



*Doña Ana Mutual Domestic Water Consumers Association*  
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The following are the minutes of the Regular Meeting of the Doña Ana Mutual Domestic Water Consumers Association Board of Directors, February 16, 2023 convened at 9:00 a.m. in the Doña Ana Mutual Domestic Water Consumers Association Board Room located at 5535 Ledesma Dr., Las Cruces, NM 88007:

### **Call to Order & Roll Call**

President Melton called the meeting to order at 9:00 a.m. and called roll:

Secretary/Treasurer – Kurt Anderson, Present

Board Member – Brian Clouse, Present (via Zoom)

Board Member – Clayton Berryman, Present

A Quorum was declared.

### **Others in Attendance:**

Legal Counsel- Josh Smith

Executive Director- Jennifer Horton

Office Manager- Margo Lopez

Executive Assistant- Shelby Sandoval

### **Approval of Agenda**

Dr. Anderson moved to approve the agenda as presented; the motion was seconded by Mr. Berryman. The chair called for discussion of the motion. Ms. Horton recommended the Closed Session be moved following Customer Issues and Public

Input as Mr. Clouse has a prior engagement scheduled. Dr. Anderson moved to approve the agenda as amended, Mr. Berryman seconded, there was no further discussion, and the motion passed unanimously by roll call vote 4-0.

### **Minutes**

Dr. Anderson moved to approve the Regular Board Meeting Minutes of January 19, 2023 as presented; Mr. Berryman seconded. There was no discussion, and the motion passed unanimously by roll call vote 4-0.

### **Customer Issues and Public Input**

Sherry Gara from District 5 was unable to attend as she is 85 years old and does not drive. Ms. Gara assessed a 10% late fee due to an expired card as her credit card was not processed. She attempted to update her card; however, she was unsuccessful. With the assistance of her daughter and staff she was able to resolve her issue. She is asking the Board of Directors to waive her penalty. While the Board of Directors sympathize with Ms. Gara's issue they stated they cannot deviate from the policy. However, the Board of Directors stated they would consider an option of waiving one late fee within a set period of time when updating the policies in July. District 5's Board Representative, Mr. Berryman stated he would follow up Ms. Gara.

### **Closed Session**

Dr. Anderson moved to enter Closed Session as authorized by the Open Meetings Act, New Mexico Statutes Annotated, Section 10-15-1, Subsections H (2), H (7), and H (8) the following portion of the Board Meeting will be conducted in closed session: (1) 10-15-1(H)8 to discuss Acquisition of Water Rights (2) 10-15-1(H)7 Threatened and Pending Litigation as presented; the motion was seconded by Mr. Berryman. A

roll call vote was taken, motion carried unanimously 4-0, and at 9:12 a.m. the Board of Directors went into Closed Session.

Dr. Anderson moved to exit Closed Session and enter back into Open Session; the motion was seconded by Mr. Berryman, a roll call vote was taken, motion carried unanimously 3-0, and the Board of Directors at 10:05 a.m. went back into Open Session.

\*It was noted at 9:55 a.m. Mr. Clouse left the meeting.

President Melton stated:

In accordance with the Open Meetings Act, New Mexico Statutes Annotated, Section 10-15-1, Subsections H (2), H (7) and H (8): (1) 10-15-1(H)8 to discuss Acquisition of Water Rights and (2) 10-15-1(H)7 Threatened and Pending Litigation . One item out of that session is to be acted upon in Open Session:

President Melton entertained a motion to purchase 32.82 Acre Feet of Water Rights and Dr. Anderson moved the approval; the motion was seconded by Mr. Berryman. There was no further discussion, and a roll call vote was taken, motion carried unanimously 3-0.

