



By-Laws

Concerning the Operation of

The Acequia de Alcalde

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BY-LAWS ACEQUIA DE ALCALDE

ARTICLE 1. PURPOSE AND DEFINITION

The purpose of the Acequia de Alcalde, a political subdivision of the State of New Mexico, is to provide irrigation water to fulfill the farm needs of its landowner member parciantes. The Acequia is defined as the water canal running along the Alcalde lower road (N0041-S0040) beginning at the presa located directly west of J.O. Garcia's property, and extending to the southern boundary of the farm property belonging to Mrs. Zacharias Sanchez. The length of the Acequia de Alcalde is approximately six (6) miles. Although the Acequia de Alcalde extends another four (4) miles beyond the Mrs. Zacharias Sanchez property through San Juan Pueblo and to the southern boundary of Los Ranchitos, the Acequia de Alcalde's jurisdiction is for the first six (6) miles. Within the six (6) miles the Acequia de Alcalde provides irrigation water to over 1,000 acres of farmland.

HISTORY OF ACEQUIA DE ALCALDE

The water right priority date for all of the properties that the Acequia de Alcalde irrigates has been established as 1698. Although the land that the Acequia de Alcalde irrigates was being planted and irrigated by ancestors of the San Juan Pueblo people during the 1400 to 1500 AD period the Acequia de Alcalde has determined a priority date of 1698 for now. Once on-going research is concluded the priority date is likely to change to 1500AD.

For more information on the history of the Acequia de Alcalde refer to Appendix A of these bylaws.

ARTICLE 2. ORGANIZATIONAL STRUCTURE

The membership of the Acequia de Alcalde will consist of all owners of farm property with water rights from the Acequia whose names appear on the Acequia de Alcalde rolls. The governing body consists of three officials (Commissioners) who will be elected by the parcientes in good standing. The Commissioners will be elected for staggered three-year terms with each term commencing on January 1.

Section 1: President

The president of the Acequia de Alcalde will be elected from the Acequia parcientes in good standing. His/her responsibilities will be to direct the activities of the Acequia de Alcalde jointly with the other commissioners and call and preside at all Acequia de Alcalde meetings. In the event the president is unable to preside at a meeting, he /she will appoint one of the other commissioners to preside over the meeting.

Section 2: Secretary

The secretary of the Acequia de Alcalde will be elected from those Acequia de Alcalde parcientes in good standing. He/she is responsible for keeping complete and accurate records, minutes of meetings, reading the minutes of the previous meeting, providing notification of meetings to parcientes, and assisting the other commissioners in conducting the business affairs of the Acequia de Alcalde.

Section 3: Treasurer

The treasurer will be elected from those Acequia de Alcalde parcientes in good standing. He/she will receive monies, issue receipts, disburse money, keep complete and accurate records of all disbursements, provide financial reports at the annual meeting, and otherwise conduct the financial affairs of the Acequia de Alcalde.

Section 4: Mayordomo

The Mayordomo will be appointed by the majority of the Acequia de Alcalde Commissioners after the annual meeting and as such, is an employee of the Acequia de Alcalde and is under the direct supervision of the Commission. His/her appointment will be for one year, and he/she will be paid for a period of nine (9) months at a salary of \$1,200.00 per month. His/her responsibilities will be as follows:

1. Supervise all work on the Acequia de Alcalde to ensure that adequate water is flowing in the Acequia consistently during the nine month period of the Mayordomo contract.
2. Supervise the Acequia to ensure that all delinquent parcientes do not use water illegally. To ensure this, the Mayordomo has full authority to shut the private head gate along

- the banks of the Acequia of those parcientes not in good standing, and to secure them by any available means.
3. Hire help, if necessary to repair and maintain the Acequia in functional condition. The Mayordomo reserves the right to hire anyone he/she considers capable and willing to perform the assigned tasks in an acceptable fashion and dismiss any worker not performing satisfactory work.
 4. Section off Acequia water as per Article 5 of these by-laws under Section 3 (Sectioning of Irrigation Water).
 5. Supervise the Acequia to ensure that obstructions that hinder the reasonable flow of water are removed.
 6. Will be responsible for collecting overdue delinquencies as reported to him by the Treasurer.
 7. Initiate court action against delinquent parcientes in an effort to clear up delinquencies.
 8. Provide reports to the Acequia Commissioners throughout the season on status of Acequia Operations. Present annual report to membership at annual meeting.

Amended December 8, 2003 (Rate of Mayordomo pay was increased from \$600 to \$800. Last amended December 2017 (Period of months worked was increased from 8 months to 9 months and the rate of pay was increased from \$800 to \$900).

Amended Mayordomo pay to \$1,200 from \$900/month December 2020

Section 5: Bookkeeper

A person knowledgeable in the financial activities of the Acequia de Alcalde will be hired from year to year by the Acequia de Alcalde Commission to keep the Acequia de Alcalde books. This person must be a parciente of the Acequia de Alcalde and in good standing. Nothing in these by-laws shall prohibit any of the Commissioners from performing the duties of bookkeeper with the consent of all the Commissioners. The bookkeeper will be paid a flat annual fee of \$1,200.00 per year for his/her services. The responsibilities of the bookkeeper are as follows:

1. Furnish the Treasurer and the Mayordomo with the necessary forms and information to facilitate the recording of labor hours of each parciente during the annual mass Acequia cleaning.

2. Develop a ledger for determining fees owed by each parciante to include assessments due, hours worked or not worked and determining amount due by each parciante.
3. Send billing notices to each parciante with individual account information. As many notices as are necessary can be sent to parciantes but there shall never be fewer than two notices sent to delinquent parciantes each year.
4. The Treasurer is the lead Commissioner to pursue court action before a Magistrate Judge to collect parciante delinquencies.
5. Deposit all fees collected.
6. Translate all information relative to the orderly operation of the Acequia de Alcalde in a meaningful format.
7. Disburse funds under the supervision of the Treasurer.
8. Prepare financial report and present to Commissioners and parciantes by the 1st Sunday in December.

