

McKinley County Small Water Systems Regionalization Plan Phase IIB Summary Report

Prepared for

**Northwest New Mexico Council of
Governments
McKinley County**

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1. Introduction

Providing support to the area's small water systems is a primary goal of McKinley County and the Northwest New Mexico Council of Governments (NWNMCOG). To that end Daniel B. Stephens & Associates, Inc. (DBS&A), DePauli Engineering & Surveying LLC (DePauli), the New Mexico Environmental Finance Center (NMEFC), and Gott Consulting Services have been collaborating on the McKinley County Small Water Systems Regionalization Plan project.

During Phase I of the project, the project team developed the *McKinley County Small Water Systems Regionalization Plan* (DBS&A and DePauli, 2008), which summarized previously completed water planning efforts and studies for the McKinley-Cibola County area, tabulated baseline data from 22 small water systems in McKinley and Cibola Counties, identified key issues for each water system, proposed potential regionalization strategies both locally and region-wide, outlined possible funding sources to pursue, and provided implementation plans for the strategies that were proposed. During Phase II, representatives from the full group of interested McKinley County water systems continued meeting to discuss the current planning efforts, as well as potential future County-wide regionalization efforts.

This report has been prepared for the NWNMCOG to summarize activities conducted under Phase IIB of the project, which included additional planning efforts for a smaller group of seven systems (Figure 1):

- Coal Basin Water Association
- Gameraco Water & Sanitation District (W&SD)
- Rehoboth Christian School
- Thoreau W&SD
- White Cliffs Mutual Domestic Water Users Association (MDWUA)
- Williams Acres W&SD
- Yah-ta-hey W&SD

Activities conducted for each of the seven systems included:



Explanation

- Water system
- ~~~~~ Stream
- Town
- County

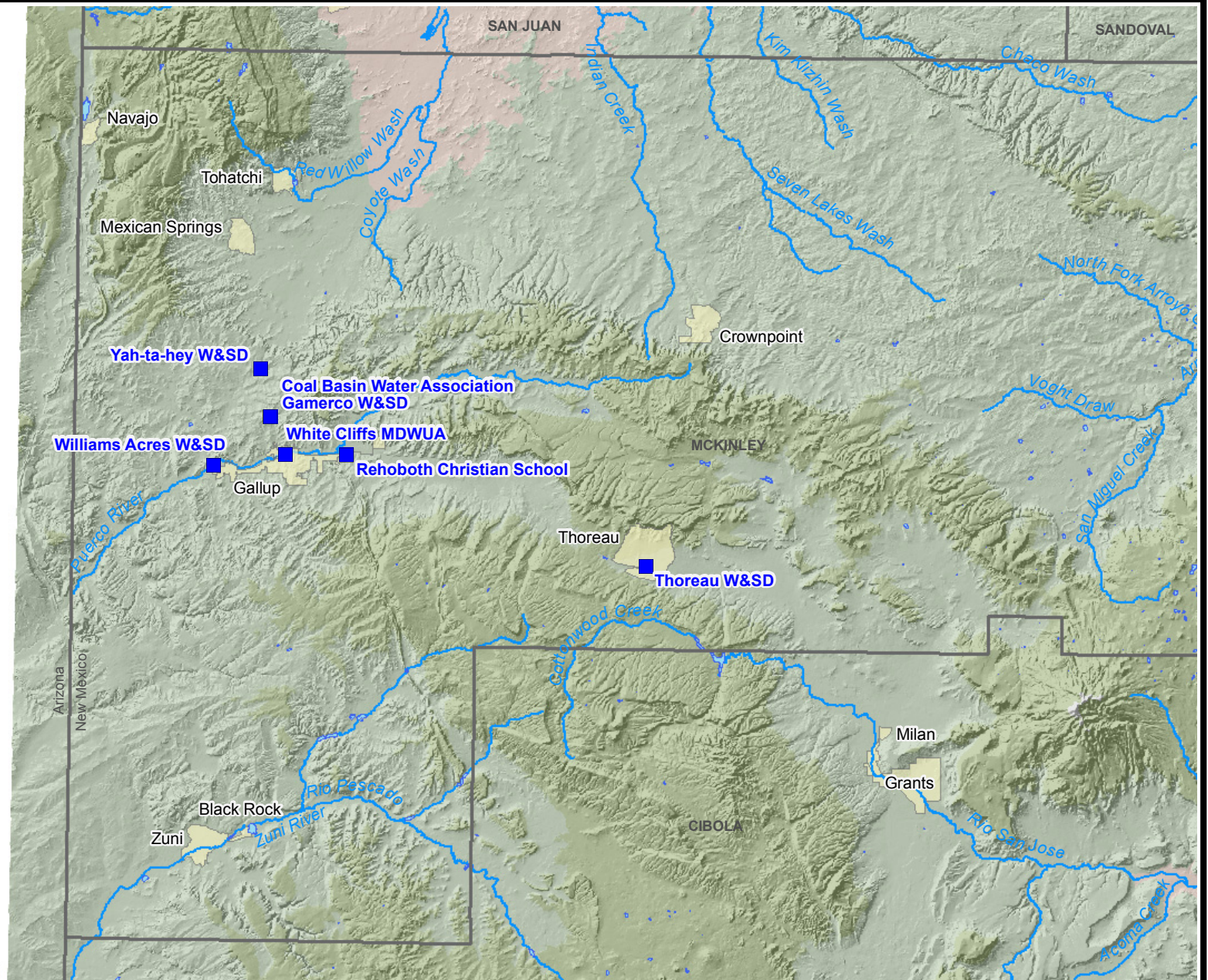
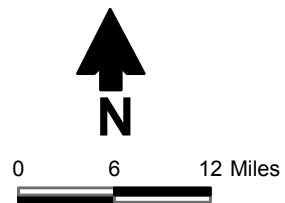


Figure 1



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MCKINLEY COUNTY REGIONALIZATION PLANNING
Participating Water Systems



Daniel B. Stephens & Associates, Inc.

- Developing operations and maintenance plans and asset management plans
- Compiling an inventory of existing and potential resources available to each system
- Preparing an analysis of the actions each of these systems can take to reduce their Insurance Services Office (ISO) rating (which looks at whether water systems have adequate supply for fire flow)
- Summarizing the current and potential McKinley County regionalization strategies
- Defining a regionalization funding strategy going forward



2. McKinley County Description and Water Resources

McKinley County is located in western New Mexico and is bordered by San Juan County to the north, Sandoval County to the east, Cibola County to the south, and the state of Arizona to the west. The County encompasses 5,449 square miles of the San Juan Plateau, an arid high plateau of grasses, shrubs, and scattered trees, and is bisected by the Continental Divide (McKinley County, 2005). Annual rainfall averages 12 inches, and the County receives 10 to 15 inches of snow per year (McKinley County, 2005).

In 2000, the U.S. Census counted a total of 74,798 people living in McKinley County (U.S. Census, 2000). The University of New Mexico Bureau of Business and Economic Research (BBER) estimated that the McKinley County population had increased to 79,905 people by 2007 (BBER, 2008). The area is mostly rural, with a highly dispersed, culturally diverse population. Land ownership and jurisdiction is extremely complex, consisting of tribal, federal, state, and private land ownership (NWNMCOG, 1998).

McKinley County water systems are supplied by groundwater from the San Juan, Gallup, Bluewater, and Rio Grande Underground Water Basins. Within the Gallup Basin, primary groundwater production is from the Gallup Sandstone aquifer, with smaller components of supply coming from the Dakota Sandstone and the Westwater Canyon Member of the Morrison Formation (NWNMCOG, 1998).

Portions of McKinley County are located within three different surface water basins: the Lower Colorado River Basin (western McKinley County), the San Juan River Basin (northern McKinley County), and the Rio Grande Basin (eastern McKinley County), although surface water is extremely limited (Kiely, 2003).



3. Public Participation Process

During Phase IIB of the McKinley County Small Water Systems Regionalization Plan project, a series of stakeholder meetings was held to continue discussing regionalization issues and approaches with representatives from all of the interested water systems in McKinley County. A stakeholder list was compiled to include system representatives that either participated during Phase I of the project or were contacted as a part of Phase II and all other individuals who attended meetings. Except for the initial meeting, letters announcing each meeting were sent out to the full list of stakeholders, along with copies of the notes from the previous meeting. Meeting sign-in sheets and meeting notes are provided in Appendix A.

Three project stakeholder meetings were held in Gallup, on the following dates:

- September 8, 2009
- November 10, 2009
- February 11, 2010

Representatives from 12 small water systems participated in these meetings, including:

- Block A Well Co-op
- Coal Basin Water Association
- Gallup-McKinley County Schools
- Gamerco W&SD
- Ramah W&SD
- Rehoboth Christian School
- Rob Roy Trailer Park
- Sagebrush Water Co-op
- Thoreau W&SD
- White Cliffs MDWUA
- Williams Acres W&SD
- Yah-ta-hey W&SD

Phase IIB public participation activities involved holding individual interviews with each of the seven systems for which O&M and asset management plans were prepared.



4. Operation and Maintenance Plans

O&M plans are essential to the operation of any water and/or wastewater system, providing a manual for day-to-day operations and a quick reference for anything from system troubleshooting to emergency procedures. The O&M plans prepared for the seven systems as a part of Phase IIB (Coal Basin Water Association, Gamerco W&SD, Rehoboth Christian School, Thoreau W&SD, White Cliffs MDWUA, Williams Acres W&SD, and Yah-ta-hey W&SD) summarize in detail the necessary steps for cost-effective, efficient, safe, and reliable system operation.

Site visits were conducted for each of the seven systems plans in order to obtain the data needed for O&M plan development, and each of the O&M plans were developed in conjunction with the system operators. In the case of White Cliffs MDWUA, an in-house O&M manual was already in place, and this manual served as a starting point for developing a plan that is consistent with the New Mexico Environment Department (NMED) Construction Programs Bureau (NMED-CPB) O&M plan checklist. The main components for the plans include:

- Operational and managerial responsibilities
- Source water and NPDES/groundwater information
- Operation and control of the water system, including as applicable the distribution system, storage tanks, wells, well and booster pump equipment, chlorination system, metering system, and system controls
- Operation and control of the wastewater treatment system, including as applicable pond system principles and methods of control, collection system lift stations, disinfection, metering, system controls, and monitoring wells
- Laboratory testing, including sampling programs, daily operational control testing, and quality assurance



- Records, including plans, specifications and construction drawings (if available), manufacturer's instructions and manuals, daily operation records, laboratory records, maintenance records, personnel records, and annual reporting requirements
- Maintenance, including schedule and procedures for all equipment
- Safety, including identification of hazards, emergency operation response, alarm systems, and chlorine and chemical handling

The Williams Acres W&SD O&M plan does not include discussion of the water supply system components, as this system only treats wastewater for 10 small water systems, each of which is operated independently of the Williams Acres W&SD.

The O&M plans developed as a part of this project are presented on compact disc (CD) in Appendix B.



5. Asset Management and Financial Management Plans

An asset management plan is a detailed plan for managing a water system's infrastructure and other assets in order to deliver a high-quality, reliable, and sustainable water supply in accordance with state and federal regulations. Asset management plans also include financial planning components, such as life cycle costing, phasing of system improvements, scheduled maintenance, and other aspects of system cost optimization over time.

The asset management plans prepared for the seven systems as a part of Phase IIB (Coal Basin Water Association, Gamerco W&SD, Rehoboth Christian School, Thoreau W&SD, White Cliffs MDWUA, Williams Acres W&SD, and Yah-ta-hey W&SD) addressed these financial planning and budgetary issues. Site visits were conducted for each of the seven systems to obtain the data needed for the development of the plans. As with the O&M plans, each of the asset management plans was developed in conjunction with the system operators.

The asset management plans developed as a part of this project are presented on CD in Appendix C.



6. Inventory of Existing and Potential Resources

An inventory of each of the participating system's existing and potential resources and a list of resources needed by each of these systems follows.

6.1 Coal Basin Water Association

The Coal Basin Water Association relies on groundwater, which is pumped from one well that was drilled as part of a mining operation long before the current residents moved into this area. The source water is treated in the well house by the addition of sodium hypochlorite. Water is pumped from the well to the storage tanks, which are located on the top of a hill, and from there, to the system's customers. The system has two 20,000-gallon steel water storage tanks, and both have been inspected since 2001.

The utility delivers between approximately 11,000 and 19,000 gallons per day (gpd) of water through a series of polyvinyl chloride (PVC) lines of differing ages. The water system has three main sections:

- The Coal Basin Road water line (the oldest) dead ends after Kestral Road, just before Route 66.
- The second section runs along Kestral Road and then dead ends.
- The third section (the newest line in the system) supplies the three homes located north of the storage tanks and the three homes on Hamilton Road.

The system was unmetered until recently, and the installation of customer meters is still underway. The water system is not interconnected with any other water system.

The Coal Basin Water Association replaced their well pump in November 2009 and does not currently have any other asset replacement plans. The system would like to link the three sections of the existing water distribution system into a circuit (installing a 1/8-mile line to link the system's current two dead ends), but will need to obtain funding to complete this project. Other future system plans could include developing wastewater collection services (wastewater for the



water system's customers is currently managed using individual septic systems) by hooking onto the City of Gallup sewer, either through annexing into the City limits or by doing a project similar to the recent Williams Acres W&SD sewer project (Section 6.6).

The system does not have many spare parts that can be shared with other systems. One of the system's members is a former pipe fitter and loans tools to the system as needed. The water system does not own anything other than meters, tanks, and the system's distribution lines.

6.2 Gamerco Water & Sanitation District

The Gamerco W&SD distributes water supplied by the City of Gallup to the unincorporated community of Gamerco. The City's transmission line between Gallup and Gamerco has been in place since the 1970s, but served only as a backup source of supply until the mid-1990s when the Gamerco supply well collapsed (DePauli, 2005). The system currently has approximately 450 paid connections, and the community has a total of 600 lots. The gravity flow wastewater collection system takes the community's wastewater to Gallup where it is treated by the City.

The system has a 100,000-gallon distribution tank, which needs to be replaced. The concrete foundation under this tank also needs to be either repaired or replaced, and a fence is needed around the tank to deter vandalism. The system also includes a 100,000-gallon holding tank next to the pump house that was installed in 2007. Water is pumped up a hill from this area to the distribution tank at the highest part of Gamerco, and then it flows downhill to supply the distribution system. The system's water distribution system is made up of old PVC lines, and line breaks are common.

The City of Gallup manages all billing under an existing court order, which also orders the system to be overseen by Steve Petranovich, CPA. The current board's goal is for the Gamerco W&SD to have its own water supply and to develop professional management practices that ensure transparency and accountability.

A preliminary engineering report completed for the system (DePauli, 2005) detailed needed system upgrades, including installing a new 200,000-gallon distribution tank, looping the system's dead-end lines, installing new fire hydrants and isolation valves, and drilling a new



well. The new distribution tank and other Phase I upgrades have been completed, but funding will be needed for each of the remaining system upgrade phases.

The Gamerco W&SD does have some spare parts stored at the old pump house, including old sleeves and wraps for pipes, but none of these parts will likely be of much use. They have a contract with Williams Plumbing (located in Gamerco) to take care of any distribution system problems, and Williams Plumbing supplies the parts necessary for their work.

6.3 Rehoboth Christian School

The Rehoboth Christian School water system is a private system that serves approximately 500 people during the school year (400 students plus 100 teachers and other staff) and 100 people year-round. The school's water system provides only water service to its users; wastewater is treated by the City of Gallup. Current water system production averages 13,000 gpd, and there are no problems with production. The system has two wells: one that was drilled in 1929 and another that was drilled in 1958. Both chlorine and polyphosphate are used for treatment (the chlorine for disinfection and the polyphosphate to bind the iron present in the water), and a water softener is also used.

Rehoboth Christian School also sells water at the west end of their shop to people who haul water to their homes, and these water sales are metered. The cost of this water is \$0.01 per gallon, and the revenue from these water sales pays for the chemicals used in the water treatment for the whole system. The system has one 150,000-gallon storage tank, which will need a new interior coating within approximately the next 2 years.

