each MCM. The BMPs are activities, ordinances, maintenance procedures, management practices, operating procedures, and any other process, activity or structure that controls the discharge of pollutants into storm water. Part 5.6.1 of the Permit requires the County to evaluate the appropriateness of the BMPs and the County's progress toward achieving the SWMP's measurable goals. This Monitoring/Assessment Plan (MAP) is intended to accomplish the required evaluation.

The majority of the County's BMPs will be implemented in the third permit year, July 1, 2009 to June 30, 2010; therefore, the MAP will be implemented starting in the fourth permit year unless noted otherwise.

2.0 ASSESSMENT OF BEST MANAGEMENT PRACTICES

BMPs are intended to reduce the discharge of pollutants and protect storm water quality. Every community, watershed, and climate is a unique combination. Until the BMPs are implemented, it is difficult to predict their effectiveness. In addition, a BMP that is needed when a SWMP starts may no longer be needed after the SWMP is well-established in the community. At that point in time, different BMPs may be necessary.

The purpose of the BMP assessment is to:

- Determine if the implemented BMPs are achieving the desired result; and
- Direct BMP changes as needed to make the SWMP more effective in protecting storm water quality.

2.1 PUBLIC EDUCATION AND OUTREACH ON STORM WATER IMPACTS

The Public Education and Outreach BMPs are intended to reduce the discharge of pollutants by informing the target audiences about the way they affect storm water and encouraging them to change their behavior. The general public is the most important target audience in the County's



portions of the urbanized areas. Monitoring the effectiveness of the Public Education BMPs will focus on measuring the public's response to the educational material.

2.1.1 Website Storm Water Questionnaire

The County will place a questionnaire on its website to monitor the public education program. The questionnaire will have three types of questions:

- Availability of public education material; for example, "*Have you heard information about storm water quality on the radio?*" These questions will measure the SWMP's effectiveness in contacting the public.
- General storm water pollution prevention; for example, "*Does storm water runoff go to a treatment plant?*" These questions will measure the program's effectiveness in informing the public about storm water pollution prevention.
- Response to educational materials; for example, "*Will you change your behavior based on something you learned about storm water pollution prevention?*" These questions will measure the program's effectiveness in reducing the discharge of pollutants.

2.1.2 Floatables Monitoring

The general public is believed to be a significant contributor of floatables (trash) to the MS4. Floatables can therefore be used as an indicator parameter to assess change in public behavior. The County will identify one public drainage structure at which to collect and monitor floatables in each of the two urbanized areas (Las Cruces and El Paso). Since the amount of floatables collected will be a function of the volume of runoff, a rain gauge will be placed near the structure.

Floatables will be collected quarterly. The amount of floatables collected and the amount of rainfall since the last collection will be tracked.

2.2 PUBLIC INVOLVEMENT/PARTICIPATION

Public Involvement BMPs are intended to foster the public's sense of ownership of the watersheds, arroyos, and receiving waters within the community. The BMPs are effective if they result in people becoming involved in and supportive of the SWMP.

2.2.1 Citizen Reports

The BMPs encourage citizens to report illegal dumping, illicit discharges, construction site discharges and other types of storm water pollution. The County will track the number and type of citizen reports of storm water pollution that are received via the publicized phone number and the County's website.



2.2.2 Public Comments

The County will track the number of people that comment on the SWMP each year. The comments may be submitted on the County's website, at presentations to the Board of County Commissioners, and where hard copies of the SWMP are available for review at the Government Center.

2.3 ILLICIT DISCHARGE DETECTION AND ELIMINATION (IDDE)

The IDDE BMPs will reduce the discharge of pollutants by offering alternatives to illegal dumping and enabling the County to enforce the termination of illicit discharges.

2.3.1 Ordinance Enforcement

In the SWMP, the County proposes to adopt a Storm Water Pollution Control Ordinance that will define and prohibit illicit discharges. The ordinance will authorize the County to enforce termination of the discharge and corrective actions for clean-up, where needed. The County will track the number and types of enforcement actions for illicit discharges under the new ordinance. It will also monitor the percentage of the enforcement actions that successfully eliminate an illicit discharge.

The Ordinance Enforcement measure will not be implemented until the fifth permit year, since the new ordinance is not scheduled to be adopted until the fourth permit year.

2.3.2 Dry Weather Screening

The SWMP includes a dry weather screening program for illicit discharges. The County will track the number of illicit discharges found by its dry weather screening program and the percentage that are successfully eliminated. The Dry Weather Screening measure will be implemented in the fifth permit year.

2.4 CONSTRUCTION SITE STORM WATER RUNOFF CONTROL

The Construction BMPs consist of new ordinance requirements, education, plan review and site inspections to ensure Storm Water Pollution Prevention Plans (SWPPP) are implemented at construction sites disturbing one acre or more or that are part of a common plan of development disturbing one acre or more. By doing so, the County will reduce the discharge of pollutants during construction.