Last amended December 2016 (Rate of Pay for the bookkeeper was increased from \$600 to \$800)

Last Amended December 2018 Rate of pay for the bookkeeper was increased to \$1,200

ARTICLE 3. ELECTIONS AND VOTING

Section 1: Election of Officers and Terms of Office

The officials (Commissioners) of the Acequia de Alcalde will be elected at the annual parciante meeting on the first Sunday in December. The officers will be elected for a three year term. Terms will be staggered and one Commissioner will be elected each year. In the event a Commissioner resigns or is unable to complete his/her term of office, the remaining commissioners will appoint a successor to serve the remainder of the term. Should more than one Commissioner resign at the same time the remaining incumbent will call a special meeting for the purpose of electing members to fill the vacant positions.

Section 2: Voting Rights of Parciantes

Only those members who are not delinquent in the payment of their assessments and who have not defaulted on their work assignments will be in good standing and shall be allowed to vote. Voting by written proxy is not allowed.

Section 3: Nomination of Officers

Nomination of officers may be made by any parciante in good standing. The nomination shall be for the Commission office that is vacant for that year.

Last Amended December 2007 (Commission terms of office were changed from 2 year terms to 3 year terms and positions were staggered so that one position will become vacant each year.)

ARTICLE 4. MEETINGS OF MEMBERSHIP

Section 1: Annual Membership Meeting

The annual membership meeting shall be held every year on the first Sunday in December or as soon as practicable thereafter.

Section 2: Notice of Annual Membership Meeting

Notice shall be provided to each parciante by mail to the address as recorded in the records of the Acequia and posted in a public place ten days in advance of the meeting. Notice of the meeting shall include the agenda or information about where to obtain a copy of the agenda.

Section 3: Purpose of Annual Membership Meeting

At each annual meeting, the Secretary shall present the minutes from the previous annual meeting. The Mayordomo shall report on the management and operations of the Acequia, and the Treasurer shall provide a financial report. Other business as it pertains to the Acequia de Alcalde can also be discussed and acted on by the membership.

Section 4: Location of Annual Membership Meeting

The annual meeting shall be held at the Alcalde Community Center unless otherwise noted in the meeting notice.

Section 5: Quorum of Membership

A quorum for conducting any business shall be comprised of the total number of parciantes attending the meeting. Action items shall be approved by a simple majority vote of the members present at any duly called meeting.

Section 6: Special Membership Meetings

Special meetings of the Acequia de Alcalde may be called by the Commissioners or upon written petition to the Commission Chairman signed by 51% of the members. Notice for special meetings shall be the same as for annual meetings.

Section 7: Emergency Meetings

Acequia Commissioners only for purposes that demand immediate attention shall call emergency meetings of the membership. Notice shall include the date, time, location, and

agenda of the meeting and notice shall be provided 23 hours in advance of the meeting by public posting.

Section 7: Open Meetings Act Resolution

At each annual meeting the Commission shall present and the membership will take action on an Open Meetings Act Resolution. The resolution shall include information on how the Commission will notify parciantes of regular annual meetings, special meetings and emergency meetings. The resolution should include where meetings will be held, and how parciantes can request an agenda.

ARTICLE 5. MANAGEMENT AND OPERATIONS

Section 1: Acequia Cleaning

A mass Acequia cleaning involving all parciantes will be conducted at least once a year. This cleaning will occur on dates mutually agreeable to the Commission, but in all cases the Acequia will be ready to begin serving the water needs of its membership by no later than April 1st. A labor quota will be assessed against each parciante on the basis of his/her acreage or (next higher whole acre). Each parciante is obligated to two hours of labor per acre for each day that the mass Acequia cleaning is in session. Every parciante will be responsible for hiring a laborer if he/she cannot personally participate.

In the event a parciante fails to fulfill his/her work obligation, a fee of \$15.00 for each hour of unmet work will be charged against him/her, unless the parciante is ahead in labor hours, in which case the labor hour quota will be subtracted from any accrued labor hour credits.

During the day(s) of mass Acequia cleaning, machinery will be hired where deemed necessary at the discretion of the Commissioners and/or Mayordomo.

Last amended on December 2017: The work hour quota was increased from one-and-one-half hours per each acre owned to two hours per each acre owned.

Section 2: Acequia Pollution

Emptying sewage, disposing of trash, or anything that tends to pollute the water of the Acequia is prohibited. Anyone guilty of such an infraction will be reported to the New Mexico Environment Department and law enforcement officials and fined \$500.00 for the first offense and \$1,000 for each offense thereafter. In addition, all legal fees incurred by the Acequia de Alcalde in prosecuting the offense will be charged to the offender. To recover fines and legal expenses a legal complaint will be filed with the proper judicial authorities to recover the cost of all damages and fines.

The Acequia de Alcalde has a program whereby any individual that reports an offender of this section of the by-laws can be granted a \$100 stipend payable upon conviction of the offender. If

an individual provides evidence of Acequia pollution taking place (photos, etc.) a \$100 stipend can be paid.

Amended December 2018: Acequia membership moved to include a \$100 payment to any individual that can provide evidence of Acequia pollution taking place.

Section 3: Sectioning of Irrigation Water (Repartamiento)

When Acequia water is in short supply a system of repartamiento is implemented to allow every parciante an opportunity to share in the water that is available in the Acequia. The following system shall be applied during periods of water shortage.

- a. All farms that are 25 acres or larger will be allowed to irrigate from Monday at 6:00 am until Wednesday at 6:00 am.
- b. Farms that are 24 acres or less are allowed to irrigate from Wednesday at 6:00 am until Monday at 6:00 am.

In the event that some property owner is in dire need of water use when not allotted to them, the Mayordomo can at his discretion proportion some water to them if there is evidence that it is absolutely necessary. When it is necessary to implement the repartamiento system, cooperation from all parcientes is expected. In the event that the Mayordomo is made aware of a parciante using water when it is not their turn, he/she will be issued a warning. Any subsequent infractions of this by-law will result in a citation and a fine and prosecuted via an official complaint in magistrate court.