An emergency water supply line was installed between Rehoboth Christian School and the City of Gallup 2 years ago when the new gymnasium was built, to provide a source for emergency (fire) supply. The school is currently working to connect the water system to this emergency line as well, so that the whole campus will have a source for emergency water supply. The school plans to complete this project within the next year.

The pumps in the system's two wells will need to be replaced within the next two to three years, and the system also plans to install customer water meters within the next few years. The



Rehoboth Christian School water system has both an operations budget and a funds development department, although grant funding will be sought to pay for the customer meters and the new interior coating for the water tank.

Rehoboth Christian School has some spare parts that could be shared with other systems, including some injector pumps (used for treatment) and spare probes for the hard wire tank level controller. Once the system is fully metered, spare customer meters will also be kept on hand. Anything that can be readily obtained is not kept on hand.

A representative from Mueller Company, who was recently on-site to rebuild one of the school's fire hydrants, provided a list of the tools that are necessary for working on these hydrants. Rehoboth may purchase these tools and would be willing to share the tools and technical skills related to working on these hydrants with other systems. It may make sense for the Mariposa Domestic Water Alliance-affiliated systems without fire hydrants to install Mueller hydrants of the type Rehoboth has, given that Pete Goudzwaard, the chief plant operator of the Rehoboth Christian School water system, already knows how to work on them.

6.4 Thoreau W&SD

The Thoreau W&SD provides water and wastewater service to approximately 1,200 customers through 370 residential and commercial connections. The water system, which was built in 1968, relies on groundwater pumped from two wells. The source water is treated by chlorination, in the form of sodium hypochlorite. The utility delivers 135,000 gpd of water to the 370 connections through a series of asbestos concrete and PVC pipes. There is one 500,000-gallon storage tank that stores water and maintains the system pressure. The utility is not interconnected with any other drinking water utility.

The Thoreau W&SD wastewater system manages 117,000 gallons of wastewater per day; the sewage pump station collects the wastewater from customers and pumps it to the system's lagoons. The Thoreau W&SD has an NMED discharge permit (DP-603) that allows treated wastewater from the final lagoon to be land applied, and this water is used to irrigate alfalfa. The system plans to update the discharge plan so that more water can be used to irrigate in the future.



Thoreau's Well 2 needs to be replaced as soon as possible. This well was down for a time in 2008, causing the system to be without water for three days. A liner was installed as a temporary fix, but this well could silt back in, leaving the system without water again at any time. The Thoreau W&SD has an Infrastructure Capital Improvement Plan (ICIP) for fiscal years 2011 through 2015 that includes replacing Well 2 and lining and connecting Lagoon 4 to the existing system. The condition of the 500,000-gallon storage tank will need to be checked and the tank will need to be cleaned in 2015. The Thoreau W&SD has begun saving for this expenditure and will pay for this out of their regular funds, but has not yet received an estimate of the project's cost. Lagoon 3 is scheduled to be abandoned in 2012; there will be no costs associated with this abandonment.

The Thoreau W&SD maintains a spare parts inventory, and some parts are available to loan to other systems if needed in an emergency. Spare parts currently on hand include:

- 80 feet of 4-inch-diameter asbestos concrete pipe
- 60 feet of 6-inch-diameter asbestos concrete pipe
- 8- and 10-inch bell leak clamps
- Three sizes of coppersettors
- Multiple sizes of full circle repair clamps
- Multiple sizes of galvanized dresser couplings
- Galvanized fittings
- Gate valves
- Meter cans
- Meter covers and lids
- One 1½-inch meter
- One 2-inch meter
- Omni couplings (multiple sizes)
- Manhole covers and rings



- Pipe joint compound
- PVC cleaner and glue
- PVC dresser couplings (multiple sizes)
- PVC fittings (many sizes)
- Eight sizes ($\frac{1}{2}$ -, $\frac{3}{4}$ -, 1-, 2-, 4-, 6-, 8-, and 18-inch-diameter) of PVC pipe
- Four sizes of repair clamps

6.5 White Cliffs MDWUA

White Cliffs MDWUA provides water and wastewater service to approximately 220 customers through 55 connections. All of the customers are residential, with the exception of a fire station. The system was built in 1975.

The water system relies on groundwater and has three wells. Only Well 1 was in use at the time of the asset inventory, which was conducted in June and July 2009, although new pumps have been installed in Wells 2 and 3 since then and all three wells are now being used. This source water is treated by reverse osmosis to remove arsenic, fluoride, sulfate, sodium, and other contaminants. Chlorine, in the form of sodium hypochlorite, is then added to disinfect the water. Drinking water is delivered to the customers through a series of PVC pipes and high-density polyethylene (HDPE) service lines. Two 1,000-gallon hydropneumatic tanks are used to store water and maintain the system pressure.

The wastewater system consists of a series of three facultative lagoons and a sewage pump station that collects wastewater from the customers and pumps it to the lagoons. There is no discharge from the lagoons.

Current White Cliffs MDWUA replacement plans include replacing the reverse osmosis membranes within the next three years, rebuilding the 3-foot finished water frost-proof hydrant in 2010, and replacing the 2.5-horsepower pump that provides pressure to the tanks in 2010. The Hersey well meter, permeate meter, and concentrate meter in the reverse osmosis building will each be replaced in 2011, as will the $\frac{3}{4}$ -horsepower constant pressure Grundfos pump used as part of the reverse osmosis unit and the 1-inch water system process meter.



Additional replacement plans for future years include:

- 2012: Replace four 1-inch ball valves for the tanks used to clean the reverse osmosis membranes and the water system sump pump.
- 2013: Replace the 1-horsepower Grundfos pump in use as a part of the reverse osmosis unit.
- 2014: Replace the reverse osmosis system permeate and concentrate flow meters and rebuild the 3-inch Neptune master meter.
- 2015: Replace the two hydropneumatic tanks (replacing the two with one 50,000-gallon tank), Stenner chlorine pump, scale and corrosion inhibitor peristaltic injector pumps, and the 2-inch check valve in use as part of the reverse osmosis unit.
- 2016: Replace the two sewer pump station pumps.
- 2019: Replace the two 3-inch sewer valves and the sewer pump station isolation valve.

The White Cliffs MDWUA maintains a spare parts inventory. Some parts are available to loan to other systems if needed in an emergency, including in part:

- 2-inch sludge pump and hoses
- Tapping tool and sleeves for PVC pipe
- Several sections of 3-inch Class 200 PVC pipe
- A roll of 3/4-inch-diameter, 200-pound per square inch (psi) HDPE service line
- Fittings
- Spare water meter riser, can, lid, and meter
- Line finder
- Small electric sump pump



- Ladders
- Small Ditch Witch
- Hydrometer (used to measure chlorine concentrations)

6.6 Williams Acres W&SD

The Williams Acres W&SD treats wastewater for approximately 270 customers who receive water service from multiple private small water systems. The system consists of a sewage lift station, gravity flow sewer lines, manholes, and service lines. Prior to completion of a new sewage lift station in January 2010, Williams Acres W&SD operated its own wastewater lagoon system; the new lift station now sends the system's wastewater to the City of Gallup for treatment. The system's gravity flow sewer lines, manholes, and service lines date from the system's original construction in 1974.

The system has three board members and employs two part-time individuals: one who operates and maintains the system and another who takes care of the system's billing and books.

The Williams Acres W&SD system pumps between 19,000 and 22,000 gallons of wastewater to the City of Gallup for treatment each day. The system operator provides the City of Gallup with monthly flow meter readings, and Williams Acres W&SD pays the City a per-cubic-foot fee for treatment. The Williams Acres W&SD sewer line crosses and then runs parallel to Highway 66 until it ties into the City's gravity system, and Williams Acres W&SD maintains the sewer line up to this point. From this tie-in the flow continues to the City's Mentmore lift station and then on to the City for wastewater treatment facility.

The population served by the system is expected to increase over time, although the current contract with the City of Gallup limits the amount of wastewater that can be sent to the City to 35,000 gpd. The addition of single-family homes on all of the remaining lots in the district would not cause Williams Acres W&SD to exceed this limit, but installation of additional trailer parks could, in which case a contract renegotiation between Williams Acres W&SD and the City of Gallup would be necessary.



The pumps and electrical panel that were associated with the old lift station were removed following completion of the new sewage lift station. Williams Acres W&SD also plans to decommission the lagoons, although it will take 3 to 4 years for them to completely dry out before this can occur. The system has a 1-year warranty on the new sewer lift station pumps and panels, and the installers (Smithco Construction) have already returned once to reinstall one of the flush valves. This same flush valve was expected to be either replaced or reinstalled again in April 2010 following the asset inventory.

The Williams Acres W&SD does not maintain an extensive spare parts inventory, although they do have an extra sewer lift station pump and a spare level control probe on hand. The system has three 3-inch 3.5-horsepower pumps and a complete pump panel that they would like to give to another system; these were taken out of service when the new sewer lift station was installed in January 2010. Information about these pumps and panel can be obtained from Doug Scott, the Williams Acres W&SD system operator.

Williams Acres W&SD currently receives the majority of the funding needed for overall operation and maintenance and asset repair through its rate revenue (i.e., user fees), although grant funding was used to install the new sewer lift station, and additional funding will be needed to fully decommission the wastewater lagoons.

6.7 Yah-ta-hey W&SD

The Yah-ta-hey W&SD provides water and wastewater service to the unincorporated community of Navajo Estates. The system was built in the late 1970s and serves approximately 430 customers through 122 connections. The water system relies on groundwater, which is pumped from one well located on the north side of Highway 264. The source water is treated by chlorination, in the form of sodium hypochlorite.

The system serves two lots that are zoned as commercial. Up to 40 new connections due to lot development could potentially be added, although significant growth is not expected (the District boundaries are set, and there are no plans to expand them; thus growth will be minimal). Average system production for 2006 and 2007 was 22,800 gpd. The system has inadequate



water pressure during times of peak water demand due to its insufficient water storage capacity of 70,000 gallons. The water system has an emergency connection with the City of Gallup.

The Yah-ta-hey W&SD wastewater system consists of three sewer pump stations, four wastewater lagoons, and the associated collection lines. Only one of the lagoon ponds is being used currently, with overflow going to the second pond. The wastewater flows average 9,700 gpd, and the lagoons have excess capacity. The system does not discharge any water from the ponds and does not have a schedule for cleaning out solids. The system's NMED discharge permit has expired and needs to be renewed.

Yah-ta-hey W&SD is run by a volunteer board, a hired operator, and a paid meter reader. With its weak managerial and financial capacity it has a difficult time obtaining full, on-time payments from customers. The system is not currently performing any preventive maintenance and has no replacement plans for the assets that need replacement. It does not maintain a spare parts inventory, and the only real spare part on hand is an extra chlorinator.

The Yah-ta-hey W&SD system needs include:

- Looping the system to eliminate the dead lines
- Installing a water line between the well and tank to simplify water treatment and distribution management
- Installing a new water tank and new tank system controls
- Mapping the existing and installing additional control valves to manage the system during repairs
- Repairing or replacing the existing fence around the tanks
- Updating the lease with the Bureau of Indian Affairs for the tank site

The Yah-ta-hey W&SD board is currently waiting to find out whether the 2010 Water Trust Board grant application submitted by the NWNMCOG will be funded. The system has a \$100,000 legislative grant that they plan to use either as match toward this grant to complete multiple system upgrades or for the tank refurbishment and tank-to-well water line projects.



7. ISO Rating Reduction

Insurance Services Office (ISO) ratings evaluate whether communities have sufficient water flow, beyond the volume of water necessary to cover daily demand, for fire suppression. ISO field surveys are conducted and Public Protection Classifications (PPCs) between 1 and 10 are assigned by community, with Class 1 indicating superior fire protection and Class 10 indicating that a community does not meet the ISO's minimum fire suppression program criteria (ISO Mitigation, 2009).

A community's PPC depends upon fire alarm and communication systems (ISO Mitigation, 2009), including:

- Telephone systems, lines, staffing, and dispatching systems
- Fire department, including equipment, staffing, training, and location
- Water supply system, including the condition and maintenance of fire hydrants and an evaluation of the amount of water supply a system would have available to fight a fire

A community's ISO rating is largely (40 percent) dependent on water supply (ISO Mitigation, 2009). For an ISO PPC of 8 or better, a water system must be able to deliver at least 250 gallons of water per minute (gpm) for a period of 2 hours (ISO Mitigation, 2009).

ISO field survey results are used by insurance companies to establish insurance premiums, although only the insurance companies know how these data are incorporated into actual fire insurance rate setting, so the impact that a reduction in ISO rating will have on actual insurance premiums is also unknown (ISO Mitigation, 2009).

ISO questionnaires are sent to communities about every two years to determine whether any changes that impact the community's fire-protection capabilities have been made since the last survey (Geibel, 2009). Communities do not need to wait for this periodic survey should any changes be made, but may contact the ISO directly to ask for a resurvey (Geibel, 2009). On-site visits are conducted at least once every 15 years (Geibel, 2009), and these surveys include a review of the community's records, pump facility inspections, necessary fire flow



determination, hydrant flow tests, and hydrant examination (ISO Mitigation, 2009). Flow test locations are selected based on the layout of the community, any elevation changes, and the range of necessary fire flows (ISO Mitigation, 2009).

7.1 McKinley County ISO Ratings

In McKinley County, ISO ratings are assigned by fire district (with the exception of the City of Gallup). There are 20 fire districts in the County, and their ISO ratings range between 6 and 10 (McKinley County, 2009). McKinley County fire districts receive ISO surveys asking about any changes in fire protection capabilities about every 5 years, and on-site ISO field checks are performed for each district every 10 to 15 years (Woolman, 2009).

Table 1 shows the McKinley County fire districts that include those water systems participating under Phase IIB of the project, as well as the current ISO ratings for these fire districts. The Coal Basin Water Association and Gamerco W&SD systems are included as a part of the City of Gallup Fire Department's ISO rating area, although any water system upgrades performed on these systems could impact the community-specific insurance premiums (Woolman, 2009). The White Cliffs Fire District is a split district and has two ISO ratings; Rehoboth Christian School is located in the portion of the district with a rating of 6, while White Cliffs MDWUA is located in the portion with a rating of 9 (Woolman, 2009).

Table 1. ISO Ratings by Water System

Water System	McKinley County Fire District	ISO Rating
Coal Basin Water Association	City of Gallup	4.8 ^a
Gamerco W&SD	City of Gallup	4.8 ^a
Rehoboth Christian School	#13 White Cliffs	6 ^b
Thoreau W&SD	#1 Thoreau	6 ^b
White Cliffs MDWUA	#13 White Cliffs	9 ^c
Williams Acres W&SD	#7 McKinley West	9 ^b
Yah-ta-hey W&SD	#6 Navajo Estates	8 ^b

^a Green, 2009

^b McKinley County, 2009

^c Woolman, 2009



Water systems must be able to deliver fire flows of 250 gpm in order to be recognized by the ISO (Geibel, 2009). Systems without adequate fire protection are not considered, but would help improve a district's ISO rating if they were to obtain fire protection and be included in the applicable fire district's ISO rating (Woolman, 2009).

Of the seven participating systems, the White Cliffs MDWUA, Williams Acres W&SD-affiliated water systems, and Yah-ta-hey W&SD are within the County fire districts that have the highest ISO ratings (9, 9, and 8, respectively). The White Cliffs MDWUA could lower the White Cliffs Fire District class 9 ISO rating by improving their water storage and by adding fire hydrants to the system. The system has proposed adding a 70,000-gallon storage tank, and installing this tank would lead to a reduction in this ISO rating (Woolman, 2009).

If the Williams Acres W&SD-affiliated systems were to develop fire protection, the McKinley West Fire District ISO rating could be improved. These systems could either add storage and hydrants for each system, or hydrants could be installed on the City of Gallup water line that runs along the highway to the Manuelito and Tsayatoh Chapter Houses. Either method of obtaining fire protection would improve the McKinley West Fire District ISO rating (Woolman, 2009).