The County will monitor the percentage of construction site SWPPP inspections that result in enforcement actions. No enforcement action means that a SWPPP was prepared and implemented and should therefore be effective in controlling pollutants. Initially, the percentage of inspections that result in enforcement is anticipated to be high. The percentage should drop as developers and contractors become educated about the SWPPP requirements and the County's plan review and inspection program becomes a routine part of development in the urbanized areas.

This measure will not be implemented until the fifth permit year, since the Storm Water Pollution Control Ordinance that will require SWPPPs is not scheduled to be adopted until the fourth permit year.



2.5 POST-CONSTRUCTION STORM WATER MANAGEMENT IN NEW DEVELOPMENT AND REDEVELOPMENT

The goal of the Development and Redevelopment BMPs is to protect storm water quality by ensuring that development plans include permanent design features to mitigate the long-term effect of development on water quality. The permanent features may include, but are not limited to, detention/retention basins, erosion control structures, site layout to match the existing topography, preservation of natural drainage ways, rainwater harvesting, permeable pavement, pervious channel linings, and other low impact development design strategies.

The County will track the percentage of development plans reviewed that include a design feature to mitigate the development's effect on storm water quality. The County will also maintain an inventory of the types of post-construction BMPs that are used and their location.

2.6 POLLUTION PREVENTION/GOOD HOUSEKEEPING FOR MUNICIPAL OPERATIONS

The goal of the Municipal Operations BMPs is to improve storm water quality by reducing the potential for pollutants to enter storm water runoff from the County's facilities and operations.

2.6.1 MS4 Cleaning

The County will monitor the amount of material removed from the MS4 within the urbanized areas each year.

2.6.2 Pesticides and Herbicides

The County will track the percentage of employees applying a pesticide or herbicide that have the appropriate applicator's license or certification.

2.6.3 Fleet Maintenance Facility Inspections

BMPs for fleet maintenance facilities include written procedures for maintaining exterior areas free of storm water pollutants. Starting in the fifth permit year, the County will use quarterly inspections of its fleet maintenance facilities to monitor the success of the BMPs. The County will track the number of conditions found to be non-compliant with its written procedures and good-house keeping procedures and the percentage of the non-compliant findings that are corrected within three working days.

2.6.4 Outdoor Material Storage

After completing an initial inventory of material stored outside, the County will track the percentage of the outdoor storage sites that are eliminated, covered or provided with a BMP to decrease the exposure of pollutants to storm water.

2.6.5 Capital Improvement Projects

During plan review, the County will monitor construction plans for flood control and drainage projects to verify that the engineer-of-record considered and incorporated,



where feasible, design features to improve water quality. The County will track the percentage of flood control projects and drainage projects that are constructed with a permanent feature to improve long-term water quality.

3.0 MONITORING OF DISCHARGES TO IMPAIRED WATERS

Under the Permit, small MS4s are not required to collect data on their storm water discharges unless the receiving waters are on the State's Clean Water Act (CWA) Section 303(d) list of impaired waters. The Main Stem of the Lower Rio Grande is on the State of New Mexico's list of impaired waters due to bacteria. On June 11, 2007, a USA-EPA Approved Total Maximum Daily Load (TMDL) was issued for the Main Stem of the Lower Rio Grande. Part 5.6.1.2 of the Permit requires the Monitoring/Assessment Plan to include collection of information on the levels of the pollutant of concern in the storm water discharges authorized by the Permit.

3.1 TOTAL MAXIMUM DAILY LOAD (TMDL)

The New Mexico Environment Department (NMED) used the indicator organism *Escherichia coli* (*E. coli*) to establish the TMDL and Waste Load Allocations (WLA) for the Lower Rio Grande. The allocation for storm water discharges was based on the percent jurisdictional area approach, resulting in two percent of the WLA being allocated to Small MS4s. Data was not available to determine the actual contribution of storm water runoff to the impairment of the Lower Rio Grande. However, data collected in the 2004 water quality survey and reported in Section 4.6 of the TMDL showed little correlation between rainfall and *E. coli* concentrations (Surface Water Quality Bureau, 2007).

The County's monitoring goal under the Permit is to assess the level of bacteria in storm water discharges from its MS4 in the urbanized areas. Data gathered will be used to evaluate the appropriateness of the WLA assigned to Small MS4s and to direct BMPs for potential bacteria sources. The monitoring work plan will include sampling from one outfall within each of the two urbanized areas (Las Cruces and El Paso) where the County operates its MS4. Wet weather characterization and representative storm event monitoring are not required by the Permit. Therefore, outfalls will be selected based on land uses that are possible sources for the pollutant of concern.