Last Amended May 2013: The repartamiento system was completely changed from dividing the Acequia in four sections of the Acequia with each section having access to water for two days to the sectioning of the Acequia according to acres owned as noted above.

Section 4: Impediment of Water Flow

No parciante will be allowed to have a structure (rebalse) in the Acequia unattended after 6:00 pm for the purpose of raising the water level in the Acequia. Furthermore, no water shall be allowed to overflow the banks of the Acequia, nor shall any parciante be allowed to erect any kind of structure that impedes the reasonable flow of water in the Acequia. Any structure so erected must be removed by the parciante(s) concerned on order from the Mayordomo. In the event the parciante(s) concerned fails to remove such structure within two days from the day ordered by the Mayordomo, the latter will enlist the necessary help for its removal and bill the parciante(s) responsible. If the Acequia is breached as a result of a rebalse being left unattended or from any structure erected by a parciante(s) the Acequia Commission will seek compensation from the offending parciante for any damages incurred to the Acequia.

A parciante must always receive written approval from the Commissioner(s) before building any structures such as rebaleses, bridges and head gates in the Acequia. Structures that tend to drive across the Acequia are a problem when not constructed correctly. Only structures as wide as the

Acequia may be built by the parciante and only after the parciante has obtained written approval. Structures constructed before these by-laws were adopted will be dealt with on a case by case basis. If these structures cause problems of additional maintenance the parciante owner will be required to remove or correct the structure. If a breakage occurs on the Acequia due to any of the above noted structures the parciante will be responsible for damages and repairs. New Mexico State Statutes Annotated addresses impediment as follows: DITCH INTERFERENCE & ILLEGAL WATER USE: "Any person who, contrary to the order of an Acequia official, cuts, breaks, stops, or otherwise interferes with a community ditch or Acequia, or takes or uses water from it is guilty of a misdemeanor. If convicted, he or she is subject to a fine of \$100.00 to \$250.00 and the cost of damages (73-2-64)".

Section 5: Control of Head Gate

Only the Acequia de Alcalde Commission and the Mayordomo have the authority to set or adjust the Acequia main head gate and gates located at the various desagues. The main head gate will be opened in the spring as soon as the Acequia becomes operational, but in no case later than April 1st. The main gate will be shut after the growing season ends and not later than December 1st.

PRIVATE HEAD GATES: The Mayordomo has full authority to shut the private head gate of parciantes not in good standing and to secure them by any means available in an effort to prevent illegal use of water.

Section 6: Work and Repair Orders

Before any work done on the Acequia or any machinery or equipment owned by the Acequia de Alcalde can be paid, a work repair order must be filled by the Mayordomo describing the nature of the task performed indicating the personnel and/or equipment hired, the location or place where work was done, date on which the work was done, hours of work performed and the amount of money to be paid out. The work repair order must also be signed by one of the Commissioners other than the Treasurer and the Mayordomo, and presented to the Treasurer for payment. The Commissioners and the Mayordomo reserve the right to hire the heavy equipment contractor whose work is performed cheaper, regardless of whether or not he is a parciante. This will save money for the Acequia de Alcalde parciantes as a whole. Furthermore, the work done by any heavy equipment contractor must be insured, and guaranteed by said contractor to hold for a reasonable period of time. If the work is destroyed over night after he/she completes it, he/she should do it again without pay. Acequia de Alcalde pays for the work done, not for the time it takes to do it. In case of emergency the Mayordomo has the authority to hire equipment and help to fix such project, however, not to exceed \$500.00 in cost.

Section 7: Major Transactions

Before any transaction can be finalized which can result in a major indebtedness of \$5,000.00 or more to the Acequia de Alcalde a general meeting must be called to secure the approval of the majority of those parciantes present at said meeting.

ARTICLE 6: OBLIGATION OF PARCIANTES

Following are the duties and responsibilities associated with owning a water right served by the Acequia de Alcalde.

Sectuion 1: General Obligations

1. Each parcainte shall keep current on the records of the Commission of the Acequia de Alcalde the name(s) of the owners of the property, the owner's mailing address and the telephone number, and the exact amount of irrigated acreage in the Acequia de Alcalde being claimed by the parciante.
2. A parciante must provide proof of acreage to the Acequia de Alcalde when he/she feels an injustice has been made against him/her in the matter of determining his/her acreage. This must be done at the parciantes own expense otherwise a decision regarding acreage will be made by the Commission on the basis of historically established acreage.
3. In the event that a parciante or other landowner drains excess water either from his irrigated property or water from any other source into the Acequia de Alcalde, the parciante or other landowner shall provide for erosion and pollution control. The owner of property causing erosion and pollution to and in the Acequia de Alcalde shall be responsible for damages.
4. The time period for all parciantes to complete the construction of head gate (regaderas), bridges (puentes), and rebalses (checks), is during the time when water is shut down from flowing. The water will be shut down from December 1st to March 10th of each year. Work by parciantes involving the Acequia may be completed during this period of time.
5. Parciantes are responsible for repair and maintenance of their individual head gates, bridges and rebalses. Work that results in an Acequia breakage or leakage is the responsibility of the parciante to repair.
6. Each parciante/landowner shall be provided with a copy of the current by-laws of the Acequia de Alcalde, and amendments thereafter adopted. By-laws are made available to parciantes at the annual membership meeting. Parciantes not in attendance at the annual membership meeting can obtain by-laws by contacting any Commissioner or the Mayordomo.
7. Failure to comply with any of the above duties and responsibilities shall subject the parciante to automatic fines in the amounts of \$50.00 for the first offense and \$100.00 for the second and subsequent violations.