The Yah-ta-hey W&SD could improve the Navajo Estates Fire District ISO rating by adding more fire hydrants and obtaining better system water pressure through the addition of more storage (system pressures are currently too low to operate the existing hydrants). The McKinley County Fire Department would like to test the existing fire hydrants, in case their current system pressures are adequate enough to potentially improve the Navajo Estates ISO rating (Woolman, 2009).

The Thoreau Fire District already has an ISO rating of 6, and any water system improvements made will not impact this rating. Better equipment and additional manpower are needed in order to further improve the Thoreau Fire District's ISO rating (Woolman, 2009).



7.2 Adequacy of Fire Protection

The adequacy of fire protection was analyzed as part of the water system surveys completed under Phase I of the project, and the fire protection noted for each system is listed below:

- *Coal Basin Water Association:* No fire hydrants are in place; the system intends to hook up to the City of Gallup as a source of emergency water supply.
- *Gamerco W&SD:* System flows are inadequate for fire protection, although the system is currently being supplied by the City of Gallup, so the availability of supply is currently less of an issue than it was when the system was being supplied by its own well. The system needs new fire hydrants.
- *Rehoboth Christian School:* The water system provides adequate fire protection, including to the athletic complex (as provided by an emergency tie-in to the City of Gallup used solely for the athletic complex).
- *Thoreau W&SD:* The water system provides adequate fire protection for its customers.
- *White Cliffs MDWUA:* The system does not provide fire protection to its customers and is in need of an emergency source of supply to feed fire hydrants, which need to be extended into the service area.
- *Williams Acres W&SD:* As solely a wastewater treatment system, Williams Acres W&SD does not provide fire protection for its ten affiliated water systems. Six of these ten water systems were surveyed under Phase I of the project, and none of the six have adequate fire protection. The St. Williams Mobile Home Park does have a fire hose connection on their water tank, and the Manuelito Navajo Children's Home has a valve at their well house that would allow them to drain their water tank into a fire truck, but storage tank capacities are only 3,000 gallons and 1,800 gallons, respectively, neither of which is adequate supply to fight a fire. The County's West End fire station is located



approximately $\frac{1}{4}$ mile from the Williams Acres W&SD-affiliated systems, and in the event of a fire, water would be tanked in from this station for firefighting.

- Yah-ta-hey W&SD: The system does not provide adequate fire protection for its customers. The survey lists five fire hydrants, but system water pressure is inadequate to supply them.



8. Regionalization Strategies

The *McKinley County Small Water Systems Regionalization Plan* completed during Phase I of this project (DBS&A and DePauli, 2008) identified key issues for each water system, proposed potential regionalization strategies locally and region-wide, outlined possible funding sources to pursue, and provided implementation plans for the strategies that were proposed. Currently, a specific regionalization strategy has not been selected by the water systems, and additional planning and analysis will continue to be needed to help the systems collaborate and agree on a plan. Nevertheless, several key steps toward regionalization are underway. During Phase IIA, the engineering and design for emergency interconnection was completed by DePauli and will allow for emergency interconnection of several systems with the City of Gallup to provide access to water supply in times of emergency. Construction funding for this task was awarded in June 2010. Other regionalization tasks addressed in this project are discussed in Sections 8.1 and 8.2.

8.1 Mariposa Domestic Water Alliance

The Mariposa Domestic Water Alliance (Mariposa Alliance) consists of a group of water systems in McKinley County that have the mutual objective of collaborating to regionalize water services, with the possibility of merging the systems into one regional water supplier. During Phase IIB, system members continued to meet and discuss how they would work together and to investigate different structures for working together. Tasks accomplished during this phase include

- Electing officers to the Mariposa Alliance board
- Identifying water service options to present to Mariposa Alliance board members
- Securing legal services to develop draft agreements that would allow (1) the creation of a regional water and sanitation district and transfer of assets or (2) provision of regional water supply through a joint powers agreement
- Reviewing funding goals and objectives
- Developing draft emergency interconnection agreements with the City of Gallup



A Mariposa Domestic Water Alliance Memorandum of Agreement for Regional Collaboration (MOA) has been drafted, but the agreement had not yet been signed by the participating systems at the time of this report's publication.

8.1.1 Selection of Board Members for the Mariposa Domestic Water Alliance

On February 11, 2010, the Mariposa Alliance held a meeting attended by the following representatives of the seven system members:

- Michael Daly, White Cliffs MDWUA
- Walt and Donna Ishmael, Williams Acres W&SD
- Jane Molina, Rob Roy Trailer Park
- Marie Claire Salois, Sagebrush Water Co-op
- Stephen Mahnke, Sr., Sagebrush Water Co-op
- Arthur Burrola, Gamerco W&SD
- Tom Devlin, Gamerco W&SD
- Pat Sanchez, Block A Well Co-op
- Daniel Aukeman, Rehoboth Christian School
- Jeff Banaszak, Rehoboth Christian School

One of the objectives for that meeting was to nominate and select board members for the Mariposa Alliance according to the MOA, which outlines the roles of officers and the decision-making process of the Board. The agreement states that each party to the alliance “will have one vote in the decisions of the Alliance” (Section IV, B.), and a quorum consists of at least two members (Section IV.C). Using this process, the following board members were selected:

- President: Mike Daly, White Cliffs MDWUA
- Vice President: Art Burrola, Gamerco W&SD
- Secretary/Treasurer: Jane Molina, Rob Roy Trailer Park



8.1.2 Regional Water and Sanitation District

The *McKinley County Small Water Systems Regionalization Plan* (DBS&A and DePauli, 2008) presented the option of creating a regional water system through a water and sanitation district or through a joint powers agreement among the different water systems. In December 2009, Mike Daly and Dominique Cartron met with Frank Coppler, a Santa Fe attorney who is an expert in New Mexico water system structure and governance, who advised that the best option available to the Mariposa Alliance (and other systems in McKinley County) would be to create a regional water and sanitation district that would include all of the Mariposa Alliance member systems either as part of the water and sanitation district or as a customer of the district.

Mike Daly presented this option to the Mariposa Alliance members at the February 11, 2010 meeting. Members raised questions about:

- Potential conflicts with the City of Gallup service area
- Disposition of water rights and property owned by the systems
- Provision of sewer service
- Complexity of the process

Following this meeting, Mike Daly, Art Burrola, and Dominique Cartron met with Frank Coppler on April 5, 2010 to discuss the Mariposa Alliance member concerns and request preparation of the necessary draft documents that would be needed to merge the systems, either through a water and sanitation district or through a joint powers agreement. Mr. Coppler subsequently prepared the requested draft agreements (Appendix D). During the April 5 meeting Mr. Coppler reiterated that formation of a regional water and sanitation district was the best approach for the Mariposa Alliance systems and for the County, in part because all of the water systems could either join the district or become a customer of the district. Additionally, water and sanitation districts have statutory powers and authorities that are not available to other types of water service organizations such as mutual domestic water associations.



8.1.3 Proposal for Navajo Tribal Utility Authority Water Service

At the February 11, 2010 Mariposa Alliance meeting, Mike Daly provided information regarding a proposal by the Navajo Tribal Utility Authority (NTUA) that it provide water to the systems and eventually take over the systems at some future time. NTUA representatives have come to meetings at Rehoboth and at Gamerco to further discuss this option and have prepared a draft contract as a basis for discussing terms of the arrangement.

Under this option, NTUA could contract directly with each system or could contract with Mariposa Alliance, which could oversee and coordinate billing and operator functions. The systems would still continue to be responsible for water quality sampling, Consumer Confidence Reports, and other regulatory requirements.

System representatives raised issues and questions about:

- Cost of service
- Benefits of obtaining water from NTUA versus the City of Gallup
- Need for sewer service
- Contractual arrangements between the individual systems and NTUA
- Need for legal representation to negotiate with NTUA
- Potential difficulty in contracting with the Navajo Nation
- Requirement that the systems continue to meet regulatory requirements such as water quality sampling
- Logistics of the delivery system (e.g., lines, wells)
- City of Gallup's position on the proposal
- Cost of getting water from NTUA or Gallup versus drilling a well and providing water to all the systems
- Longevity of current water supplies
- Ownership of the Mariposa Alliance



Williams Acres W&SD representatives mentioned that their water and sanitation district only provides sewer service (through a connection to the Gallup wastewater treatment plant). The question was raised about how to include the privately owned suppliers who provide water to Williams Acres customers. Lack of participation by some of the Williams Acres-affiliated water suppliers was identified as an impediment to including them in the Mariposa Alliance.

8.1.4 Funding Priorities for the Mariposa Domestic Water Alliance

Mariposa Alliance members agreed at the February 11, 2010 meeting that collaboration on specific projects would be needed to develop the infrastructure required to provide regional water services; such collaboration would also foster working relationships that will be needed to implement a regional system. Funding opportunities were discussed, and the group agreed that pursuing funding for the purchase and installation of water meters is a priority. Additionally, the systems agreed to consider developing a funding application for a new well at Gamerco that could serve the other systems; the necessary permits for the well have already been obtained from the New Mexico Office of the State Engineer (OSE).

8.1.4.1 Water Meters

The system representatives agreed to pursue a 75 percent grant for meter installation, automatic meter reading upgrades, and radio towers from the U.S. Department of Agriculture (USDA) Rural Utilities Program. Radio towers that would allow for remote meter reading were approved in concept, but because of the expense, the meter installation would have the first priority if funds are limited.

8.1.4.2 New Well at Gamerco

Gamerco W&SD would like to replace its well and has the water rights and the well replacement permit in place. This well could serve as a source of supply for the Mariposa Alliance systems. The group agreed that additional information is needed prior to deciding if the group should join together on a grant application. The main concern relates to the actual cost (which is currently unknown) to the systems and their customers for the non-grant portion of the well. Additional information regarding the mechanism for providing service from the Gamerco well to the other systems, as well as the cost of such a project, needs to be developed prior to pursuing the funding. Rural Utilities Program grants can be used to fund a preliminary engineering report.



Such a grant would allow further analysis of these questions and allow the systems to decide whether to jointly pursue full funding for drilling the well.

8.2 Accounting System Regionalization

The potential for regionalizing the accounting systems for the small water systems in McKinley County has been discussed and evaluated. Section 8.3.1 discusses a Doña Ana County accounting system regionalization as an example regionalization effort, and Section 8.3.2 discusses the potential for accounting system regionalization in McKinley County.

8.2.1 Mesilla Valley Accounting, P.C.

Mesilla Valley Accounting, P.C. (Mesilla Valley) provides the monthly billing and collections services for seven small mutual domestic water systems and one small private water system on the outskirts of Las Cruces in Doña Ana County, New Mexico (Joens, 2009). Additional services—including compiling monthly financial statements, attending monthly board meetings, providing systems with an office front, servicing system post office boxes, helping systems interpret applicable regulations, performing some system reviews and audits, helping to prepare system Consumer Confidence Reports, and/or beginning to catalog data to obtain a historical record going forward—are also provided, depending on each system's needs (Joens, 2009). Mesilla Valley assisted one system (Organ Water and Sewer) with a merger with another small water system and can also assist systems in complying with the requirements of any grants they receive (Joens, 2009).

The cost of Mesilla Valley's services depends upon the number of customer meters and number of bills issued each month, as well as which additional services are supplied (Joens, 2009). Monthly fees charged for billing and collection services, including postage, range between \$3 and \$4 per connection for water service only and \$4 and \$5 per connection for water and wastewater services. Any other services are performed at the firm's standard hourly rates (Joens, 2009).

Mesilla Valley began providing these services to small water systems when they purchased a smaller company that had been doing this type of work in 2001. The eight water systems that



they support range in size from approximately 200 to 500 connections and include Brazito Mutual Domestic Water Consumers Association (MDWCA), Leasburg MDWCA, Mesquite MDWCA, Organ Water and Sewer, Picacho Hills Utility Co., Picacho MDWCA, San Pablo MDWCA, and Winterhaven Mutual Domestic Water Consumers and Sewer Works Association (Joens, 2009). Customer water meter readings are obtained from each of the water system's operators each month, and Mesilla Valley staff work closely with both the system operators and volunteer boards (Joens, 2009). They use RVS utility billing software (Joens, 2009).

8.2.2 Potential for Accounting System Regionalization in McKinley County

McKinley County utilities could contract with an existing McKinley County business or a new business that develops these skills to offer accounting services to the small water systems in McKinley County. It might be possible to get Community Development Block Grant (CDBG) funding to help in starting a business of this type (Surgeon, 2009), and the Rural Community Assistance Corporation (RCAC) might be able to assist with seeking CDBG grant funding for this purpose if there is local interest. McKinley County and/or the NWNMCOG could also apply for an economic development grant to assist in startup of a local business of this type (Surgeon, 2009).

Kathy Joens of Mesilla Valley Accounting, P.C. indicated that supplying these services locally seems to work best. Doing so allows the firm to provide a local office that board members can visit and makes it easy for staff to attend monthly water system board meetings (Joens, 2009). Kathy Joens would be willing to work as a consultant, providing guidance to a person working to start a similar business in McKinley County, (assuming that a mutually agreeable schedule can be arranged) (Joens, 2009).



9. Regionalization Funding Strategy

Small systems in McKinley County that are interested in pursuing regionalization will need to continue to seek funding for planning and system infrastructure projects going forward. The best approach for these systems will be for them to fill out the New Mexico Uniform Funding Application, while also working with McKinley County legislators to seek capitol outlay funding for these projects. The requirements for these funding application processes are discussed in Sections 9.1 and 9.2.

9.1 Uniform Funding Application

In seeking additional funding for water, wastewater, and regionalization projects going forward, interested small systems in McKinley County should complete the New Mexico Uniform Funding Application, which is an electronic application that was designed to streamline the application process for water and wastewater infrastructure funding from state and federal funding sources. This application is available and submitted online, in a year-round application process (i.e., applications are accepted at any time) (NMED, 2009). Once a Uniform Funding Application is submitted, a member of the NMED-CPD Community Services Section will work with the applicant to identify appropriate funding sources, applicable due dates, and any additional information that will be required of the applicant (Rose, 2009).

Information that is required on the application includes:

- System contact information
- System name, type, and population served
- Type of project, project description, and list of project partners
- Population to be served by the project
- Compliance information (whether the project involves water rights, whether water rights files are current, and/or whether an asset management plan has been prepared)



- Financial information (estimated project cost and breakdown of costs, monthly water charges by sector, copy of rate ordinance, and copies of statements of revenue for the most recent three consecutive years)

Applications are reviewed by the following list of agencies for consideration of their associated funding sources (NMED, 2009):

- NMED Water and Wastewater Infrastructure Development Division (Clean Water State Revolving Loan Fund, Rural Infrastructure Revolving Loan Fund, and Drinking Water State Revolving Loan Fund)
- New Mexico Department of Finance and Administration Local Government Division (Community Development Block Grant funding program)
- New Mexico Finance Authority (Drinking Water State Revolving Loan Fund, Water and Wastewater Grant Fund, Water Trust Board funding)
- U.S. Department of Agriculture Rural Development Program
- New Mexico Office of the State Engineer

CDBG funding can provide an excellent source of money for planning, and both mutual domestic water associations and water and sanitation districts are eligible for these grants (Pine, 2009). It is more difficult to find money for project construction and the demand for the small amount of grant money available each year is high, but loan monies (and often grant/loan combinations) are available for water system projects (Pine, 2009). Requirements for funding applications differ by funding source; for example, USDA-funded projects require a completed project preliminary engineering report and environmental surveys (Pine, 2009).

The NMED Drinking Water Bureau (NMED-DWB) provides capacity development support to small water systems, including providing the board member trainings that are required under the Sanitary Projects Act (20.12.2 NMAC). The NMED-DWB recommends that small systems not hesitate to take out small loans in order to achieve compliance with applicable regulations, for



example by hiring a certified operator and/or obtaining water system insurance. Small loans generally raise the monthly per-customer water system fees by only a few dollars, and the services that can be obtained by spending this money can greatly increase the level of service offered to a water system's customers (Pine, 2009).