Dr. Anderson moved the Approval of Audit FY22 Audit; the motion was seconded by Mr. Berryman. The Chair called for discussion of the motion. Discussion was initiated by Ms. Horton. Ms. Horton stated she has provided a copy of the audit and stated there were no prior year or current year findings. She further stated the audit was recommended as unmodified, which is the best, therefore, it was a clean audit. Further discussion ensued on Non Current Liabilities, which Ms. Horton clarified the

Association is responsible for should PERA go bankrupt. There was no further discussion, and the motion passed unanimously by roll call vote 3-0.

President Melton pointed out an oversight and skipped the Board President's Report. He proceeded with the Board President Report.

### **Board President Report**

President Melton mentioned things are going quite well, as he is unaware of any major issues. He further commended Ms. Horton and her staff for taking care of things.

### **Staff Reports**

Ms. Horton stated financials have been provided for the month of January. She reviewed the Check Listing report. She shared there was a total of \$841,000 in expenditures, due to the several sizable checks as they were for construction projects, engineering cost, billing and financial software, and an annual payment. Ms. Horton reviewed the Budget Report as of the end of January. She reported there was \$4 million in revenue, \$3.3 million in expenditures and approximately \$915,000 receivables being carried. She stated she is waiting on several reimbursements. She further stated from the operating standpoint there is a net difference of \$700,000 excess revenue. Ms. Horton stated the Balance Sheet is a current cash position and reported the Income Statement matches and ties back to the budget.

Ms. Horton reviewed the Project Budget Report, which is all of the current State and Federal Funding sources utilized. Ms. Horton reported CIF- 5168 shows a negative balance. She explained it meant that amount of money is available to draw. She stated \$4,726 is left to draw and expired in November of last year. It has not been removed

or drawn as there is a requisition in to close it out which will take it to a zero balance. It is currently pending the approval of Mr. Deal and further discussion ensued.

Ms. Horton stated CIF- 5523 is currently our Spartan Construction Contract for \$910,00 which she is waiting on consent for the 90% grant /10% loan from USDA to close on it. She did state she believes it will be funded; however, it just takes time.

Ms. Horton reported on the Arroyo Project Design and Construction. She stated the design process has started and is at 90%. She further stated there are a few things to fix before it can reach 100%. At that point she will see what is left to determine if sufficient funding is available to move forward with construction. Ms. Horton anticipates having to pick a site based on current constraints and what is most reasonable, as she does not believe there will be enough to complete both sites.

Ms. Horton shared there was \$100,000 to go toward the wastewater / sewer cleaning equipment. However, that is not enough and is seeking additional funds.

Ms. Horton reported on the East Central PER. She stated she sent it over to Mr. Deal in October of last year. She followed up with him and he stated the contract was good to proceed.

Ms. Horton stated there is \$100,000 of USDA equipment, for trucks, a dump truck, valve exerciser etc. She explained the \$100,000 is all grant, however, \$385,000 of the Association's money was put in and has to be spent in full before the \$100,000 can be spent. Ms. Horton further stated it was getting close as trucks, vehicles for both departments have been purchased, with just a few other things to purchase before she can seek reimbursement.

Ms. Horton reported on the USDA Southeast Collection Project. She stated it is a \$15 million project that has been bid and is expected to open bids February 23, 2023. Ms. Horton shared there is not enough money to complete the job therefore, it will be broken into a base bid and 4 alternatives. She continued to state she hopes between the \$15 million and the 20% cost overrun that it will be eligible to apply with USDA for an additional \$3 million. Ms. Horton stated she is hopeful the \$18 million will complete the base bid and alternative 1, leaving alternatives 2, 3, & 4 unfunded. She further stated the State has reported to fund another \$10 million, however, it is 85% loan and 15% grant and further discussion ensued.

Ms. Horton reported on the Dona Ana Tank Rehab Project. She stated it is active and both small tanks are finished and online. The large South Tank was reported with no structural damage, or any steel replacements needed. Ms. Horton stated this will allow the opportunity to rehab the large 2-million-gallon North Tank.