Section 2: Construction Projects

Before the construction of a rebalce, bridge, headgate, retaining wall or any other infrastructure improvement is constructed by a parciante they must acquire authorization from the Acequia Commission. A design or plan for the constructed project must be submitted to all three Commissioners. Commissioners must respond with their approval or recommendations for any changes in the design within seven days from the day it was submitted. Construction by the parciante must not start until the project has been approved by the Commissioners.

Section 3: Irrigation Fees

An annual assessment of \$8.00 per acre shall be assessed against all parciantes to help defray the cost of operating the Acequia. In order to determine assessments consistently the acreage will be rounded off to the next higher whole acre.

Amended December 1968: Rounding off of acreage was changed from calculating in fractions of acreage to rounding out to the next highest acreage for obvious accounting ease.

Section 4: Labor Quota

A labor quota will be assessed against each parciante on the basis of his/her acreage or (next higher whole acre). Each parciante is obligated to two labor hours per acre owned for each day that Acequia cleaning is in session. (Refer to Article 5, Section 1 of these By-Laws). In the event a parciante fails to fulfill his/her work obligation, a fee of \$15.00 for each hour of unmet work will be charged against him/her unless the parciante is ahead in labor hours, in which case the labor hour quota will be subtracted from any accrued labor hour credits.

Section 5: Payment of Assessments

All monies assessed by the Acequia de Alcalde are due upon receipt of the Treasurer's or Bookkeeper's statement. These assessments become delinquent forty-five (45) days following the receipt of the Treasurers or Bookkeeper's statement. Dues not paid by the 45th day following the sending of statements by the Treasurer or Bookkeeper will be charged a rate of 15% interest for balances due. The 15% interest will also be applied to old debts of a year or more. Dues not paid 30 days after the Treasurer or Bookkeeper sends a second notice will be referred to Magistrate Court for collection of all delinquencies. Fees charged by Magistrate Court and charges associated with serving summons to parciante will also be charged to the parciante.

ARTICLE 7: EASEMENTS

The Acequia de Alcalde has historic, centuries old easements known as derechos de entrada y salida or derechos de pasar. Acequia easements are recognized in state law, yet there is the potential that disputes may arise over these issues. A modern challenge the Acequia de Alcalde faces is that on occasion there is a newcomer that is unaware that Acequia easements exist within their property and perceive their private property as being invaded during cleaning or conducting maintenance to the Acequia, when the Acequia community is fulfilling their duties.

WHAT IS AN EASEMENT?

An Acequia easement runs along both sides of the main Acequia and its laterals. State law says that the width of the easement must be adequate to allow for reasonable maintenance, use, and improvements to the Acequia. The easement carries with it the rights to access the entire length of the Acequia, to maintain and use the Acequia in a reasonable manner, and to make reasonable improvements. This right includes the use of heavy equipment or machinery such as a Bobcat or Backhoe if needed to do maintenance or make improvements. The Acequia easement also includes the right to gain access to the acequia through traditional points of access, even when that access is across a person's property. Without this "Right-of-Way" access provided by State Statute, it would be detrimental to the survival of the Acequia de Alcalde and other Acequia systems throughout the state if you could not access problem areas over another's property. Thus it is important to understand and recognize this significant right awarded to Acequias in order to continue delivery of water to its parciantes and to avoid conflict that can be costly and time consuming.

Section 1: Definition of Easement

Each parciante/landowner/ recognizes that the Acequia de Alcalde reserves a historical permanent easement to access the Acequia in order to operate and maintain the Acequia, described as follows: from the edge of each bank, a distance of 14 feet to each side of the bank or as far as is reasonably needed to perform maintenance. No parciante/landowner may build within or otherwise obstruct or limit access within and to this easement. Where a structure or obstruction which is not in conformity with the above described easement already exists the Acequia de Alcalde reserves the right to remove obstruction if necessary to perform operation and maintenance of Acequia. If an existing structure or obstruction exists within the Acequia easement the Commission will determine how to resolve the issue on a case by case basis.

Last Amended December 2000: The distance of 14 feet easement was clarified due to some ambiguity over the distance of easement to each side of the Acequia needed to perform operation and maintenance.

Section 2: Access to Easement

Acequia de Alcalde has the right to use the historic and customary points of access to the Acequia across a member's property and other such points of access as may be necessary to afford convenient access to the Acequia for maintenance, operations and work on improvements.

Other easement rights that are documented and filed with the Rio Arriba County Clerk and that are utilized often are as follows:

1. Road to presa through Pinon Hills (HOY Recovery Program) provided by Rio Arriba County as a perpetual easement.
2. Easement provided by Bureau of Reclamation along river near presa
3. Road through middle of Joe Garcia farm that leads to presa
4. Road on south side of Tony Martinez property accessed from County Road 41 and along the Acequia going north and west of the properties belonging to Tony Martinez, Candido Salazar, Tony and Cheryl Sanchez and Joe Garcia until easement reaches the Acequia de Alcalde presa.
5. Private Drive 1038 going west from County Road 41 and along the Rinconada de la Isla Acequia desague and on the north side of the property belonging to Steve Martin until the easement reaches the Rio Grande River.
6. Through the middle of the Cottonwood Ranch on land owned by Richard Cook on road that leads to Acequia de Alcalde's first desague.
7. Road through the middle of property now owned by the Eight Northern Indian Pueblos Council and formerly known as the Jemez House. Road leads to a syphon installed by the Acequia de Alcalde and serves as an access point for Mayordomo to periodically clean the trash rack constructed on the north side of the arroyo syphon.
8. Property belonging to the Alice Martinez Trust and on the south boundary of Kenny Valdez on road leading to a squashed culvert installed by the Acequia de Alcalde to serve a bridge to enter the Alice Martinez Trust land.
9. Perpetual easement on road through Deluvina Cordova and the late Lucas Cordova property that leads to the Acequia de Alcalde's second desague.
10. Along San Antonio arroyo running through the middle of the New Mexico State University experimental Substation. Easement is from County Road 41A going west until it reaches the Rio Grande River. The Acequia de Alcalde's third desague is located on this easement.
11. Chavez Arroyo on Ohkay Owingeh land. The Acequia de Alcalde has a perpetual easement for the desague and channel draining from desague into Arroyo de Los Chavez.
12. Chinguaque Arroyo on north side of Mrs. Zacharias property to access the fourth desague maintained by the Acequia de Alcalde.