9.2 Capital Outlay Funding Requests

Capital outlay funding may be applied for by completing a request form (available at http://ufa.nmenv.state.nm.us/capital_request_form.pdf) and turning it in to the legislative council service capital outlay office by close of business on February 16 of each year; each request form must be signed by a sponsoring legislator(s) (NMED, 2009).

9.3 Bureau of Reclamation Rural Water Supply Act Funding Application

With support from DBS&A and the NWNMCOG, McKinley County submitted a Statement of Interest Application to the U.S. Bureau of Reclamation (USBR) in late May 2010. Upon approval from the USBR, a full application was prepared and submitted on July 13, 2010. The application requests funding to conduct an appraisal-level investigation to identify regional alternatives to ensure a long-term water supply for the small water systems in McKinley County. The application included unincorporated areas whose water systems are not currently part of the Mariposa Alliance or this planning study:

- Allison Water System
- Catalpa Hills
- Crestview/Spencer Valley

Once funded, the study will allow for an in-depth evaluation of specific alternatives for water supply development and delivery by water systems that currently do not have a long-term supply.



10. Summary and Recommendations

Several key steps have been taken toward development of a regional water supply for the small water systems in McKinley County since the Phase I regionalization study (DBS&A and DePauli, 2008) was completed, although it is anticipated that many more years will be needed before the water systems are ready to fully integrate their infrastructure and operations and provide service as one regional system.

Based on the results of Phase I and Phase IIB, the following tasks should be undertaken:

- Work individually with the participating systems to address any concerns and get signatures on the Mariposa MOA.
- Hold regular meetings with Mariposa Alliance members to foster working relationships, develop joint priorities, and provide technical assistance to address questions and concerns raised by Mariposa Alliance members.
- Hold technical assistance meetings with the board members of each participating system to explain the implications of regionalization alternatives and technical requirements for each system.
- Pursue funding to implement priority projects that will assist in moving toward regionalization, such as meter installation, infrastructure upgrades to allow for interconnection, and projects that will bring the systems into compliance with regulatory requirements such as conservation plans and 40-year water plans.
- Provide legal guidance in forming a regional water association, as well as public relations and collateral materials to educate Mariposa Alliance members and the public on general water supply issues (e.g., the cost of water, regionalization, Navajo-Gallup Water Supply Project [NGWSP] and Gallup Regional System [GRS]).
- Work with the NGWSP partners on strategy and potential incorporation of Mariposa Alliance systems into the NGWSP.



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Appendix A

Public Participation

McKinley County Regionalization Phase IIB Meeting

September 8, 2009

Gallup, New Mexico

Meeting Summary

The first Phase II McKinley County regionalization meeting was held on September 8, 2009 at the Navajo Estates Volunteer Fire Station in Yah-ta-hey, New Mexico. Amy Ewing of Daniel B. Stephens & Associates, Inc. (DBS&A) began the meeting by presenting an overview of the meeting agenda and she gave a presentation covering what has happened since the regionalization plan was completed in July 2008, the scope of the new project, and how the many systems that participated under Phase I are expected to continue being involved during Phase II.

Meeting participants

Daniella Aretino, DePauli Engineering & Surveying Co.
Daniel Aukeman, Rehoboth Christian School
Jim Bostic, Rehoboth Christian School
Jim Brown, Coal Basin Water Association
Gene Burke, Yah-ta-hey Water & Sanitation District
Arthur Burrola, Gamerco Water & Sanitation District
Mike Daly, White Cliffs Mutual Domestic Water Users Association
Marc DePauli, DePauli Engineering & Surveying Co.
Amy Ewing, Daniel B. Stephens & Associates, Inc.
Robert Gott, Gott Consulting
Loline Hathaway
Evan Williams, Northwest New Mexico Council of Governments

Since the regionalization plan was completed in July 2008, the Mariposa Domestic Water Alliance memorandum of agreement (MOA) was finalized, and 5 water systems have already signed the MOA (Coal Basin Water Association, Gamerco W&SD, Thoreau W&SD, White Cliffs MDWUA, and Yah-ta-hey W&SD). The consultant team has continued to be in communication with representatives from many of the water systems that participated during Phase I, and the County was awarded Water Trust Board funding that is being used to fund Phase II.

The Phase II scope of work calls for the development of operations and maintenance (O&M) plans and asset management plans for seven systems (Coal Basin Water Association, Gamerco W&SD, Rehoboth Christian School, Thoreau W&SD, White Cliffs MDWUA, Williams Acres W&SD, and Yah-ta-hey W&SD), compiling an inventory of existing and potential resources available to these water systems, and continuing to look for additional funding for regionalization projects in McKinley County. Other water systems that were involved in Phase I of the project will be invited to continue to participate in meetings, sharing information, discussing issues, and helping to identify additional funding for water projects in McKinley County.

Bob Gott with Water Utilities Technical Assistance Program-Gott Consulting Services is preparing the seven O&M plans, and he presented his progress and discussed what information he is seeking from each system during this meeting. As of this first meeting, Bob had already met with four of the seven systems, and is scheduled to complete all of the plans later this fall. DBS&A and the New Mexico Environmental Finance Center (NMEFC) together completed the White Cliffs MDWUA asset inventory, and DBS&A staff will schedule and complete the asset inventories with the other participating systems. Marc DePauli spoke about the Phase IIA project tasks that his firm is working on, including preparing maps for the seven systems that are the focus of Phase II. These system maps will be presented along with the asset management plans.

The group discussed negotiating an agreement with the City of Gallup together. Rehoboth Christian School has an emergency connection with the City for fire supply, but does not currently have either an agreement or the capacity for supplying other uses with this source of supply. The Rehoboth representatives were unaware that other systems also have emergency connections with the City (e.g., Gamerco W&SD, Yah-ta-hey W&SD). The potential for drilling a regional supply well (potentially in Gamerco) and/or negotiating a water purchase agreement with the Navajo Tribal Utility Authority (NTUA) were also discussed. The group agreed that this regional group needs to get together, be cohesive, and then either supply its members with water, or buy water to supply its members from either the City of Gallup or from NTUA.

The Gallup-Navajo Pipeline will be built from south to north (Gallup to Farmington), and will begin to supply systems along this path as it is completed. The U.S. Bureau of Reclamation will build out from Kirtland, New Mexico (by the 4H Generating Station diversion, where the new treatment plant will go in).

Rehoboth Christian School needs to install a pressure reducing valve so that they could potentially use the City water for more than just fire supply (pending an amended or revised agreement with the City). Rehoboth staff said that they would like to see the gymnasium supplied by City water, which would keep the existing water line that runs to Rehoboth from the City from becoming stagnant. The Rehoboth representatives said that they could use technical assistance for decision making (e.g., whether to replace their aging wells, annex into the City, or obtain their water supply from some other source).

The potential for these systems to join together as one with some 800-900 connections and one operator was discussed. The group would like for the entire system to be equipped with automatic meter reading capability. Meters will first need to be installed for some of these systems (e.g., Rehoboth Christian School). The group discussed the benefits of having a metered system, even if water is billed on a flat rate structure. Having meters in place can help systems to find leaks, and many funding agencies are making meters a requirement for consideration for funding. McKinley County is currently offering to pay for the installation of meters in public water systems within the County.

The group would like the price of water rights and the price of the connection fees (impact fees) each system charges to be included in the write-up of the project's current phase. Having this information could assist the group in making informed decisions going forward.

In addition to the 5 water systems that have signed the Mariposa Domestic Water Alliance MOA, three of the small water systems whose wastewater is treated by Williams Acres W&SD (Block A Well Co-op, Rob Roy Trailer Park, and Sagebrush Water Co-op) have joined the White Cliffs MDWUA, making them also signatories of the MOA. This will make them eligible to seek future funding as a part of the Mariposa Domestic Water Alliance.

The group envisions regionalization being accomplished by having all interested systems join as members of White Cliffs MDWUA, eventually changing the name of White Cliffs MDWUA to the Mariposa Domestic Water Alliance. The group foresees having the billing done by one entity for the full list of members. One issue that remains to be worked out is how to deal with the additional services that are provided by some of these systems (e.g., trash service by Gamarco W&SD). Mike Daly (White Cliffs MDWUA) plans to send a Whites Cliffs MDWUA membership application to Rehoboth Christian School, and the group would like for representatives from Ramah W&SD to be invited to the next meeting (potentially joining as another member). The next McKinley regionalization meeting will be held in early November 2009.

McKinley County Regionalization Phase II Meeting

November 10, 2009

Gallup, New Mexico

Meeting Summary

The second Phase II McKinley County regionalization meeting was held on November 10, 2009 at the Gallup-McKinley County Chamber of Commerce in Gallup, New Mexico. Dominique Cartron of Daniel B. Stephens & Associates, Inc. (DBS&A) began the meeting by presenting an overview of the meeting agenda, Phase IIB scope, objective, and systems involved. Marc DePauli also gave an update on the Phase IIA project status, and Amy Ewing (DBS&A) gave an update on the asset management and O&M plans being developed. Potential regionalization strategies and projects to pursue, as well as the structure of the regional entity, and agreements that will be needed between systems were also discussed.

Meeting participants

Daniella Aretino, DePauli Engineering & Surveying Co.
Harry Botkin
Sherry Botkin, Thoreau Water & Sanitation District
Robert Cain, Ramah Water & Sanitation District
Dominique Cartron, Daniel B. Stephens & Associates, Inc.
Johnty Cresto, Gallup-McKinley County Schools
Mike Daly, White Cliffs Mutual Domestic Water Users Association
Marc DePauli, DePauli Engineering & Surveying Co.
Tom Devlin, Gamerco Water & Sanitation District
Amy Ewing, Daniel B. Stephens & Associates, Inc.
Loline Hathaway
Marie Claire Salois, Sagebrush Water Co-op
Pat Sanchez, Block A Well Co-op
Evan Williams, Northwest New Mexico Council of Governments

Pat Sanchez with Block A Well Co-op spoke about his trailer park's water situation and the status of the Williams Acres W&SD project. The Williams Acres W&SD lagoons are lined, and the system is ready to begin piping wastewater to the City of Gallup for treatment. Block A Well Co-op would eventually like to hook on to the City of Gallup for water service. The City has installed a waterline that runs down Highway 66 (on the other side of the highway from the system), but the system will need funding in order to be able to hook onto this line (and bore under Highway 66). Both Block A Well Co-op and Sagebrush Water Co-op have hired John Leever as their water operator (as have Gamerco W&SD and Yah-ta-hey W&SD). Pat Sanchez also stressed that Williams Acres W&SD meetings are not well attended (only three individuals came to their last meeting), and raised the question of how to get people interested and involved. One of the issues for Williams Acres W&SD is the number of renters.

Phase IIA Progress

Marc DePauli discussed the various engineering projects being planned as a part of the project's Phase IIA. The current engineering project designs have been sent to the New Mexico Environment Department (NMED) for review, and the next step will be to try to obtain funding and then the projects will be put out to bid.

Marc DePauli said that Yah-ta-hey W&SD already has an emergency connection to Gallup, but that they are making plans to upgrade it. The system upgrades planned for Yah-ta-hey W&SD include installing alarms, adding a 75,000 gallon tank, and upgrading the system controls. A second US-264 crossing is not currently planned (the system relies upon one crossing currently). With installing system alarms, Yah-ta-hey W&SD would like for the alarms to notify metro when they are set off, so that dispatch can send a sheriff or other responder to investigate the cause for the alarm. If emergency supply becomes needed, the price for water will still need to be negotiated with the City.

Engineering upgrades planned for Gamerco W&SD include installing a new tank, adding the same alarm and controls as at Yah-ta-hey W&SD, and upgrading some of the distribution piping. Coal Basin Water Association has only one well, and installing an emergency connection with the City of Gallup water system is planned. Other planned Coal Basin system upgrades include installation of a backflow preventer, alarms, and system controls.

For White Cliffs MDWUA, the Navajo Tribal Utility Authority (NTUA) would be the only choice for an emergency connection, since the City of Gallup does not have a water line nearby. Planned system upgrades include alarms, backflow preventer, valve, and controls. Marc DePauli thinks that NTUA does have enough flow to serve White Cliffs MDWUA.

Rehoboth Christian School's future water source is currently undecided. The school has an emergency connection with the City of Gallup for fire protection of their gymnasium, and the current engineering planning includes adding an emergency connection for serving the entire school. Alternatively this could be used for full time water supply after it is installed, if the school decides to buy water from Gallup instead of operating their own wells.

Williams Acres W&SD could potentially add water service lines parallel to the sewer lines that have been run (for either an emergency or full time source of supply), although a water system has not been designed for them at this time. Installation of a loop system was recommended, should this occur at some later date. Preparation of a preliminary engineering report (PER) would be the first step in designing such a system.

The group also discussed the needs of other systems in the area (e.g., Crested Butte and others). Funding will need to be identified for both the design and construction of projects for these systems.

Phase IIB Progress

Bob Gott has met with five of the seven systems, and operations and maintenance (O&M) plans are in progress for Coal Basin Water Association, Gamerco W&SD, Thoreau W&SD, White Cliffs MDWUA, and Yah-ta-hey W&SD. Site visits will follow for Rehoboth Christian School and Williams Acres W&SD. Four of the asset management inventories have been completed (Coal Basin Water Association, Thoreau W&SD, White Cliffs MDWUA, and Yah-ta-hey

W&SD), and asset management plans are underway for these systems. Asset inventories will be scheduled for Gamerco W&SD, Rehoboth Christian School, and Williams Acres W&SD later this winter.

Mike Daly has registered the mariposawater.org domain name for the regional entity, and Evan Williams offered to help get the web site set up. The group envisions having a web page and email address for each member system.

The group discussed the process of having systems join White Cliffs MDWUA. This process began to address the issue of private systems not being able to obtain funding, while it is easy either to form or join an existing mutual domestic. Three of the private Williams Acres W&SD affiliated water systems have already joined White Cliffs MDWUA, and Rehoboth Christian School is also expected to join.

A question of whether and how mutual domestic organizations and water & sanitation districts can be brought together was raised, especially in the case where different services are offered (e.g., Gamerco W&SD also provides sanitation services to its customers). Creation of the multiple McKinley County water & sanitation districts was discussed, and Dominique Cartron will arrange to meet with Frank Coppler (a Santa Fe attorney that is knowledgeable about water & sanitation district law) to discuss this further. Questions that the group has for Frank Coppler include (1) whether W&SDs can un-elect to be regulated by the New Mexico Public Regulation Commission (PRC), and (2) whether the existing court orders that formed these W&SDs may be reversed (dissolving the W&SDs). The group agrees that the structure of the regional group is not as important as having the results of working together as a regional entity.

The White Cliffs MDWUA is currently run by Mike Daly and its individual preexisting board. With the addition of the other systems, the board membership may need to be changed to reflect representation of each of these systems. The White Cliffs MDWUA articles of incorporation may also need to be re-filed after updating them (e.g., with the new purpose). The group discussed what to do with the Mariposa Water Alliance if all of the interested systems just join White Cliffs MDWUA. One option would be for the Alliance to be retired.

The potential for regionalized accounting services was discussed, and Amy Ewing (DBS&A) presented information on the services that Mesilla Valley Accounting, P.C. offers to the 7 small systems that they serve in Doña Ana County. A similar business could potentially be set up to offer these services to small water systems in McKinley County. The group discussed local accountants that might be interested in getting in to this business (e.g., Steve Petronovich and Tony Gonzales). DBS&A should make a list of potential accountants to talk to and present this at the next meeting.

The group discussed the possibility of installing automatic meter reading (AMR) meters using stimulus funding or funding from McKinley County. Robert Cain said that Ramah W&SD has been looking into installing AMRs, because it currently takes them up to three days to collect meter readings in Ramah. He said that there hasn't been a wealth of interest in doing this in Ramah.

The group agreed that it's time for the Mariposa group to begin meeting and to elect a board made up of one member per participating system. The Mariposa group could push forward on the proposed metering project, with McKinley County acting as the project's fiscal agent. Evan Williams will put together a scope for the Mariposa AMR project for discussion at the next Mariposa meeting.