Since the character of the land use does not vary significantly among the Small MS4 Operators within the Las Cruces Urbanized Area and the New Mexico portion of the El Paso Urbanized Area, the County hopes to work with the other operators to develop a regional, watershed-based, monitoring program that fulfills the Permit requirement. This cooperation may take the form of participation in the Paso del Norte Watershed Council (PdNWC). The County is a stakeholder in the PdNWC. Increased participation in PdNWC's activities is included in the County's BMPs.

The PdNWC was awarded a CWA Section 319(h) grant to develop a Watershed Restoration Action Strategy (WRAS) for the Lower Rio Grande. The WRAS is intended to assist in remediation of the water quality impairment. Its recommendations include a Water Quality Monitoring Program (PdNWC, 2007). In 2009 PdNWC is applying for another CWA Section 319(h) grant to implement the monitoring program.

The County's monitoring for the TMDL will occur in one of three ways:



- Support of and participation in the PdNWC monitoring program if it includes MS4 outfalls and its work plan complies with the Permit;
- Participation in a Memorandum of Agreement between two or more Small MS4s to develop a regional MS4 monitoring program; or
- Independent monitoring of the County's outfalls.

The County prefers and will participate in a regional approach to the monitoring, if possible.

3.2 STORM EVENTS

Part 5.6.1.2 of the Permit defines the monitoring year as January 1 to December 31. Doña Ana County is in an arid region where significant storm events typically occur only in the months of July, August, September, and October. There is insufficient precipitation to support quarterly monitoring. Samples for monitoring will be collected from one storm event per monitoring year.

After the outfalls to be sampled are selected (refer to MAP Section 3.1), rainfall gages will be established in the watersheds to be monitored. For the purpose of monitoring, a storm event will consist of rainfall in excess of 0.1 inch that produces a measurable discharge from the outfalls to be sampled and that is at least 72-hours since the previous measurable precipitation (greater than 0.1 inch).

3.3 SAMPLE TYPE, COLLECTION AND ANALYSIS

The County will prepare a local Quality Assurance Project Plan (QAPP) to direct the sample collection and analysis. The QAPP will be coordinated with NMED in order to develop it in a manner that supports NMED's TMDL program. The local QAPP will generally follow the EPA-Approved QAPP for Water Quality Management Programs used by NMED; however, the County may make modifications as appropriate for local resources and outfall monitoring.

Establishment of the TMDL included a flow component. QAPP development will include methods to collect flow data with grab samples or the use of flow-weighted composite samples instead of grab samples.

The following parameters will be visually inspected or analyzed in the field when the sample is collected:

- pH
- Temperature
- Sheen
- Color
- Odor

Laboratory analyses will be used for *E. coli*. Test procedures will be in accordance with 40 CFR 136.

3.4 REPORTING

The County will develop a standard field data form to be used for collection of monitoring data. The form will include, but not be limited to, the following:



- Date, exact place, and time of sampling or measurements;
- Name(s) of the individual(s) who performed the sampling or measurements;
- Date(s) analyses were performed;
- Name(s) of the individuals who performed the analyses;
- Analytical techniques or methods used; and
- Results of the analyses.

Monitoring results will be reported on a Discharge Monitoring Report (DMR) for each storm event from which samples are successfully collected. The DMRs will be submitted to the EPA with the County's annual report.

4.0 REFERENCES

Federal Register. 2006. Notice of Availability of Revisions to Proposed NPDES General Permits for Small Municipal Separate Storm Sewer Systems (MS4s) in New Mexico, Indian Country Lands in New Mexico and Indian Country Lands in Oklahoma. Vol. 71, No. 64. April 4, 2006.

Federal Register. 2007. Final NPDES General Permits for Small Municipal Separate Storm Sewer Systems (sMS4s) in New Mexico, Indian Country Lands in New Mexico and Indian Country Lands in Oklahoma; Minor Revisions and Corrections. Vol. 72, No. 113. June 13, 2007.

New Mexico Administrative Code (NMAC). 2005. Standards for Interstate and Intrastate Surface Waters, Rio Grande Basin (the main stem of the Rio Grande from the international boundary with Mexico upstream to one mile below Percha dam). As amended through May 23, 2005. (20.6.4.101 NMAC)

Surface Water Quality Bureau, New Mexico Environment Department. 2007. U.S. EPA-Approved Total Maximum Daily Load (TMDL) for the Main Stem of the Lower Rio Grande (from the International Boundary with Mexico to Elephant Butte Dam). Retrieved August 12, 2008 from <http://www.nmenv.state.nm.us/swqb/LowerRioGrande/>

New Mexico Environment Department, Surface Water Quality Bureau. 2008. Quality Assurance Project Plan for Water Quality Management Programs. Approved March 2008. Retrieved January 28, 2009 from <http://www.nmenv.state.nm.us/swqb/QAPP/2008QAPP-Approved.pdf>

Paso del Norte Watershed Council (PdNWC). 2007. Paso del Norte Restoration Action Strategy submitted to EPA December 2007. Retrieved March 17, 2009 from <http://www.pdnwc.org/>