Section 3. Sangrias – Acequia Secundarias (Laterals)

Acequia Menores or Acequia Secundarias (Laterals) are acequias that divert water from the Acequia Madre and take it to more than one parciante. Water right owners of an Acequia Secundaria (lateral) are considered full members of the Acequia de Alcalde, and are entitled to the same privileges as any other parciante on the Acequia Madre. Those privileges include the right to serve as officers of the Acequia, to vote in Acequia elections, to use water, and to the protection of the easement along the Acequia Secundaria (lateral). Section 73-2-64 of the NMSA 1978 affirms that laterals enjoy the exact same legal protections as other parts of the Acequia.

Under New Mexico State Law an Acequia Secundaria (lateral ditch) has the same protections and rights that the Acequia Madre has. Section 73-2-64 1978 prohibits anyone from blocking, interfering with or stealing water without permission from any acequia or dam, or any contra or lateral Acequia thereof. In addition, 73-2-5 NMSA 1978 states that it is unlawful to interfere with the Acequia Madre or Acequia Secundaria (lateral) or prevent access to the ditch by the owner of the dominant estate. 73-2-5 NMSA 1978 states that “for purposes of this section, the easement created pursuant to this section shall be adequate to allow for reasonable maintenance, use and improvements to the ditch”.

A criminal complaint for violations of the provisions of this section may be made by the district attorney or the Mayordomo or Commission of the ditch or Acequia to the magistrate court in the county where the violation occurred upon conviction of a violation, the defendant shall be fined not less than three-hundred dollars (\$300) or more than one-thousand dollars (\$1,000) and in default of the payment and said fine, shall be confined in the county jail for a period of not less than five nor more than thirty days 73-2-5.B. NMSA 1978

Parciantes irrigating from an Acequia Secundaria (lateral) are responsible for the maintenance of that Acequia in addition to their responsibilities to the Acequia Madre.

Section 3 Adopted by Acequia Membership December 2018

Section 4. Examples of Violations of an Acequia Easement

1. Building a fence across the Acequia that prevents walking or using equipment along the length of the Acequia.
2. Building a structure like a house, deck, or corral within the easement or across the Acequia.
3. Blocking a traditional access route to the Acequia. A landowner, particularly a new one, may attempt to prevent Acequia officials, cleaning, or maintenance crews from crossing his/her property to get to the Acequia.
4. Interfering with Acequia or lateral. (73-2-64. (A) New Mexico State Statutes)

5. Locking a gate to the easement.
6. Allowing a dog or animal to create a potential threat within the easement.
7. Overgrowth of trees and vegetation along the bank within the easement. (According to New Mexico State Statutes (73-2-10) all plants of any description growing on the banks of said ditches, or Acequias, shall belong to the owners of the land through which said ditches or Acequias run).

ARTICLE 8: ENFORCEMENT

Section 1: Delinquencies

The Mayordomo has the authority to suspend the right to use the Acequia and the water therein of a parciante who is delinquent in the payment of his /her assessment or fails to perform required work. This shall remain in effect until the assessments and fines are paid. The Mayordomo has the authority to collect delinquent assessments through appropriate legal action. Officers of the Acequia may file a civil action for the collection of any assessment, fine, or penalty, which after due notice to the member, the member has failed to pay.

Section 2: Illegal Use of Water or Acequia Interference

Any person who interferes with the Acequia in any manner, takes water without permission of the Mayordomo or Commission shall be guilty of a misdemeanor and may be prosecuted in accordance with the laws of New Mexico.

Section 3: Violation of Easement Rights

Any person who interferes with the Acequia easement or access to the easement shall be guilty of a misdemeanor and may be prosecuted in accordance with the laws of New Mexico.

Section 4: Constructing Infrastructure Without Approval

Constructing a bridge, head gate, desague or other structure in the Acequia without first having received approval from the Acequia Commission is in violation of Acequia de Alcalde by-Laws and risks the possibility of being ordered to remove the structure and/or be levied a fine or penalty. The Acequia de Alcalde Commission reserves the right to remove a structure that has been constructed without prior approval.

Section 5: Tampering With Acequia Presa or Desague Compuertas (Gates)

Only the Mayordomo, Commissioners or other authorized parcientes are allowed to access or adjust gates to the main presa or any desague. Tampering with gates is strictly prohibited and will be considered vandalism and result in legal action against anyone not authorized. Costs to repair any damage done to compuertas will be charged to the individual responsible for the damage. In addition, Acequia authorities will pursue legal action in accordance with the NMSS Annotated 73-2-64, Persons shall not Interfere with business of the ditch.

ARTICLE 9:

WATER RIGHT TRANSFERS

Section 1: Policy

1. The Acequia de Alcalde parciales and Commission declare that a transfer of a water right out of the Acequia, or a transfer of a water right into the area served by the Acequia, may be detrimental to both the Acequia and its members. As used in this Article, "transfer", means a change in point of diversion, and/or place of use and/or purpose of use of a water right.
2. It is therefore the policy of the Acequia de Alcalde that any such proposed transfer by any person or entity must be formally approved by the Commissioners, using procedures in this Article, prior to application for the transfer to the Office of the State Engineer.
3. Without formal consent of the Commissioners to such a transfer, any attempt to obtain approval of the transfer by the State Engineer, or any other effort to implement the transfer is unlawful and void.
4. This article is adopted under Section 73-2-21(E) and 73-3-4-1NMSA 1978.