Mike Daly told the group about the AMR system that the Entramosa Water and Wastewater Coop in Santa Fe County uses. Bills get printed and sent automatically, and customers remit payment to a post office box, which is serviced, and then funds are deposited into the system's bank account. The system pays \$500 per month for these services, and no longer performs any accounts receivable tasks in house.

Evan Williams discussed the current water projects that the Northwest New Mexico Council of Governments and McKinley County view as priority projects. These include the

- McKinley County projects that Water Trust Board applications were submitted for this year (including the four engineering system upgrade projects Marc DePauli spoke about earlier this meeting, Thoreau W&SD's application for funding for a new well, and Ramah W&SD's application for funding to prepare a PER)
- White Cliffs MDWUA storage tank planning (PER and environmental assessment preparation) and construction projects
- Williams Acres W&SD distribution and improvements project (needs a PER)
- Thoreau W&SD lagoon #4 lining project
- Mariposa AMR installation project (potentially to submit to USDA for funding)
- Navajo-Gallup pipeline build out
- Gamerco W&SD/regional well project

The NWNMCOG/McKinley County is trying to get the U.S. Bureau of Reclamation to include non-Chapter projects (e.g., Williams Acres W&SD) in the final Navajo-Gallup pipeline project. This population was included in the original population estimates and these people live within the service area of the project.

Mike Daly met with City of Bloomfield staff, and discussed Bloomfield's current water sale agreements with Blanco and Aztec (copies of these agreements were handouts at this meeting). The Bloomfield-Aztec agreement is for the sale of water in either direction at the same fee. Mike Daly also contacted John Leeper regarding the possibility of making a whole sale purchase of water from NTUA, but he hasn't spoken to him yet. When Twin Lakes comes on line (within the next 5 years), NTUA will have a lot of water, and the Mariposa group could potentially buy water from them. One possibility would be to move water from Twin Lakes to Williams Acres.

If the Mariposa group were to drill a regional well in Gamerco, water from this well could potentially be piped through the Gallup system, although there is really no incentive for the City

to allow the group to do this. The group discussed wheeling fees, and the hope that the City would not charge for this. The Entranosa Water and Wastewater Coop has a contract spelling out their wheeling fee, and Mike Daly said that he will see if he can get a copy of it. Marc DePauli will provide a copy of the free water wheeling agreement that exists between the City of Gallup and NTUA.

Thoreau W&SD has a meeting scheduled with NTUA on Friday, November 13, 2009 to discuss whether NTUA could potentially provide the system with water if the system's Well 2 goes down again. Thoreau High School has an emergency connection to NTUA, but this is for the school housing only (and there is no connection between Thoreau W&SD and Thoreau High School).

Emergency agreements are needed between Coal Basin Water Association and the City of Gallup and White Cliffs MDWUA and NTUA, as required for Water Trust Board readiness to proceed. DBS&A would like to review the current agreements that are in place between the City of Gallup and Gamerco W&SD and Yah-ta-hey W&SD, respectively. Marc DePauli will see if he can get copies of these agreements.

The group needs to identify a NTUA point of contact. Ernie Thompson (with the City of Gallup) worked for NTUA for 6 years, so could potentially help to identify the best person. Once identified, a meeting should be set up with this person.

The main contracting needs for the current phase of the project were discussed and include:

1. Getting contracts in place for the purchase of water from the regional well to be drilled in Gamerco for all member systems
2. Getting the necessary emergency agreements in place between the systems and Gallup
3. Getting water exchange agreements in place so that systems could potentially repay a water debt with water after an emergency

The group discussed drilling the new regional Gamerco well right next to an existing 16-inch City water line, so that this well could be easily be tied in to the City system. Such a line goes right by Gamerco, and Marc DePauli said that this would be easy to do. This well could be chlorinated before the water is added to the City distribution system, just like is done at a new City well.

The group discussed the possibility of drafting legislation to create the regional authority, and agreed that this would need to wait to be introduced until the next 60-day regular session in 2011. DBS&A will begin an outline/draft for this legislation, and will finish it in time for Evan Williams to take it to the 30-day session that begins on January 19, 2010. Evan expects that bill drafters will be available to work on the language of this during the upcoming legislative session. The draft should be based upon the act that created the Lower Rio Grande Public Water Works Authority (HB 185), and the draft should be run by Doug Decker (McKinley County's attorney) before being taken to the session.

Work on the asset management and O&M plans will continue, and Evan Williams asked that these plans be forwarded on to the Water Trust Board as they are completed. The next full group meeting will be held during the last week of February 2010 (after the legislative session), although meetings to discuss the necessary agreements will be held beforehand.

Mariposa Domestic Water Alliance Organizational Meeting

February 11, 2010
Gallup, New Mexico

Meeting Summary

Meeting participants

Michael Daly, White Cliffs MDWCA
Walt and Donna Ishmael, Williams Acres Water and Sanitation District
Jane Molina, Rob Roy Trailer Park
Marie Claire Salois, Sagebrush Water Co-op
Stephen Mahnke, Sr., Sagebrush Water Co-op
Arthur Burrola, Gamerco Water & Sanitation District
Tom Devlin, Gamerco Water & Sanitation District
Pat Sanchez, Block A Well Co-op
Daniel Aukeman, Rehoboth Christian School
Jeff Banaszak, Rehoboth Christian School

The main goals of the meeting were to:

- Nominate and elect officers and discuss the form of governance for the Mariposa Alliance
- Decide whether to apply for a 75% grant for water meters and a new well located at Gamerco.
- Discuss current negotiations with Navajo Tribal Utility Authority (NTUA) regarding use of NTUA and City of Gallup water lines for delivering water to the systems and possibly purchasing water directly from NTUA.
- Discuss integration of all the systems into one Water and Sanitation District as suggested by the attorney Frank Coppler.

Election of Officers

Mariposa officers were nominated and elected as follows:

Mike Daly, President
Art Burrola, Vice President
Jane Molina, Secretary/Treasurer

The Mariposa Domestic Water Alliance Memorandum of Agreement for Regional Collaboration outlines the role of officers and decision making process of the Board. Each party to the alliance

“will have one vote in the decisions of the Alliance” (Section IV.B.). A quorum consists of at least two members (Section IV.C).

Grant applications

Water Meters

The system representatives decided to pursue a 75% grant for meters installation, automatic meter upgrades, and radio towers. The meters have priority over the radio towers, which are the most expensive item, but save in time and operations costs because staff would no longer be required to read meters by hand.

New Well at Gamarco

Gamarco W&SD would like to replace its well and has the water rights and the well replacement permit in place. This well could serve as a source of supply for the Mariposa systems. The group agreed that additional information is needed prior to deciding if the group should join together on a grant application. The main concern relates to the actual cost to the systems and their customers for the non-grant portion of the well, which is unknown. The grant application is coming up quickly and meetings has been scheduled to further discuss well drilling costs.

Proposal that NTUA provide water service to Mariposa Alliance Systems

Mike Daly provided information regarding a proposal by NTUA that it provide water to the systems and eventually take over the systems at some future time. NTUA representatives have come to a meeting at Rehoboth and at Gamarco to further discuss this option, and have prepared a draft contract as a basis for discussing terms of the arrangement.

Under this option, NTUA could contract directly with each system or could contract with Mariposa, which could oversee and coordinate billing and operator functions. The systems would still continue to be responsible for testing, consumer confidence reports, and other regulatory requirements.

System representatives raised issues and questions about:

- cost of service
- benefits of obtaining water from NTUA versus the City of Gallup
- need for sewer service
- contractual arrangements between the individual systems and NTUA
- need for legal representation to negotiate with NTUA
- potential difficulty in contracting with the Navajo Nation
- requirement that the systems continue to meet regulatory requirements such as water quality sampling
- logistics of the delivery system (lines, wells)
- City of Gallup’s position on this proposal
- cost of getting water from NTUA or Gallup versus drilling a well and providing water to all the systems
- longevity of current water supplies

Williams Acres representatives mentioned that their water and sanitation district only provides sewer service (through a connection to the Gallup Wastewater Treatment Plant) and doesn't provide water service. The question was raised about how to include the other water suppliers. Lack of participation by some of the Williams Acres systems was identified as an impediment to including them in the Mariposa Alliance.

Regional Water and Sanitation District

Mike Daly presented the option of forming one water and sanitation district, which would include all the Mariposa member systems either as part of the W&SD or as a customer of the district. In January, Mike Daly met with the attorney Frank Coppler who advised him that this type of structure was preferable to other options available, such as organizing a regional mutual domestic or having contract between the systems. A summary of that meeting was distributed via email by Mike Daly prior to the Feb. 11 meeting.

Questions raised about this option include:

- potential conflicts with City of Gallup service area
- disposition of water rights and property owned by the systems
- provision of sewer service
- complexity of the process

Additional information about this option will be presented in the future. *The McKinley County Small Water Systems Regionalization Plan (July 2008)* has information about the formation of a water and sanitation district to provide water service.

Action Items

- Schedule meeting to discuss engineering costs and monthly costs to customers for drilling and operating a new well at Gamerco (Mike Daly).
- Distribute notes from November meeting, and additional copies of the *McKinley County Small Water Systems Regionalization Plan* (Dominique Cartron, DBS&A).
- Continue meeting with NTUA (Mike Daly and system representatives).
- Develop plan for getting additional funding to hire Frank Coppler as the legal representative of the Mariposa Alliance (Mike Daly, Dominique Cartron).
- Distribute February 10 meeting notes and contact information (Jane Molina, Rob Roy Trailer Park).

Appendix B

System Operation and Maintenance Plans



Daniel B. Stephens & Associates, Inc.

Appendix B. System Operation and Maintenance Plans

The operation and maintenance plans, which are provided on CD in the hard copies of this report, are available in the [Appendix B O&M Plans](#) folder on the CD with this PDF file of the report.



Appendix C

System Asset Management Plans



Daniel B. Stephens & Associates, Inc.

Appendix C. System Asset Management Plans

The operation and maintenance plans, which are provided on CD in the hard copies of this report, are available in the [Appendix C Asset Management Plans](#) folder on the CD with this PDF file of the report.



Appendix D

Draft Mariposa Domestic Water Alliance Agreements

COPPLER LAW FIRM, P.C.
A PROFESSIONAL CORPORATION

FRANK R. COPPLER
GERALD A. COPPLER*
NANCY E. NICKERSON†
JOHN L. APPEL
KATI COPPLER

ATTORNEYS AND COUNSELORS AT LAW
645 DON GASPAR AVENUE
SANTA FE, NEW MEXICO 87505

TELEPHONE
(505) 988-5656

TELECOPIER
(505) 988-5704

* also licensed in Texas
† also licensed in California

May 1, 2010

Mr. Mike Daly - arrowengineering1@gmail.com
Chairman of the Board
Mariposa Water Alliance
P.O. Box 1518
Gallup, New Mexico 87305-1518

Re: Professional Services Agreement
Our File No. 4098

Dear Mr. Daly:

Enclosed is a draft Contract with our firm. Please review it and let me know if it reflects what you want. Please do not hesitate to call me if there are changes you want. Also, enclosed is a form conflict waiver we would need from:

- Coal Basin Water Association
- Gamerco Water & Sanitation District
- Manuelito Navajo Children's Home
- Ramah Water & Sanitation District
- Rob Roy Trailer Park
- Sagebrush Water Co-Op
- Thoreau Water & Sanitation District
- White Cliffs Mutual Domestic Water Users Association
- Yah-ta-hey Water & Sanitation District.

I have prepared a draft Joint Powers Agreement and Asset Purchase and Sale Agreement and they are enclosed. With regard to the other remaining documents, the emergency interconnect agreements and the NTHA agreement, I received email from Dominique that she is doing those.

Very truly yours,

Frank R. Coppler


Attachments: Contract

Conflict Waiver Form
Joint Powers Agreement
Asset Purchase and Sale Agreement

Cc: Art Burrola - aburrola7190@msn.com
Vice President, Gamerco
Vice Chairman, Mariposa Water Alliance
Dominique Cartron - dcartron@nmia.com

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into on the 15th day of April, 2010, by and between the Mariposa Water Alliance, P.O. Box 1598, Gallup, NM 87305, hereinafter referred to as the "Alliance" and the Coppler Law Firm, P.C., 645 Don Gaspar Avenue, Santa Fe, NM 87505 hereinafter referred to as the "Attorney".

WHEREAS, Attorney has agreed to provide legal services of contract Alliance Attorney, and

WHEREAS, the Alliance desires to engage Attorney to provide legal services of contract Alliance Attorney; and

IT IS THEREFORE HEREBY AGREED by and between the parties to this Agreement, that:

1. SCOPE OF WORK. Attorney shall, in a competent and professional manner, provide legal representation, advice and assistance to the Alliance, its officers, agents and employees which shall consist of all of those services requested by the Alliance. Attorney shall attend Alliance meetings on an "as requested by the Alliance Board Chairman" basis. The legal services required include providing legal advice and counsel to the Alliance, preparation of contracts, opinion letters and resolutions; legal advice and drafting of documents relating to formation of a regional water system, including but not limited to deeds, grants of easement, right-of-way agreements, contracts, agreements and similar documents; lobbying on specified issues before the New Mexico legislature and other public officials, as requested by the Alliance; legal advice and assistance on any other matters that may come before the Alliance,

including but not limited to personnel matters, contract disputes, intergovernmental cooperation and related agreements, utility law, water law and policy, and public finance; procurement and litigation in the courts of New Mexico and the United States as well as representation of the Alliance in administrative proceedings before administrative agencies.

2. COMPENSATION TO ATTORNEY. For and in consideration of the services to be rendered by Attorney to the Alliance pursuant to this Agreement, the Alliance agrees to pay the Attorney at the rate of \$165.00 per hour plus the applicable gross receipts taxes, long distance toll charges, facsimile charges, mileage and expenses, copying, deposition and filing fees and such payment to be made (placed in 1st class mail) to Attorney, on or before the 10th day of each month, following the month in which the services are rendered. A late fee of 1% per month shall be assessed. Should there be any bond issues; Attorney shall be paid fees for acting as bond counsel, payable from bond proceeds, in amounts negotiated with the Alliance based on size and complexity of the issue and in line with industry practice.

3. INSURANCE. Attorney shall maintain and keep in effect professional attorneys' malpractice insurance in a form and amount acceptable to the Alliance, and on request, shall provide a copy to the Alliance.

4. STATUS OF CONTRACTOR. Attorney, their agents, officers and employees, are independent contractors, performing services for the Alliance, and are not employees of the Alliance. Attorney, their agents, officers and employees, shall not

accrue leave, retirement, insurance, bonding or use of Alliance vehicles or any other benefits afforded to employees of the Alliance as a result of this Agreement.

It is agreed that Attorney shall have the full power to continue its other normal business activities and to employ and discharge its employees or associates as it may find desirable and the Alliance shall in no way interfere except as expressly provided herein to the contrary.

5. SUBCONTRACTING. Attorney shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior approval of the Chairman of the Board of the Alliance. Attorney may with the prior approval of the Chairman of the Board of the Alliance, sub-contract portions of the services to be performed under this Agreement to lawyers acceptable to the Chairman so as to provide more economical services on particular matters requiring Alliance legal representation or advice. In these cases, such designated lawyers will bill the Alliance directly with a copy to the Attorney who prior to payment will review it and note agreement or disagreement with the reasonableness of the charges.

6. PAYMENT. Upon final payment of the amounts due under this Agreement, Attorney releases the Alliance, its officers, agents and employees, from all liabilities, claims and obligations whatsoever arising from or under this Agreement. Attorney agrees not to purport to bind or attempt to bind, or bind the Alliance to any obligation not assumed herein unless Attorney has prior express written authority to do so from the Alliance, and then only within the limits of that authority.

7. CONFLICTS OF INTEREST. Attorney warrants that it has presently no conflict of interest, and shall not acquire any interest which would conflict with the performance of services required under this Agreement.

8. AMENDMENT. This Agreement shall not be altered, changed or amended except by instrument in writing executed by the party against whom the change or amendment is sought to be enforced.