Ms. Horton stated the Parking Lot Improvement Project is complete across the street and is currently waiting on a signed contract for the parking lot next to the office.

Ms. Horton reported on subdivisions. She stated she is waiting on a new plat to be provided from Vista Rancho for their 1,300 lots.

Ms. Horton shared Desert Oaks Subdivision is 187 residential lots in Picacho Hills, with one commercial lot for a club house and is currently awaiting on their resubmission of this subdivision.

Ms. Horton stated Valley and Miles Subdivision is 200 lots and expects within the next 30 days to have it to review.

Ms. Horton reported the Reyes West Wind Subdivision is 9 lots off West Wind Road. She stated she is expecting to receive their first submission soon.

Ms. Horton mentioned the replat of Consuela Court is going from a 7 lot to an 11-lot subdivision which has trigger the water rights policy due to the additional lots. Ms. Horton shared they could not find water rights and she sent over their due diligence to Mr. Smith. She further stated Mr. Smith agreed they have done their due diligence with their efforts to obtain water rights and have met the requirements to purchase water rights from the Association per the water rights policy.

Ms. Horton reported on Other Matters. She stated no new certifications were obtained. However, there are several who will be testing this month and next month.

Ms. Horton provided a Water Rights update as of January 31, 2023 and further stated there were no changes from the last meeting.

Ms. Horton stated the applications for the Southeast Collection project are currently being accepted and have received 465 completed applications.

Ms. Horton provided a written Customer Service and Operations Report for review.

Ms. Horton shared Mr. Holt submitted an Inspection of Public Records Act (IPRA) for a mobile home park on Isaacs Lane requesting water bills. Ms. Horton shared approximately 4-5 years ago the owners of the mobile home park reached out for fire protection. Once they received the cost they were never heard from again. Ms. Horton stated she initially advised Mr. Holt it was not in our service area. Shortly after she realized it was in our service area, however, the Association is currently not providing



water service there. Mr. Holt stated the City of Las Cruces claims it is not theirs. Ms. Horton stated she would have the area investigated and further discussion ensued.

President Melton inquired about New Mexico Environment Department (NMED) and the issues with Rancho del Gallo / the Casa de Oro project, failing and dumping raw sewer on the ground. Ms. Horton has advised them this is not our responsibility to fix and will not fix it. She further explained the system was not built to spec and was not accepted, therefore, would not be fixing this problem. She stated NMED has followed-up with Casa de Oro and believes this issue has been resolved.

Dr. Anderson inquired about the New Member & New Meters report. Ms. Horton explained it was overlooked. However, she would include January and February's report at next month's meeting.

President Melton inquired about Well 7 on the Well Data Report. Ms. Horton shared it is ready to go online. However, there are a few questions for the Environment Department before it is activated. She further stated once it becomes activated the data will be provided on the report.

President Melton wanted an update on Well 8. Ms. Horton stated unfortunately that well will be lost in the next 12 months.

President Melton inquired about the gallons per minute (GPM) for Well 11 in Radium Springs. Ms. Horton clarified the current GPM is not a loss, it was turned down. She stated that well is active, the report would be updated to reflect that.



Ms. Horton reported once again the Association had been selected by EPA to sample for The Fifth Unregulated Contaminant Monitoring Rule (UCMR5) this month and in August. She stated the Association is sampling for Perfluorooctanesulfonic acid (PFOS) and Lithium so EPA can establish a new Maximum Contaminant Level (MCL) standard for wells. She further stated PFOS is found in everything and everywhere and she anticipates it will be detected. Ms. Horton shared she signed up the Association as there is a class action suit on a national level with Rural Water, in the event a settlement is reached and PFOS is found in this round of UCMR5 samples. They will help to remediate that and the Association can get some funding to assist with it.

President Melton inquired about Colonias Day. Mr. Smith stated he thought it was the last week of the session.