Section 2: Approval Procedure

1. A request for approval of a water right transfer as described above must be made by the owner of the water right in writing, delivered by certified mail to each Commissioner. It must be on a written form prepared by the Commissioners requiring any information about the proposed transfer, which they feel appropriate.
2. Within 90 days of receipt of the written request, the Commissioners will hold a public meeting to allow both proponents and any opponents of the request to be heard or submit additional information.
3. Notice of the meeting will be given in the same manner required for the Acequia's annual meeting. In addition, notice will be given 1.) By mail to the applicant at the address on the request form, and 2.) By posting a notice of the request and meeting date, at least 10 days before the meeting.
4. The Commissioners will decide the conduct of the meeting, such as its location, length, and other matters. The Commissioners will accept and consider any documents, written or oral statements, or arguments offered by the applicant or any interested party, as well as any statements made by individuals who may be represented by any party. The applicant or any interested party may respond to evidence or arguments offered at the meeting, directing such response to the Commission. The applicant or any interested party may have an attorney or other representative present his or her information to the Commission. The rules of civil procedure and the rules of evidence shall not apply to the meeting.
5. The Commissioners may ask any question they believe may help in their decision. The Commission is not required during the meeting to make any decisions or answer any questions on issues raised at the meeting. Its conclusions on all relevant matters will be contained in its written decision. An attorney or other representative may represent the Commission.
6. The request may be denied, in whole or in part, if the Commissioners find it would be detrimental to the Acequia or its members. The burden of proof is on the applicant to

- prove that the proposed transfer will not have a detrimental impact. The Commission will base its decision on the presentation, documents and arguments made at the meeting. Approval requires a unanimous vote of the Commissioners.
7. Within 30 days of the public meeting, the Commissioners will either approve or deny the request, in whole or in part, and notify the applicant in writing. The Commissioners will give a written explanation of the reasons for their decision. This will constitute a decision of the Acequia in compliance with the 120-day deadline set forth in Section-72-5-24-1 (D) NMSA 1978
 8. Transactions made in accordance with the Acequia de Alcalde Water Bank Rules are exempt from procedures in this Article with the Commissioners approval.

Adopted December 6, 2005

ARTICLE 10.

WATER BANKING

Section 1. PURPOSE

The membership of the Acequia de Alcalde has resolved to form a Water Bank to promote the beneficial use of water and for protection of water rights. The purpose of the Water Bank is to promote conservation and beneficial use of Acequia water through a locally managed system of temporarily reallocating water for beneficial use within the area served by the Acequia. The Water Bank will also allow water right owners who are temporarily not using some or all of their water rights to benefit by protecting those rights from loss for non-use.

In adopting this section, the parciantes of the Acequia agree that a banked water right may be exercised on lands not otherwise associated with the water right so as to further the purpose of the Water Bank, and further agree that a parciante who owns a banked water right may remove the water right from the Water Bank at any time, and shall therefore not be deprived of the water right, lose ownership of the water right either permanently or temporarily, or experience any reduction in the economic value of his or her property as a result of the Water Bank.

To accomplish the Water Banks purpose these rules include methods and provisions for:

- a. Depositing water rights into the Water Bank for beneficial use;
- b. Automatic deposits of water rights into the Water Bank;
- c. Withdrawing water rights from the Water Bank for beneficial use;
- d. Other necessary administrative procedures for operation of the Water Bank.

Section 2. PROTECTION FROM LOSS FOR NON-USE

As provided in section 73-2-55-1, NMSA 1978 (2003), water rights deposited in the Water Bank are not subject to loss for non-use during the time they are in the bank.

Section 3. WATER BANK PROCEDURES

A. Water Bank Record Keeping

The Water Bank Ledger will contain current records of all Water Bank deposits, contact logs and other information required to achieve the purposes of the Water Bank. These records shall be maintained permanently in the records of the Acequia. Commissioners may delegate their record keeping duties to the Mayordomo or any officer of the Acequia except for automatic deposits. Automatic deposits will remain a function of the Commission.

B. Depositing Water Rights

Water rights may be deposited in the Water Bank in one of two ways.

1. A parciante depositing his or her water rights in the Water Bank submitting a deposit form, or,

2. A water right being automatically deposited in the Water Bank after two full consecutive years of non-use.

In both cases the parciante has the right to withdraw the water right from the Water Bank at any time, as described below.

1. Deposit Form. Any person or entity owning a water right on the Acequia de Alcalde may submit a water right deposit to the Water Bank. The owner shall complete a deposit form provided by the Acequia, and submit the form to the Water Banks's designated record keeper. The record keeper may require proof of ownership and extent of the water right being deposited. The record keeper shall use the Map and Tract Number and the most recent Hydrographic Survey or, in the absence of that, the Acequia's traditional identification system to identify the right being deposited. The deposit shall become effective upon receipt of all necessary information by the record keeper. The record keeper shall inform the Mayordomo of the deposit as soon as possible.
2. Automatic deposit. A water right that is not used for two full and consecutive calendar years (January through December) shall, on January 1 of the following year, be deemed to be deposited in the Water Bank.

C.) Renewing Deposits: Withdrawing Water Rights

Each deposit shall have a term of one year, renewable annually, except that a deposit made after January 1 shall have an initial term of less than one year. A water right may be withdrawn from the Water Bank at any time including during the initial term as described in paragraphs (1) and (2) below. Each deposit shall renew automatically on January 1 unless the owner has withdrawn the water right.

- (1) A parciante who has used a deposit form to make a deposit shall make a brief written request for non-renewal or withdrawal of the water right, specifying the date that the withdrawal shall take effect, and submit it to the Water Bank's designated record keeper. If the written request is instead submitted to an Acequia officer who is not the designated record keeper, the officer shall forward it to the designated record keeper. Any initial term or automatic renewal will end as of the specified date of withdrawal.
- (2) A water right that is automatically deposited may be withdrawn in the manner described in the above paragraph or by verbal request of the parciante to use the water. If the parciante requests to use the water, the water right will be deemed to be withdrawn after such request followed by actual beneficial use of the water. Any initial term or automatic renewal will end when the withdrawal becomes effective.