9. SCOPE OF AGREEMENT. This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements, and understandings have been merged into this written agreement. No prior agreement or understanding, verbal or otherwise, of the parties or their agents, shall be valid or enforceable unless embodied in this Agreement.

10. APPLICABLE LAW. This Agreement shall be governed by and interpreted under and pursuant to the Laws of the State of New Mexico.

11. EQUAL OPPORTUNITY COMPLIANCE. The Attorney must abide by all federal and state laws and regulations, including executive orders of the President of the United States and the Governor of the State of New Mexico, pertaining to equal employment opportunity, to the extent such laws, regulations, and executive orders are applicable to the agreement. The Attorney represents that no person in the United States shall, on the grounds of race, color, national origin, sex, sexual preference, age or handicap will be excluded from employment with Attorney or be denied the benefits of, or be otherwise subjected to discrimination by the Attorney in performing services for

the City. If the Attorney is found not to be in compliance with such requirements in connection with the agreement, the Attorney will be required to take appropriate steps to correct any and all deficiencies.

12. TERM AND TERMINATION. The term of this Agreement shall begin the 15th day of April, 2010, and end on the 14th day of April, 2011. Provided, however, this Agreement shall continue in full force and effect from year to year thereafter unless either party to this Agreement notifies the other, in writing, within the time period provided in the next sentence, that the party desires to terminate this Agreement. Such written notice of termination shall be made to the other party at any time between March 15th and April 15th of the year such party desires termination. In the event of such a termination notice, this Agreement shall terminate on July 1st following such notice. If notice of termination as provided herein is not given, this Agreement shall continue in full force and effect until subsequently terminated pursuant to this paragraph.

IN WITNESS WHEREOF, the parties have executed this Agreement as of this date first written above.

Mike Daly, Chairman of the Board
Mariposa Water Alliance
P.O. Box 1598
Gallup, New Mexico 87305

ATTEST:

Art Burrola, Vice Chairman

COPPLER LAW FIRM, P.C.

By: _____
Frank R. Coppler

T:\FRC\MISC\4098.Professional Services Agreement (JPR10)

ASSET PURCHASE AND SALE AGREEMENT

This Asset Purchase and Sale Agreement (*Agreement*) between Gamerco Water and Sanitation District ("Purchaser") a quasi municipal corporation organized and existing under the Water and Sanitation District Act whose address is _____, and _____, organized and existing under _____ ("seller") whose address is _____.

RECITALS

1. Purchaser is currently engaged in the production and sale of water and wastewater services, within the area of Gamerco, McKinley County, New Mexico, and Purchaser desires to acquire and administer all property owned or used by Seller.
2. Seller is the owner of some real estate used in the production and sale of water and wastewater services, owns some water rights which have been beneficially used or may be put to beneficial use by the Seller, and Purchaser desires to acquire the real estate and water rights in order to continue the business of the Purchaser and Purchaser will assume all of Sellers debts, obligations and commitments to serve listed on Exhibit "A" to this Agreement.
3. This is an asset purchase by the Purchaser, and other than payment of the purchase price, the Purchaser assumes no obligation to pay any amounts due or incurred prior to Closing except those listed on Exhibit "A", as hereinafter defined, in relation to any asset purchased.
4. Purchaser has developed its operations over a period of years, and as the Gamerco Community grew, so have the utility plant and assets owned or used by the Purchaser. The intent of this Agreement is to retain and continue to use to serve Gamerco and the Sellers' Community all such Utility assets of both Purchase and Seller and any other obtained or to be obtained by Purchaser, including those which may lie in easements or rights-of-way which may not have been recorded in the deed records of the County as well as any real estate or personal property owned by the Purchaser or Seller whether or not used to provide services.

In consideration of the matters described above, and of the mutual benefits and obligations set forth in this agreement, the parties agree as follows:

SECTION ONE.
TRANSFER OF ASSETS

A. Transfer by Utility.

Seller shall transfer to Purchaser, free and clear of any claims, assessments or encumbrances due or accrued prior to Closing, the following assets used in the production and sale of water and wastewater services:

1. All of the water rights (perfected and inchoate) and water wells owned by Seller, which are more particularly set forth on **Exhibit B** attached hereto and incorporated herein by reference. These conveyances will be evidenced by Assignments of Ownership of Water Rights on the forms promulgated by the New Mexico State Engineer;

2. All of the distribution and gathering lines of Seller, including, but not limited to, those lines shown on the map of said distribution lines as shown on **Exhibit C** attached hereto and incorporated herein by reference, including all pumps, tanks and all other items of personalty associated therewith. This conveyance will be evidenced by a blanket Bill of Sale;

3. The Wastewater Treatment Plant (if any) operated by Seller and real property owned by the Seller on which it is located (if any), more particularly set forth on **Exhibit D** attached hereto and incorporated herein by reference, including all fixtures, pipelines, lift stations, equipment and other items of realty and personalty associated therewith. This conveyance will be evidenced by a Warranty Deed;

4. Sellers' Office Building (if any) as well as any vacant real estate owned by the Seller (if any) and all well sites, tank sites and other Utility assets of Seller located on property more particularly set forth on **Exhibit E** attached hereto and incorporated herein by reference, including all fixtures, equipment and other items of realty and personalty associated therewith. This conveyance will be evidenced by a Warranty Deed;

5. All documented rights-of-way and easements owned by the Seller, and all undocumented rights-of-way and easements which are located on property or operations of others. (Undocumented rights-of-way and easements shall include any areas where Sellers assets are located but no right-of-way reservation or easement has been filed in the deed records of the County). An inventory of known documented rights-of-way and easements is set forth on **Exhibit F** attached hereto and incorporated herein by reference. This conveyance will be evidenced by an Assignment capable of being recorded in the County Records of McKinley County;

6. All vehicles, tools, equipment, and inventory of every kind and character owned by Seller, specifically including, but not limited to those items set forth on **Exhibit G** attached hereto and

incorporated herein by reference. The certificates of title to the vehicles will be endorsed over to the Purchaser and the remaining items will be conveyed to the Purchaser by Bill of Sale;

7. Any transferable regulatory permits necessary for the operation of the water and wastewater utility assets. The Purchaser, at its sole cost, will file the necessary Application and associated paperwork with the PRC seeking approval of this transfer in accord with §62-6-12 and 13 of the New Mexico Public Utility Act (if such approval is in the sole discretion of the Purchaser deemed necessary by the Purchaser). Seller will provide any and all documents needed to pursue the transfer and Seller's personnel will provide time and assistance including all Sellers testimony and evidence needed to complete the transfer;

8. All Sellers' rights in the executory contracts executed in the name of or assigned to Seller, all common law rights to easements and all covenant provisions held by the Seller, and used or useful in the production and sale of water and wastewater services. This conveyance will be evidenced by a blanket Assignment.

9. The Accounts Receivable and cash, as reflected on the books of the Seller on the date of Closing. This conveyance will be evidenced by blanket Assignment.

10. All studies and reports relating to Sellers business.

11. Any assets and property used or useful either owned by the Seller and not used in its provision of water or wastewater services or used by the Seller in the production and sale of water or wastewater services shall be transferred to the Purchaser.

B. Conveyance Documents and List of Asset Exhibits.

1. Purchaser and Seller agree to execute such conveyance documents as are necessary to convey title to the above-described assets (*Assets*) to Purchaser. Apart from warranting marketable title to the Assets, the conveying documents will recite that they are conveyed "AS IS." Seller will give no warranty for fitness for any purpose, and Purchaser agrees that Purchaser is acquiring the Assets based upon its own inspection thereof during the Due Diligence Period set forth below and not based upon any representation by Seller. With respect to Sellers property conveyed to the Purchaser which is subsequently discovered by the Purchaser to be located partially or entirely outside Sellers' property or outside a documented easement or right-of-way transferred to the Purchaser (undocumented rights-of-way), the Seller agrees to use reasonable efforts to provide to the Purchaser sufficient easements or right-of-way to accommodate such property and, if owned by Sellers or their predecessors in interest, at no cost to the Purchaser, or to work with the owners of the underlying estate so as to induce them to do the same, it being recognized that the Purchaser will have and may exercise, if necessary, at its cost, the power of eminent domain as to any such easements or rights-of-way. In the event Purchaser determines to exercise this power, Seller will cooperate in every reasonable way to assist.

2. Seller will be responsible for providing to the Purchaser copies of all the underlying documents needed for preparation of the conveying documents for review, comment, and approval at least thirty (30) days before the closing of this transaction.

3. Exhibits A through G contemplated by this Agreement will be prepared and approved by the parties on or before _____ 2010 and will be attached hereto and shall in all respects be considered as having been attached as of the date of execution of this Agreement.

SECTION TWO. WATER RIGHTS

A. Water Rights Conveyed To Purchaser.

1. All water rights, perfected and inchoate owned or claimed by Seller shall be conveyed to Purchaser and both will make every effort to assure the rights are available to serve all of the Purchasers service area. Purchaser is solely responsible for seeking and obtaining the approval of the transfer and use of these rights from the State Engineer. Seller will assist Purchaser in this process in any manner reasonably necessary.

2. Any leased water rights or any substitute rights, water or reuse water owned or claimed by Seller will be conveyed to the Purchaser.

3. All water rights, leased water rights or substitute rights, water or reuse water, perfected or inchoate, owned or claimed by the Purchaser whether prior to or after this Agreement shall be made available by the Purchaser to serve Sellers service area.

B. Documentation Of Water Rights Conveyed

1. **Water Quantity.** Within fifteen (15) days after the date hereof, Seller shall provide to Purchaser descriptions of the water rights to be conveyed under this Agreement (the "Water Rights"), including copies of any and all documents in their possession evidencing the existence and ownership of the water rights. Such documents shall include, but not be limited to, filings made with the State Engineers Office (SEO), other state and local agencies or courts, declarations, permits, leases and licenses, and any quantity studies, well capacity analyses, water use documents or any other evidence of placement of water to beneficial use or information pertaining to water used in Sellers business, including any such documents filed with the SEO, or the Public Regulation Commission (PRC).

2. **Water Quality.** Within fifteen (15) days after the date hereof, Seller also shall provide copies of any existing water quality studies, water quality test results, and any other water

quality studies or information pertaining to water used in the Sellers business, including any such documents filed with the New Mexico Environment Department, SEO or the PRC.

SECTION THREE. CONDITIONS PRECEDENT

The closing of this Agreement (the **Closing**) shall be subject to the satisfaction, at or prior to the Closing, of each of the following conditions:

A. **Approval by PRC.** Approval by the PRC, in accord with the New Mexico Public Utilities Act, if Purchaser determines such is necessary and so notifies the Seller within 15 days of execution of this Agreement. Purchaser shall be solely responsible for applying for and prosecuting its application for approval of this transaction by the PRC. The Seller shall be solely responsible for seeking approval of the abandonment of Sellers (CCN, if any) by the PRC. The parties agree to assist each other by all reasonable means requested by the other. If the PRC does not approve of this Transaction within 180 days of the date of this Agreement, then this Agreement will terminate with no further liability to any Party;

B. **Approval by NMED.** Pursuant to Section 74-6-5, NMSA 1978 and associated regulations, the New Mexico Environment Department (NMED) must approve the sale of the wastewater utility system (if any) to the Purchaser, and the Purchaser shall be solely responsible for applying for and prosecuting its application to do so. Seller agrees to assist Purchaser by all reasonable means requested by Purchaser.

C. **Approval by Sellers Membership.** Members of Seller in proceedings conducted by the Seller must approve the transactions contemplated by this Agreement no later than ninety (90) days after execution of this Agreement. If the Membership does not approve of this Agreement within ninety (90) days of the date of this Agreement, then this Agreement will terminate with no further liability to any Party;

D. **Approval by Electorate of Purchaser.** By an informal advisory mail referendum conducted by Purchaser, Purchasers electorate as defined in section _____ NMSA 1978 must approve the transactions contemplated by this Agreement no later than ninety (90) days after execution of this Agreement. If the majority of the electorate voting do not approve of this Agreement within ninety (90) days of the date of this Agreement, then this Agreement will terminate with no further liability to any Party;

E. **Purchase Price.** The purchase shall be \$1.00 receipt of which is acknowledged by Seller together with Purchasers covenant to serve all Sellers customers and future customers in Sellers service

territory pursuant to Purchasers Ordinances, Rules and Regulations which will be applied equally to all persons in Purchasers boundaries which beginning with approval of this Agreement shall include Sellers service territory as shown on the map, Exhibit H.

F. **Sellers Cash on Hand at Closing/Accounts Receivables/Accounts Payable.** At closing, all cash in Sellers accounts shall be paid to the Purchaser, and the Purchaser shall be assigned all accounts receivable of Seller. Since _____, 2010, the Seller has not and shall not declare any dividends or returns or remove any cash from the accounts, or remove from Sellers ownership or transfer from the Sellers any real estate or other assets.

G. **Accuracy of Representations and Warranties.** Each of the representations and warranties of the parties in this Agreement must have been accurate in all material respects as of the date of this Agreement and must be accurate in all material respects as of the Closing as if made on said Closing date and if not either party may terminate this Agreement and refuse to close without liability to the other.

H. **Performance by Parties.** Each of the covenants and obligations that each party is required to perform or to comply with pursuant to this Agreement at or prior to the Closing must have been duly performed and complied with in all material respects.

I. **Regulatory Delays.** Notwithstanding any time limits set forth in this Section Three, this Agreement shall remain in full force and effect and any such time limits shall be waived during and for thirty (30) days following any regulatory proceedings that extend beyond such time limits, through no fault of the parties hereto, and the parties shall proceed to Closing promptly upon the resolution of any such regulatory proceedings.

SECTION FOUR. CLOSING

A. At the Closing, Seller shall convey to Purchaser good and marketable title to the Assets, free and clear of liens and encumbrances, by Warranty Deed, and the leasehold estate and any lease interest or rights.

B. Marketable title to the real estate to be conveyed will be confirmed by the following procedure:

1. At least 60 days prior to the Closing, Purchaser shall obtain, at their cost, a binder of a blanket policy of title insurance on the real estate and appurtenances, transferred in the amount of \$_____.

2. In the event any bona fide defects of title which would render the title to the Real Estate and appurtenances unmarketable are discovered in the preparation of the title insurance binder by the Title Company, then Seller shall have a reasonable time, not to exceed thirty (30) days from the date of

receipt of written notice specifying such defect, within which to cure the same so that the Title Company agrees to insure title without any exception as to such defect, failing which, Purchaser, at Purchaser's sole discretion, shall have the option, by written notice to the Seller, to terminate this Agreement or to proceed with the closing without liability by the Seller for such defect.

C. At the Closing Seller shall deliver to Purchaser the following fully executed and acknowledged where required, documents:

1. Warranty Deeds to the Real Estate;
2. The title insurance policy as described above;
3. Assignment of the water rights and water wells owned or claimed by the Seller, including any return flow credits associated therewith or leased rights, on an approved SEO form, to the extent such assignment may be required or requested by the SEO;
4. A blanket Bill of Sale conveying all of the distribution and gathering lines of Purchaser, including all pumps, tanks and all other items of personalty associated therewith;
5. Warranty Deed or deeds to all water rights (except any leased rights) and all water wells;
6. A recordable Assignment of all the rights-of-way and easements owned by the Seller;
7. All the endorsed titles to the vehicles owned or being purchased by the Seller;
8. A blanket Bill of Sale conveying all the tools, equipment, and inventory of every kind and character owned by Seller;
9. A blanket Assignment of all Sellers' rights in the executory contracts executed in the name of or assigned to Seller, all insurance contracts and policies held by Seller, and all covenant provisions held by the Seller, and used or useful in the production and sale of water and wastewater services;
10. An Assignment of the Accounts Receivable, without warranty, and cash of the Seller, as reflected on the books of the Seller on the date of closing;
11. The Lease of the Leased Rights (if any) assigned by the Seller to the Purchaser;
12. An assignment, without warranty, of all the Sellers' covenant rights (if any) with regard to the properties served by the Seller;

13. A certified resolution of the members and directors of the Seller approving this Agreement, accompanied by an opinion letter from the Sellers counsel, confirming the validity of said resolution and the authority of the Seller to so close;

D. At closing the Purchaser shall deliver to Seller the followings:

1. The Purchase Price of \$1.00 in good funds; and

2. A certified resolution of the Board of Directors of Purchaser approving this Agreement, and affirming the results of the referendum, accompanied by an opinion letter from the Purchasers counsel, confirming the validity of said resolution and the authority of the Purchaser to so close;

E. On the Closing and as of the date of Closing, the parties shall prorate real property taxes (if any) and utility charges. With regard to the proration of taxes, the parties shall use the last available tax statement in the event a tax bill for the current year is not available.