Ms. Horton and led discussion on the Regionalization Bill, House Bill 121; Water Leasing and on Water Rights Abandonment. Further discussion ensued.

### **Unfinished Business**

Dr. Anderson moved the Approval of 2022 Taxes; the motion was seconded by Mr. Berryman. The Chair called for discussion of the motion. Discussion was initiated by Ms. Horton. Ms. Horton stated they have been signed and submitted. She further stated the auditors have completed the 990 tax return and it was accepted by the IRS. There was no further discussion, and the motion passed unanimously by roll call vote 3-0.

Dr. Anderson moved the Approval of Resolution 2023 – 03 Colonias Application-SE Collection System; the motion was seconded by Mr. Berryman. The Chair called for discussion of the motion. Discussion was initiated by Ms. Horton. Ms. Horton

stated she is recommending the approval of all 4 resolutions presented, however, it does not mean all 4 applications will be submitted. This is requested as there will not be another board meeting held between now and when the application process is due. As for this particular application Ms. Horton is requesting an upper limit of \$10 million and anticipates she will submit an application for less, pending the results of the bids to know what she will need. There was no further discussion, and the motion passed unanimously by roll call vote 3-0.

Dr. Anderson moved the Approval of Resolution 2023 – 04 Colonias Application-Dona Ana Village Forcemain; the motion was seconded by Mr. Berryman. The Chair called for discussion of the motion. Discussion was initiated by Ms. Horton. Ms. Horton stated this is to complete the DA Village Forcemain Project as this project could not be awarded as a whole due to funding. Ms. Horton shared funding was previously short approximately \$1.3 million - \$1.4 million and now there is an increase in costs for materials and wage rates / labor costs. She further stated should the \$910,000 not be approved by USDA she has left room for it in this \$2 million application. If USDA does approve the \$910,000 then the application will be for approximately \$750,000. There was no further discussion, and the motion passed unanimously by roll call vote 3-0.

Dr. Anderson moved the Approval of Resolution 2023 – 05 Colonias Application-West Mesa System Rehab; the motion was seconded by Mr. Brryman. The Chair called for discussion of the motion. Discussion was initiated by Ms. Horton. Ms. Horton stated the application is for \$2.1 million. She further stated the application was only for the design cost, not construction. There was no further discussion, and the motion passed unanimously by roll call vote 3-0.

Dr. Anderson moved the Approval of Resolution 2023 – 06 Colonias Application- Dona Ana Tank Rehab; the motion was seconded by Mr. Berryman. The Chair called for discussion of the motion. Discussion was initiated by Ms. Horton. Ms. Horton stated she is requesting \$1.5 million. She did share she did not believe this will be needed or be submitted after learning the tank was in much better condition than expected. However, in the event after the sandblasting should they find something she would like to have the ability to file the application should it be needed. There was no further discussion, and the motion passed unanimously by roll call vote 3-0.

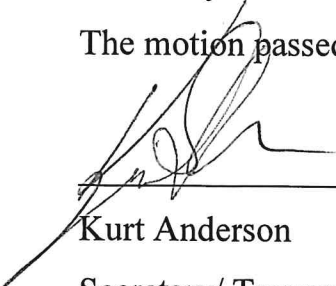
President Melton led discussion on the last item; Discuss and Take Action on Water Rights Policy for Commercial and Commercial Ag Customers. A copy of the existing policy was provided for their review and further discussion ensued. President Melton stated he would like to review it again in May when policy updates are being considered. Until then, he stated the membership and services are at the discretion of the Board as it currently states; the Board has to power to take action as necessary.

**Board Open Discussion**

Dr. Anderson stated he would like to look into a possibility of a desalination facility to service the Association and others.

**Adjournment**

Mr. Berryman motioned to adjourn at 11:31 a.m., with a second from Dr. Anderson. The motion passed unanimously 3-0.

  
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Kurt Anderson  
Secretary/ Treasurer

3/16/22  
Date