Use of a water right following non-renewal or withdrawal from the Water Bank shall be subject to all Acequia requirements, including the requirement that the owner be in good standing with the Acequia prior to receiving water.

Water rights deposited in the Water Bank that are sold or otherwise conveyed to a new owner shall be deemed to remain in the Bank until the new owner withdraws the water as provided above.

D.) Water Right Reallocation

All water rights deposited in the Water Bank shall be temporarily transferred by the Mayordomo by absorbing them into the Acequia's regular rotation so that the rights are put to use to augment shortfalls at the remaining places of use served by the Acequia. The temporary transfer shall not include any change of purpose of use or point of diversion of the water rights. A water right deposited in the Water Bank shall be presumed to be put to beneficial use beginning at the next distribution by the Mayordomo, for the duration of the term authorized above. Such temporary transfer does not require Commission action or approval.

Water rights deposited in the Water Bank may also be temporarily transferred to new place(s) of use served by the Acequia by action of the Commission in any other lawful manner which, in the judgment of the Commissioners, will benefit the Acequia, subject to all applicable procedures, rules and laws.

The temporary transfer of water rights deposited in the Water Bank shall occur in the year in which the rights were deposited, initially or through renewal. Such water rights shall not accumulate or carry over to be reallocated in future years.

Temporary transfers of banked water rights done in accordance with this section are not subject to Article 9 of these bylaws (regulating water right transfers).

Section 4.0 **Acequia Dues and Fines**

Water rights may be deposited in the Water Bank regardless of whether the owner is in good financial standing with the Acequia.

However, Acequia dues and/or fees owed the Acequia by a water right owner who has deposited water rights in the Water Bank will continue to accrue and be owed by the water right owner.

Adopted by Acequia Membership on December 2002

Last Amended June 30, 2015: The automatic deposit section was adopted and became a part of this by-law. (Section 3, Item B, Number 2)

ARTICLE 11.

AMENDMENTS TO THE BY-LAWS

Section 1. Amendments to By-Laws

No provisions contained in this set of rules and regulations, or portions of it, once adopted, can be changed in any way without the approval of the majority of the parciantes present at the meeting called for such purpose. Provided, however that amendment, repeal or modification in any way of the requirements of this section, or of the subsection entitled “Proposed Transfer of Water Rights Submitted to Commission” in the section entitled “Obligation of Parciantes” or enactment of any new provision of these bylaws that would affect in any way the requirements of procedure relating to a proposed change in point of diversion, place of use or purpose of use of any water right hereunder, shall be by a vote of a majority of $\frac{3}{4}$ (three-fourths) of those present and voting at a meeting called for such purpose. Notice of the meeting at which a proposed amendment or enactment pursuant to this subsection will be voted on shall be given the same as for a regular meeting and shall include a prominent statement indicating that the vote will take place at such meeting with the entire text of all such proposed amendments or enactments.

Section 2. Adoption of Amendments

By-laws were adopted many years ago to assist the Acequia de Alcalde parciantes and Commissioners with the orderly governance of their Acequia. Yearly amendments are common as the need to address issues surface.

Section 3. Applicability of State Law and Severability

Where not otherwise covered by these by-laws, the requirements of state law shall be applicable. These by-laws are supplemental to any provisions of state law not inconsistent with them. If any part or application of these by-laws is held invalid, the remainder of its application to other situations or persons shall not be affected.

Respectfully submitted by the Commissioners of the Acequia de Alcalde this 1st day of December 2021.

ALFREDO MONTTOYA

DAVID ARCHULETA

JOSEPH (JOE B) MONTTOYA

APPENDIX A

ACEQUIA DE ALCALDE HISTORY OF WATER RIGHT PRIORITY DATE

BY ALFREDO MONTOKA

The lands north of San Juan Pueblo were first inhabited by ancestors of the Tewa Indians during the period of 1300 to 1500 AD. Evidence of pre—European village life is frequently uncovered by current residents. There are also several archeological sites that have been discovered, identified and are being protected. A Pueblo village by the name of Piogi has been documented which contained more than 400 rooms. This Pueblo was in the vicinity of Los Luceros and La Villita.

A combination of irrigated agriculture and dry land farming was practiced by Piogi villagers. It is unclear if the same Acequia that we now recognize as Acequia de Alcalde was being utilized by Piogi members but there is evidence that some form of irrigation was practiced. The Acequia, if it is the same one would not have been dug as large as the Acequia we now have because Piogi residents didn't have the same tools, horses and oxen that the Spanish introduced years later.

Juan de Onate and hundreds of Spanish and Mexican Indians settled in the village of San Juan in 1598 and quickly out grew their welcome after they had consumed much of what San Juan tribal members had as stored food stuff. Pueblo Indians were known to have stored food for occasions when drought did not allow full harvests. The Spanish and Mexican Indians were just too many to feed and the village had a limited capacity for growing food so the Spanish started looking beyond the Pueblo boundaries for areas that they could plant wheat, corn, beans, numerous melons, and a large variety of vegetables. The Spaniards also introduced many varieties of fruit trees. Hundreds of cattle, sheep, horses, pigs and oxen also needed areas that they could graze.

The land north of San Juan Pueblo was prime land for growing food and foraging animals and so several of the settlers inhabited the area we now know as Alcalde, La Villita and Los

Luceros. One such family was Hernan Martin Serrano who was a sargento in the expedition. He and his family occupied this area for many decades until they were forced to flee along with all the other Spanish families to El Paso when many of the pueblos in New Mexico coordinated the Pueblo Revolt of 1680. It would be twelve years before many of the settlers returned with Don Diego DeVargas in 1692. One of the families that returned with Don Diego DeVargas was a great grandson of Hernan Martin Serrano. The great grandson was Sebastian Martin who served as a captain under Don Diego DeVargas. Sebastian Martin and his family originally settled in Santa Cruz de la Canada but when an opportunity arose to request for a land grant of his own he was favorably considered due to his having served in the military with Diego DeVargas and because the Martin Serrano family was well established in the area since before the Pueblo Revolt.