F. Purchaser shall be entitled to immediate possession of the Assets upon the closing.

G. In the event of any damage to any of the improvements located on the Real Estate prior to Closing by fire or other casualty, if said improvements are insured for the replacement cost thereof, then this Agreement shall remain in full force and effect. Purchaser shall accept the conveyance of the Real Estate, and Seller shall assign and transfer to Purchaser all of the policies of insurance covering such damage or casualty and the proceeds thereof. If the improvements are not so insured, then Purchaser shall have the right to terminate this Agreement without liability to the Seller.

H. Seller will continue its normal operations prior to Closing and will not make distributions to its shareholders at or prior to closing. Prior to the closing, Seller will pay all its operating expenses and liabilities, to the extent possible. Upon Closing, all utility operating expenses which have not yet been invoiced to the Seller shall be assumed and paid by the Purchaser. All outstanding long or short term debt of Seller will be repaid by Seller prior to Closing except such debt as is assumed by Purchaser and listed in Exhibit I. It is specifically agreed that all deferred and current taxes on corporate income and/or sale of services are the responsibility of the Seller.

SECTION FIVE. REPRESENTATIONS, WARRANTIES AND COVENANTS OF PARTIES

The parties make the following mutual representations, warranties and covenants, each of which is material and is relied upon by them and each of which will survive any subsequent closing; Sellers represent and warrant as follows:

- A. Sellers have good and marketable title to and are possessed of all of the Assets, and will convey the Assets free and clear of all encumbrances;
- B. Sellers have the full power and lawful authority to enter into this Agreement and to fulfill Sellers' obligations;
- C. Prior to the Closing Sellers will do all things necessary to keep unimpaired Purchasers' rights with respect to the Assets and prevent any forfeiture of any part of the Assets;
- D. Sellers will, at Sellers' own expense, do or cause to be done all things reasonably necessary (reasonable wear and tear excepted) to preserve and keep in full repair, working order and efficiency all of the Assets, and from time to time will make all the needful and proper maintenance and repairs, renewals and replacements so that at all times the state and condition of the Assets shall be fully preserved and maintained in the same state as of the date of this Agreement;
- E. Sellers will promptly pay and discharge all scheduled payments on Sellers' indebtedness, and perform or cause to be performed each and every act, matter or thing required by any agreements affecting Sellers' interests in the Property, specifically including, but not limited, to any tax assessed by any governmental agency;
- F. Sellers will operate the Assets, or will cause them to be operated, in a careful and efficient manner in all material respects in accordance with the practices of the industry and in compliance with all applicable laws, rules and regulations of every agency and authority from time to time constituted to regulate the development and operation of the Sellers business;
- G. Sellers will permit Purchasers agents to visit and inspect the Assets at such reasonable times or intervals as Purchaser may desire;
- H. Sellers will execute and deliver such further instruments and do such further acts as may be necessary or desirable or as may be reasonably requested by Purchaser to carry out more effectively the purposes of this Agreement;
- I. Sellers will ensure that the Assets will not be used to manufacture, store or dispose of toxic or hazardous substances, materials or wastes covered by the Resource Conservation and Recovery Act or the Comprehensive Environmental Response, Compensation and Liability Act of 1980;
- J. Sellers agree to fully defend, protect, indemnify, and hold harmless Purchaser, its employees, and agents, from and against each and every claim, demand, penalty, fine, lien, judgment, action, cause of action, or law suit and any liability, cost, expense, damage, or loss, including court costs and attorney's fees, that may be asserted by any third party, known or unknown, foreseen or unforeseen, arising from or on account of any activity or operation conducted by Sellers or for the benefit of Sellers relating to the Assets;

and attorney's fees, that may be asserted by any third party, known or unknown, foreseen or unforeseen, arising from or on account of any activity or operation conducted by Purchaser or for Purchaser's benefit relating to the Assets for any such claim which originates subsequent to the Closing;

D. Purchaser will support applications by the Sellers to the PRC for cancellation of Certificates of Convenience and Necessity and for abandonment of service by the Sellers (if necessary) pursuant to NMSA 1978, Section 62-9-5.

E. Purchaser will use all reasonable efforts to provide water to all within Purchaser's boundaries and will treat the service territory of Sellers as being in its boundaries for all purposes under the Water and Sanitation District Act including but not limited to the right to vote and to run for the Board

F. Purchaser will pursue aggressively Seller's pending applications before the SEO (if any) to deepen the water wells being conveyed hereby.

G. The parties hereto have agreed upon a five year capital improvements plan to the water system being acquired by Purchaser. This plan is attached hereto as Exhibit. The capital improvement plan represents the best intentions of the Purchaser at the time of Closing. The capital improvement plan will be changed only if the Board of the District of the Purchaser reasonably determines in good faith that such change is necessary and is in the best interests of the Purchaser.

H. Purchaser will retain all current Seller employees at compensation and benefits and on terms at least as favorable as those existing at the time of Closing. It is specifically understood that this subparagraph is not intended to create, and does not create any contract of employment for any such employee and the Seller states that they have not made any promises or representations to the employees regarding their employment with the Purchaser and have in fact informed them that it would be at will and the parties agree the only employees covered by this clause are listed on Exhibit.

I. No litigation, investigation or proceeding of or before any arbitrator or governmental authority is pending or, to the knowledge of Purchaser, threatened by or against Purchaser;

J. No representation or warranty of Purchaser in this Agreement contains a misrepresentation of material fact or omits to state a material fact necessary to make the statements herein or therein, in light of the circumstances in which they were made, not misleading;

K. Purchaser has incurred no obligation for brokerage commissions, finders' fees or rights to similar compensation on account of services rendered, to any third party in connection with this Agreement or the transactions contemplated hereby, and does hereby agree to indemnify and defend Seller from and against any such claims made by any third party;

L. Purchaser will do all action necessary to change its name to "Joint Regional Gamco Water and Sanitation District" and have a full Board of Directors (meaning a minimum of 5 directors) within 90

days after the complete execution of this Agreement and approval of the State of New Mexico Secretary of the Department of Finance And Administration.

M. Purchaser will use its reasonable efforts, and will take all steps reasonably necessary, to fulfill its obligations hereunder.

SECTION SEVEN. TERMINATION

A. This Agreement may, by written notice given prior to the Closing, be terminated by either party if a material breach of any provision of this agreement has been made by the other party, and such breach has continued uncured after 15 days written notice thereof, or if any condition precedent to the terminating party's obligation to Close, has not been met.

B. Each party's right of termination is in addition to any other rights it may have under this Agreement or otherwise, and the exercise of a right of termination will not be an election of remedies, or a waiver of any rights of recourse, unless this Agreement specifically so states. Specifically, if this Agreement is terminated by a party because of the breach of this Agreement by the other party, and such breach has continued uncured after 15 days written notice thereof, or because one or more of the conditions to the terminating party's obligations under this Agreement is not satisfied as a result of the other party's failure to comply with its obligations under this Agreement, the terminating party's right to pursue all legal remedies will survive such termination unimpaired.

SECTION EIGHT. ARBITRATION

A. The parties agree that any claim or dispute between them or against any agent, employee, officer, director, manager, member, successor or assign of the parties, related to this Agreement, or the relationship or duties contemplated under or alleged breach of this Agreement, including the validity of the mediation and arbitration provisions in this Section Eight (collectively, Disputes), shall be exclusively resolved as follows:

B. If a Dispute arises between the parties, the offended party shall give the other parties written notice thereof (Dispute Notice). If the Dispute cannot be settled informally within thirty (30) days (or any mutually agreed written extensions thereof) following the delivery of Dispute Notice then the parties shall proceed to mediation before a mutually agreeable mediator. Within forty (40) days following the delivery of the Dispute Notice, the Purchaser shall appoint one person and identify said person to Seller in writing, and the Seller shall appoint one person and identify said person to Purchaser in writing. Within fifty (50) days following the delivery of the Dispute Notice the two appointed persons shall meet and agree to the selection of the mediator. Said mediation must occur within seventy-five (75) days following delivery of the written notice of dispute.

C. If the Dispute is not resolved by mediation, then the parties will resolve the matter through binding arbitration in McKinley County, New Mexico. The arbitrator shall be appointed by the presiding State District Court Judge sitting in McKinley County, for which the parties will jointly petition the Court within ten (10) days following the failure of the mediation. The arbitrator shall hear and decide the Dispute within 120 days after the selection of the arbitrator. Arbitration under this Section Eight shall be governed by and interpreted under the New Mexico Uniform Arbitration Act, Sections 44-7A-1 through 44-7A-32 NMSA. Any award made by the arbitrator shall be final, binding, and conclusive on all parties hereto for all purposes, and judgment may be entered thereon in any court having jurisdiction thereof, with the exception that if one of the parties feels that the arbitrator's decision is in violation of a New Mexico State Statute, that person may appeal the decision to the District Court of McKinley County.

D. Whenever any action is required to be taken under this Agreement within a specified period of time and the taking of such action is materially affected by a matter submitted to arbitration, such period shall automatically be extended by 10 days plus the number of days that are taken for the determination of the matter by arbitration.

E. Either party may seek in court provisional remedies under the Uniform Arbitration Act, Section 44-7A-9 NMSA, including but not limited to equitable relief, only if the matter is urgent and the arbitrator is not able to act timely or the arbitrator cannot provide an adequate remedy. A party does not waive a right of arbitration by seeking provisional remedies.

F. The prevailing party as determined by the arbitrator will be entitled to recover the costs of the mediation and arbitration proceedings, any court costs and provisional remedies proceedings, the reasonable cost of experts, evidence preparation, and legal counsel.

G. Nothing contained in this Section Eight shall be deemed to give the arbitrator any authority, power, or right to alter, change, amend, modify, add to, or subtract from any of the provisions of this Agreement.

H. Subject to applicable law and subsection E above, the provisions of this Section Eight shall be a complete defense to any suit, action, or proceeding instituted in any federal, state, or local court or before any administrative tribunal with respect to any Dispute which is arbitrable as set forth in this Agreement.

SECTION NINE. GENERAL PROVISIONS

A. All notices required to be given pursuant hereto shall be sent by United States registered or certified mail, return receipt requested, postage prepaid, addressed to the parties at their

respective addresses shown in the first paragraph of this Agreement. All notices and demands which shall be served upon either party hereto shall be deemed sufficiently served or given for all purposes hereunder at the time such notice or demand shall have been so mailed.

B. This Agreement, as to execution, interpretation, enforceability, validity and performance, shall be governed by the laws of the State of New Mexico.

C. This Agreement fully and completely expresses the agreement of the parties, and all previous understandings to this transaction, are superseded and replaced by and are merged into this Agreement.

D. The terms of this Agreement shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns, as the case may be.

E. Time shall be of the essence in the performance by the parties of all the terms, provisions and conditions herein contained.

F. One or more waivers of any covenant or condition by one party shall not be construed as a waiver of a subsequent breach of the same covenant or condition, and the consent or approval by one party to or of any act by the other shall not be deemed to waive or render unnecessary the other's consent or approval to or of any subsequent similar act by the other.

G. Each of the parties has had an opportunity to have this Agreement reviewed by legal counsel of its own choice and has had the opportunity to suggest changes and modifications as it deemed fit so that this is an arms-length contract. Therefore the parties hereto agree that in the event an ambiguity is determined to exist in the Agreement, it shall be construed in accord with the rules of contract construction without regard to the authorship of the Agreement.

H. No amendment, supplement or modification of this Agreement or any other related agreement or document shall be binding upon the parties unless it is in writing and signed by the Club, the Utility and the District or their successors or assigns, as the case may be.

I. The representations, warranties, and covenants of the parties hereto shall survive the Closing.

J. The parties hereto agree that there are no intended third party beneficiaries of this Agreement, and no person or entity not a party to this Agreement, or a successor or assign of a party, shall have any standing to enforce its terms.

IN WITNESS WHEREOF, the undersigned have executed this Agreement to be effective for all purposes as of July 1, 2010.

Attest:

SELLER

Board Secretary

Dated _____

By: _____
_____, its _____

PURCHASER

GAMERCO WATER AND SANITATION DISTRICT

Attest:

Board Secretary

Dated _____

By: _____
_____, its Board Chairman

T:\FRC\MISC\4098B.Asset Purchase and Sale Agreement

JOINT POWERS AGREEMENT FOR A JOINT REGIONAL
WATER AND WASTEWATER OPERATING AUTHORITY

BETWEEN

GAMERCO WATER AND SANITATION DISTRICT,
RAMAH WATER AND SANITATION DISTRICT,
THOREAU WATER AND SANITATION DISTRICT,
WILLIAMS ACRES WATER AND SANITATION DISTRICT,
YAH-TA-HEY WATER AND SANITATION DISTRICT

AND

BLUEWATER ACRES DOMESTIC WATER USERS ASSOCIATION,
BLUEWATER LAKE MUTUAL DOMESTIC WATER CONSUMERS ASSOCIATION,
JUNIPER TRAILS WATER ASSOCIATION,
SAN MATEO MUTUAL DOMESTIC WATER CONSUMERS ASSOCIATION,
WHISPERING CEDARS WATER ASSOCIATION AND
WHITE CLIFFS MUTUAL DOMESTIC WATER USERS ASSOCIATION

This Joint Powers Agreement ("JPA") is entered into on this _____ day of _____, 2010 by and between Gamerco Water and Sanitation District, Ramah Water and Sanitation District, Thoreau Water and Sanitation District, Williams Acres Water and Sanitation District and Yah-ta-hey Water and Sanitation District ("Districts") and the Bluewater Acres Domestic Water Users Association, Bluewater Lake Mutual Domestic Water Consumers Association, Juniper Trails Water Association, San Mateo Mutual Domestic Water Consumers Association, Whispering Cedars Water Association and White Cliffs Mutual Domestic Water Users Association ("Associations"). Individually, the Districts and Associations may be referred to as a "Party" or collectively as the "Parties" to this JPA.

WHEREAS, the Parties executed a Memorandum of Understanding establishing the Mariposa Water Alliance for the purpose of study and eventual combining of all of the Districts and Associations as well as non-profit or for profit water cooperatives and water companies, water and wastewater facilities and operations within certain areas of McKinley County (hereinafter referred to as "MOU"), and

WHEREAS, Daniel B. Stephens & Associates, Inc., prepared for Northwest New Mexico Council of Governments a McKinley County Small Water Systems Regionalization Plan dated July 31, 2008 ("Plan"), and

WHEREAS, the plan reviews water system assets and liabilities of the Districts, the Associations, the Cooperatives and the Companies, discusses the Regionalization integration, models, strategies and implementation, and

WHEREAS, the Districts are political subdivisions of the State, quasi-municipal corporations established pursuant to §73-21-1 et seq. NMSA 1978 to own and operate water and sewer utilities and to sell water and sewer utility service, and

WHEREAS, the Associations are political subdivisions of the State established pursuant to §3-29-1 et seq. NMSA 1978 to own and operate water and sewer utilities and to sell water and sewer utility service, and

WHEREAS, the Parties are authorized by §3-21-3 and §3-21-3.1 NMSA 1978 and by Joint Powers Agreement Act, §11-1-1 et seq. NMSA 1978, to establish a Joint Regional Water And Wastewater Operating Authority and to adopt rules and regulations within the area for the administration of a Regional Water and Wastewater Authority, and

WHEREAS, the Parties are public agencies and are authorized by the Joint Powers Agreements Act, §11-1-1 through §11-1-7 NMSA 1978, to enter into this agreement, and

WHEREAS, pursuant to the Joint Powers Agreements Act, §11-1-1 through §11-1-7 NMSA 1978, the Parties desire and intend to enter into this JPA to exercise their common power, as cited above, to create an independent entity to own and operate water and sewer utilities, to sell water and sewer utility service within a designated service area consisting of the areas identified in the Plan, and

WHEREAS, the Parties agree that the integration of said water and wastewater facilities and operations would result in economies of scale in the acquisition, construction and operation of water and wastewater facilities resulting in better quality of service to all customers and long-term residential and commercial growth potential both inside the affected service area, and for the entire County of McKinley, State of New Mexico, and

WHEREAS, in order to achieve economies of scale, to increase efficiency in delivery of services to the citizens, to take advantage of increasingly limited financial assistance for water-sewer utilities, to more readily develop limited water resources available in the individual Districts and Associations this JPA is necessary to maximize use of financing and water available, and

WHEREAS, all water in New Mexico is public water owned by the people of New Mexico, it is our limited and precious heritage in an arid State and the water or water rights now held by the Districts, Associations, Cooperatives and Companies (together with all associated production, storage and distribution) should in order to achieve the common goals of economies of scale and better more efficient service should be pooled into a common regional public entity responsible and responsive to the people served, and

WHEREAS, the independent public entity which will be the Joint Authority is the Gamerco Water and Sanitation District which will henceforth be named Joint Regional Gamerco Water and Sanitation District ("Gamerco"), and

WHEREAS, attached hereto as Exhibit "A" is the Asset Purchase and Sale Agreement to be entered into between Gamerco, the other Districts and the Associations, the Water Cooperatives and the Water Companies, and

WHEREAS, it is the Parties' intent in the interest of the public health, welfare and safety to execute this JPA for the purpose of implementing the Plan.

IT IS AGREED between the Districts and the Associations as follows:

Section 1. Official Name of the Joint Authority.

The official name of the Independent Joint Authority created by this JPA shall be the "Joint Regional Gamerco Water and Sanitation District."

Section 2. Definitions.

- A. Districts: The Gamerco Water and Sanitation District, Ramah Water and Sanitation District, Thoreau Water and Sanitation District, Williams Acres Water and Sanitation District, and Yah-ta-hey Water and Sanitation District
- B. Associations: Bluewater Acres Domestic Water Users Association, Bluewater Lake Mutual Domestic Water Consumers Association, Juniper Trails Water Association, San Mateo Mutual Domestic Water Consumers Association, Whispering Cedars Water Association and White Cliffs Mutual Domestic Water Users Associations
- C. Joint Authority: Joint Regional Gamerco Water and Sanitation District, an independent governing body and agency created, established and empowered by this JPA to: (1) own and operate all the District, Association, Cooperative and Company water rights and water and wastewater facilities within a certain defined service area as depicted on map Exhibit "A" attached hereto and more particularly defined immediately below as the Water and Wastewater Service Area and (2) to undertake all things necessary to protect, preserve, defend, and carry out the public purposes set out in (1) above as well as the Whereas clauses recited in this JPA.
- D. JPA: This joint powers agreement executed by the Parties creating, establishing and empowering an independent joint authority for the purpose of ownership and

operation of all of the Districts, Associations, Cooperative and Company water and wastewater facilities within a certain defined service area as depicted on the map Exhibit "A" attached hereto and more particularly defined immediately below as the Water and Wastewater Service Area and to undertake all things necessary to protect, preserve, defend and carry out the public purposes set out above.

Section 3. Purpose.

The purpose of this Joint Powers Agreement is to create, establish and empower an independent Joint Regional Water and Wastewater Utility Authority (Gamerco Water and Sanitation District) to which all water rights, sewer gathering, treatment and disposal facilities as well as water production, transportation, storage, distribution, facilities, their right-of-way easements and related real and personal property will be transferred pursuant to Asset Purchase and Sale Agreements between Gamerco ("Purchaser") and the other Districts, Associations, Cooperatives and Companies ("Seller").

Part of the real or personal property being sold to Gamerco is each Sellers service area set out on Exhibit "B" and the specific areas will be specifically defined in the individual Asset Purchase and Sale Agreement. These areas will be included in the boundaries of Gamerco and all land and residents will become part of Gamerco for all purposes under the Water and Sanitation District Act.

Section 4. Powers of Gamerco.

Gamerco is the administering agency authorized to exercise all powers common to each of the parties in the designated service area with respect to water and wastewater systems and facilities and with respect to all powers of Water and Sanitation Districts under State law.

Section 5. Board Membership. Gamerco shall be governed by a board composed of:

- A. Five elected officials consisting of the three Board members in office as of January 2010 plus two elected Board members to be elected by the electors as defined in §72-_____ NMSA 1978 in the election of January 2012.
- B. If prior to the legislative session of 2011 Gamerco has acquired the assets and assumed the liabilities of Ramah Water and Sanitation District, Thoreau Water and Sanitation District, Williams Acres Water and Sanitation District, Yah-ta-hey Water and Sanitation District then Gamerco shall request the legislature to amend the Water and Sanitation District Act to allow districted representation on Regional water and sanitation district boards.

Section 6. Water/Wastewater Utilities Integration and Asset Transfers.

The Districts, the Associations, Cooperatives and Companies shall integrate their separate water rights, water and wastewater systems into Gamerco by conveying their water rights, water and wastewater facilities, other water and wastewater assets, improvements, real and personal property, tangible and intangible property, and Gamerco shall assume all liabilities and will assume ownership of all records related thereto, without cost.

The conveyances are made “as is” and without any express or implied warranty.

Section 7. Operation and Maintenance of Water/Wastewater Systems.

Gamerco shall provide for the operation and maintenance of its water and wastewater systems by certified operators. At the discretion of Gamerco, operation and maintenance may be done “in-house” by staff employed by Gamerco or by contract with another government entity or entities or by contract with a private operator or operators. Any contract with a private operator or operators shall be entered into pursuant to and consistent with the Procurement Code and Regulations.

Section 8. Use and Disposition of Water/Wastewater Utility Revenues.

Income derived from the operation of the Gamerco water and wastewater utility shall be used in the following priority:

- A. To Maintain the water and wastewater utility in good repair and to pay legitimate expenses of operation;
- B. To pay principal and interest on debt assumed or issued by Gamerco for the purpose of acquiring, repairing, improving or enlarging the water and wastewater

utility, which expenses include but are not limited to those debt obligations set forth in Section 11;

- C. To create a sinking fund for future capital expenses and a reasonable reserve fund to make payments on the indebtedness of Gamarco as required by the instruments authorizing the debt and the law governing their issuance;
- D. To pay the cost of improving and extending the Gamarco water and wastewater utility;
- E. Any other purposes allowed by the Water and Sanitation District Act and as may be determined by the Gamarco Board as necessary or desirable for operations;
- F. Any surplus revenues not expended pursuant to provisions 8A through E above shall be retained for future water and wastewater utility expansions or other water and wastewater utility uses.

Section 9. Financial Operations.

- A. Gamarco shall be responsible for all water and wastewater financial operations, including but not limited to providing strict accountability of all receipts and disbursements, establishing a system of accounts in compliance with the rules of the Local Government Division of the State Department of Finance and Administration and the State Auditor, making timely payment on all debt obligations and expenses, investing operating and excess funds not required for current operations, and maintaining financial records in accordance with generally accepted principles of governmental accounting.
- B. Gamarco may employ a Superintendent to serve as chief of all water and wastewater operations.
- C. Gamarco may employ any additional staff or contract for services by consultants, professionals or such other persons or entities it deems necessary to accomplish its purposes. Any contract with a private party, including but not limited to consultants and professionals, shall be entered into pursuant to and consistent with the Procurement Code and Regulations.
- D. Gamarco will comply with the Open Meetings Act and the Public Records as well as the Audit Act and laws related to the use, recording and maintenance of Public Funds.

- E. Gamerco may conduct its own elections unless any current Board member is running for re-election in which case the County Clerk of McKinley will be requested to run the election.

Section 10. Reports.

- A. Gamerco shall prepare and make available to the public for a reasonable charge unaudited quarterly, and audited annual financial reports, including but not limited to a profit & loss statement, balance sheet, and statement of cash flows. The financial reports shall be prepared in accordance with generally accepted principles of governmental accounting.
- B. Gamerco shall prepare and make available to the public for a reasonable charge quarterly and annual status reports on major projects, both planned and in progress, including cost projections.
- C. Gamerco shall prepare and make available to the public, for a reasonable charge, quarterly and annual reports showing receipts, expenditures and balances for each account or fund associated with any major project. What is a major project may be determined by the Board, but such determination must be made after public hearing duly noticed under the Open Meetings Act.

Section 11. Assumption of Debts, and Other Obligations.

Gamerco shall assume and covenant to pay the debts and other liabilities of the Districts, Associations, Cooperatives and Companies pursuant to their Asset Purchase And Sale Agreement that were connected with or related to their ownership and operation of their respective water and wastewater systems prior to, and at the time of, the conveyance of those systems, and only as to those systems, infrastructure, and facilities conveyed, to Gamerco. Debts and other liabilities to be assumed by the Gamerco shall be set forth in Exhibits to the respective Asset Purchase And Sale Agreement. In addition, Gamerco shall assume all lawful and enforceable water and wastewater service obligations of the Sellers to their customers undertaken by contract or by other commitment.

Gamerco shall indemnify, hold harmless and defend Sellers as to those debts, other liabilities and obligations so assumed.

Section 12. Duration.

The term of this JPA shall be perpetual and nothing in this JPA shall imply any intent for Gamerco to be subject to the New Mexico Public Utilities Act or the New Mexico Public Regulation Commission (PRC).

Section 13. Termination, Division and Distribution.

The Parties expressly agree that this JPA shall be perpetual, however, in the event of a termination for reasons beyond the control of the Parties and there is no successor governmental entity to carry-on the activities of and assume the obligations of Gamarco, the Parties or their successors agree to meet and confer and negotiate in good faith the division and distribution as between them of the property, surplus, debts (if any) and other obligations of Gamarco to include the division of the Gamarco water and wastewater service territory and obligations for service in that territory.

Section 14. Severability, Headings, Entire Agreement.

- A. If any section, paragraph, sentence, clause or phrase of this JPA is for any reason held to be illegal, unconstitutional, invalid or unenforceable by a court or agency of competent jurisdiction, said provision shall be considered a separate, distinct, and independent part of this JPA and removed, and such decision shall not affect the validity of the remaining provisions of this JPA.
- B. The headings of the sections of this JPA are inserted only for convenience or reference and are not intended to be construed to modify, define, limit or expand the intent of the Parties.
- C. This JPA represents the entire agreement and understanding between the Parties.
- D. The Parties acknowledge that this JPA has been jointly drafted by the Mariposa Water Alliance of which they are a part.

Section 15. Liability and Indemnification.

- A. No party to this Agreement shall be responsible for liability incurred as a result of the other parties' acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act. Each party shall be solely responsible for fiscal or other sanctions, penalties, or fines occasioned as a result of its own violation or alleged violation of requirements applicable to performance of this Agreement. Each party shall be liable for its acts or failure to act in accordance with this Agreement, subject to immunities and limitations of the New Mexico Tort Claims Act.
- B. Consistent with the New Mexico Tort Claims Act, Gamarco will indemnify, hold harmless and defend the other parties from any claim for personal injury or

property damage resulting from the acts or negligence of Gamerco, any of its agents, employees, servants, representatives, officers and directors under this JPA. Gamerco shall purchase insurance of its liability under the Tort Claims Act and will if reasonably available insure (and if not reasonably available self insure) the other parties against claims made against them prior to transfer of assets to Gamerco. This will not be construed as a waiver by Gamerco or the other Parties of any immunities or defenses.

Section 16. Compliance with Law.

Gamerco shall operate the Joint Regional Water and Wastewater utility in accordance with the Water And Sanitation District Act and applicable local, state, and federal laws and regulations.

Section 17. Amendments.

The Parties acknowledge and agree that this JPA may be amended in writing upon approval of each Party, and any such amendments shall not become effective until signed by the Parties.

Section 18. Post Formation.

Should it be necessary, after the Joint Authority is formed and operational, for the Parties to take further action or sign additional documents to effectuate the agreements reached as reflected in this JPA, the parties agree to act in good faith and use due diligence to take such action or sign such documents.

Section 19. Interim Water and Wastewater Ordinances.

In the event that water and wastewater ordinances, rules and regulations independent of the Parties water and wastewater ordinances, rules and regulations have not been enacted by the Gamerco at the time Gamerco begins providing water and wastewater services, Gamerco shall apply the rates and other terms and conditions of service of each Parties' water and wastewater ordinances, rules and regulations depending on the location of the customer or development to be served as indicated in the Asset Purchase And Sale Agreements. At such time as Gamerco enacts generally applicable water and wastewater ordinances, rules and regulations, those ordinances, rules and regulations shall automatically apply to replace the earlier rates, terms and conditions for all future service.

Section 20. Public Regulation Commission.

- A. Gamerco shall not be subject to and shall be excluded from PRC jurisdiction or oversight under §62-3-3(E) NMSA. Gamerco is acquiring the assets and liabilities of the other parties pursuant to the Asset Transfer And Sale Agreements and Gamerco does not acquire any right, title or interest in the Seller's organizations, be they a District, Association, Cooperative or Company. Even if one or more of the Sellers have elected to come under PRC jurisdiction or are a regulated public utility under PRC jurisdiction, no such election or regulation of the organization shall be construed to extend to Gamerco.
- B. Each Party represents that it is not under the jurisdiction of the PRC and if it is, that it will as a precondition to transfer of its assets and liabilities to Gamerco, that it will seek and obtain PRC approval of the transfer.

Section 21. Transition Period of Control and Operation.

It is expressly understood by the Parties that after the JPA is legally and officially formed, and as the Asset Purchase And Sale Agreements are signed and transfers begin, prior to the Sellers ending their operations and dissolving, Gamerco will be in need of operational and administrative assistance from the Parties which will in good faith provide all reasonably necessary operational and administrative assistance that Gamerco may request during said period of time including:

1. Meeting and collaborating with Gamerco in drafting ordinances, rules and regulations to be generally applicable.
2. Providing detailed information on customers billing history, accounts, payables, receivables and commitments to serve.
3. Providing detailed information regarding vendors, professional services, contracts and any other commitments.

Section 22. Governing Law.

This JPA shall be governed by the laws of the State of New Mexico and venue for any litigation concerning this JPA shall be in McKinley County.

Section 23. Effective Date.

This JPA shall become effective upon the signature of the Parties and approval of its terms and conditions by the New Mexico Department of Finance.

IN WITNESS WHEREOF, each Party has executed this JPA on the date noted below:

Gamerco Water and Sanitation District

Chairman of the Board

Attest:

Board Secretary

Ramah Water and Sanitation District

Chairman of the Board

Attest:

Board Secretary

Thoreau Water and Sanitation District

Chairman of the Board

Attest:

Board Secretary

Williams Acres Water and Sanitation
District

Chairman of the Board

Attest:

Board Secretary

Yah-ta-hey Water and Sanitation District

Chairman of the Board

Attest:

Board Secretary

Bluewater Acres Domestic Water Users
Association

President

Attest:

Board Secretary

Bluewater Lake Mutual Domestic
Water Consumers Association

Attest:

Joint Powers Agreement For A Joint
Regional Water and Wastewater
Operating Authority

Board Secretary

President

Attest:

Juniper Trails Water Association

Board Secretary

President

Attest:

San Mateo Mutual Domestic Water
Consumers Association

Board Secretary

President

Attest:

Whispering Cedars Water Association

Board Secretary

President

Attest:

White Cliffs Mutual Domestic Water
Users Association

Board Secretary

President

Attest:

Board Secretary

Approved the ____ day of _____, 2010 by Secretary Department of Finance and
Administration, State of New Mexico _____.

T:\FRC\MISC\4098A.Joint Powers Agreement (JPR10)