An opportunity arose when a trio of men, namely Joseph Garcia Jurado, Sebastian de Polonia and Sebastian de Vargas who claimed many acres of land along the Rio Grande and had begun to construct an Acequia and had cleared many acres of land failed to continue occupying the grant within the required time and they lost the rights to it. Under Spanish law if you failed to occupy the land you were granted by Spanish authorities you would lose it. In 1698 the brothers Sebastian and Antonio Martin Serrano began occupying the same land and started clearing land and constructing an Acequia. In 1703 they officially petitioned for the land for themselves, other brothers, and a brother-in-law, Felipe Antonio Cisneros, who was married to Josefa Lujan, the sister of Sebastian Martin Serrano's wife, Maria Lujan. This is the year that Sebastian Martin moved his family from Santa Cruz de la Canada to Nuestra Senora de la Soledad (now La Villita). In 1705 the Serrano brothers were placed in royal possession of lands which extended from San Juan Pueblo north to Embudo and from the Mesa Prieta a short distance west of the Rio Grande east to the river that ran between Picuris and Chimayo. A total of 63,000 acres were granted and was known as the Sebastian Martin Grant. (Many years later in 1752 Sebastian Martin would carve out 12,000 acres on the eastern part of the grant and give it to some Mexican Indians who lived in Santa Fe in what is now known as Las Trampas Grant). Of the total acreage, 51,000 acres remained in the ownership of Sebastian Martin and his heirs.

Sebastian Martin and his family would live and develop the grant lands until his death in 1760. As the family grew they would move and establish other small villages such Plaza Alcalde, Los Luceros, Los Pachecos, Estaca, La Joya (Currently known as Velarde) La Canova, Bosque (Lyden), El Guiqui, and Plaza Angeles. Many of Sebastian Martin's heirs still occupy and live in these same villages. About 45,000 of the 51,000 acres were lost to scrupulous attorneys and opportunists that legally and illegally stole the land. It eventually ended up in the hands of the United States Government and is now managed by the Bureau of Land Management and the United State Forest Service.

The Acequia now known as the Acequia de Alcalde has a very long history and can safely claim a priority date of 1698 based on archival documents demonstrating the occupation by Sebastian Martin and his family. What is now being researched as part of the Acequia de Alcalde's Water Protection Project is the evidence that exists that ancestors of the Tewa Indians of San Juan Pueblo were practicing irrigation on the same Sebastian Martin Land Grant lands. If all the evidence that Acequia officials now have can be proven the Acequia de Alcalde could potentially have a priority date of 1500 AD. The residents of Piogi occupied these lands during the period of 1300 to 1500 AD. Even though a 1698 priority date would recognize the Acequia de Alcalde of having one of the more senior water rights on the entire Rio Grande it would be even better to have the most senior rights of any non-Indian Acequia on any stream system in the State of New Mexico.

ACEQUIA DE ALCALDE

P.O. Box 99
Alcalde, New Mexico 87511

WATER PROTECTION PROJECT WATER DEPOSIT APPLICATION

ADA File No. _____ Date: _____

Property Owner: _____

Contact Person: _____

Mailing Address: _____

Phone No. Home: () _____ P.O. Box/Street _____ City _____ State _____ Zip _____
Work: () _____

QUANTITY OF WATER DEPOSITED (ACRE FEET) _____ (_____ ac ft./acre)

CURRENT LEGAL DESCRIPTION OF PROPERTY:

Map # _____ Tract # (s) _____ Acreage: (SEO, Acequia records, Rio Arriba County)

STATE ENGINEER FILE NO. (if applicable) _____

SOURCE OF WATER: _____ SURFACE _____ GROUNDWATER

TERM OF DEPOSIT WILL BE THAT ONCE PROPERTY IS DEPOSITED IT WILL
REMAIN IN THE ACEQUIA WATER BANK UNTIL OTHERWISE TOLD TO REMOVE
BY PROPERTY OWNER.

Signature of Depositor

Date

FOR ACEQUIA DE ALCALDE USE ONLY

Acequia fees paid _____ Date _____

Property within Acequia de Alcalde jurisdiction _____ yes _____ no

VERIFIED BY: _____

ACCEPTED _____ REJECTED

COMMENTS: _____

This Water Deposit Application, after it is accepted by the Acequia de Alcalde Water
Protection Project is subject to the Acequia de Alcalde Water Protection Project Rules.

Signature

Date



Acequia de Alcalde
PO Box 99
Alcalde, New Mexico 87511

Acequia de Alcalde
WATER RIGHT TRANSFER APPLICATION FORM

Alfredo Montoya
Lucia Sanchez
Joseph Montoya

P.O. Box 99, Alcalde, NM 87511

WATER RIGHT TRANSFER APPLICATION FORM

*A copy of this form must be delivered by certified mail to each of the three commissioners of the Acequia.
Personal mailing addresses are located at the end of this application form*

Name of Applicant: _____

Address: _____

Whose name is on the deed to the property from which the water rights will be transferred: _____

Phone No.: _____

Current Point of Diversion of Water Right: (Coordinates): _____

Current Place of Use of Water Right: (If a Hydrographic Survey is available provide map name, map number, and tract number. Otherwise, provide a legal description of the tract of land. Attach map.)

Number of acres to be transferred _____

"La Acequia Es La Vida de La Comunidad"

Number of acre feet per year: _____

Current purpose of use of Water Right _____

Proposed new point of diversion of Water Right _____

Proposed New Place of Use of Water Right: _____

Proposed New Purpose of Use of Water Right: _____

Statement on why transfer will not have a detrimental impact on the Acequia de Alcalde's operation and maintenance:

Signature of Applicant

Date

FOR ACEQUIA USE ONLY

Received By _____ Date _____

COMMISSIONERS:

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P.O. Box 856
Ohkay Owingeh, NM 87566

Lucia Sanchez
P.O. Box 296
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