

LA JOYA ACEQUIA  
Socorro County, New Mexico

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BY-LAWS

ARTICLE 1: NAME, OBJECTIVE, PURPOSE, DEFINITION

Section 1: Name

The name of this acequia association shall be: *La Joya Acequia of Socorro County* (hereinafter "ACEQUIA").

Section 2: Objective, Purpose

The objective of this Acequia Association, a political subdivision of the state of New Mexico, shall be to promote the agricultural industry of the area for the benefit of the members and the integrity of the ACEQUIA community, and to improve and maintain the main irrigation ditch and laterals in order to provide the most efficient distribution and use of the water.

The purpose is to protect the irrigation and water rights of the Acequia and individual members as adjudicated by the courts and/or otherwise provided by law and to manage and operate the ACEQUIA in accordance with the laws of the state of New Mexico and the provisions of these By-Laws and Rules and Regulations.

Section 3: Description of Acequia

A. Source of water. *La Joya Acequia* receives its water from the main San Juan drain of the Middle Rio Grande Conservancy District at a point east of the Rio Grande at the south side of U.S. Highway 60. From this point the ACEQUIA follows the eastern edge of the valley through the community of Contreras and through La Joya for a distance of approximately nine (9) miles.

B. Acreage. There are 1,350 acres of irrigable land located below the ACEQUIA.

C. Historical Priority. The chronicles of Onate's colonization report the existence of an irrigation system at the pueblo of Sevilleta (La Joya) in 1598 (Hammond and Rey 1953). An encomienda and mission at this site in the early to mid-1600s supports the contention that an irrigation system was in place prior to 1800.

A study of diversions from the Rio Grande by W.W. Follett, civil engineer of El Paso, recorded in Senate documents, Vol. 21, No. 229, 55<sup>th</sup> Congress, 2<sup>nd</sup> session, pp. 47-177, conducted in 1896, listed the *La Joya Acequia* as being on the east side of the Rio Grande and its age as "old or ancient."

The approximate location of the head was Section 25, T3N, A1E. The capacity was at 36CFS and the acres under cultivation were reported to be 600.

Affidavits are on file in the Socorro County Clerk's office signed by residents who witnessed the operation of the *La Joya Acequia* prior to 1907.

When the Middle Rio Grande Conservancy was formed, application was made to the State Engineer to change the point of diversion of the *La Joya Acequia* from the Rio Grande to the San Juan Drain.

D. National Register. On August 24, 1995 the New Mexico State Historical Preservation officer concurred that the Acequia de La Joya was eligible for nomination to the National Register of Historic places under criteria (a) and (d) of 36 CFR 60.4. The New Mexico archaeological records management section has assigned the *La Joya Acequia* site number LA 109835.

E. Contractual Agreements. A 1936 agreement between the Middle Rio Grande Conservancy District and the *La Joya Acequia*, supplemented by the second agreement dated December 27, 1977 established the right to receive its water from the main San Juan Drain at the U.S. Highway 60 delivery point.

## ARTICLE II: STATE LAW

### Section 1: Compliance

The management and operation of the Association will be in compliance with laws of the state of New Mexico and the provisions of these by-laws and Rules and Regulations.

## ARTICLE III: MANAGEMENT AND OPERATION

### Section 1: General

The Affairs of the association are under the general control and supervision of three commissioners. The Majordomo shall be the executive officer in charge of supervising maintenance, repairs, improvements of the ACEQUIA, and the distribution of water.

### Section 2: Election of Commissioners

A. Three (3) Commissioners and one (1) Majordomo shall be elected biennially at a general membership meeting on the first Monday of October in odd numbered years. Each Commissioner and the Majordomo must be an owner of an interest in the *La Joya Acequia* or the water therein with the right to take water from the ACEQUIA.

B. Only those persons who own lands under the ACEQUIA (i.e., Members) and who are not delinquent in the payment of their ditch assessments shall be allowed to vote. Votes may be cast by written proxy.

C. A member's vote value shall be in proportion to the number of benefited acres under the ACEQUIA. Each eligible voter shall be entitled to one vote for each acre of major portion of irrigated land.

D. The biennial meeting shall be held at a public place and the election shall be conducted by the Commissioners whose terms are expiring.

E. Nominations may be made by any association member. The nomination and voting shall be conducted separately for each Commissioner. The person receiving the majority of the votes shall be declared the Commissioner and/or Majordomo for the next two (2) years.

### Section 3: Membership

Members of the ACEQUIA association are those persons who own land entitled to irrigation water from said ACEQUIA. The rights, privileges and obligations of all members shall be in proportion to the number of benefited acres owned by each member.

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**Section 4: Organization**

A. The elected Commissioners shall assume office not later than the first Monday of the following November after the election. The Commissioners shall elect from among themselves a Chairman or President, a Secretary and a Treasurer or a Secretary/Treasurer and a Commissioner-At-Large.

B. The Commissioners may hire staff personnel as deemed necessary and affordable.

C. The Majordomo shall be appointed by a majority of the Commissioners and his appointment shall be for a period of two (2) years.

D. Any vacancy in an elected position shall be filled by the remaining Commissioners for the duration of that unexpired term.

E. The Treasurer shall give a bond to the State in a sum to be determined by the Commissioners.

**Section 5: Notice of Meetings**

The regular meeting of the *La Joya Acequia* shall be held on the first Wednesday of each month at 6:00 p.m. Notice of all biennial meetings of the members of the association shall be given by a mailing to each member of record at least ten (10) days prior to the meeting and/or be published in a newspaper of general local area circulation.

**Section 6: Special Meetings**

Special meetings of the members of the association may be called by the Commissioners or upon written petition to the Commission signed by 50% of the members. An emergency meeting may be called by a Commissioner or the Majordomo in the event of a disaster, ditch breakage or serious trouble.

**Section 7: Quorum**

Two (2) Commissioners shall constitute a quorum and be a full board for the transaction of business at any meeting of the ACEQUIA.

**Section 8: Member**

A member is anyone having land that is being or that could be irrigated from the ACEQUIA and is paying the ACEQUIA maintenance fee.

**Section 9: Assessments**

A. All land of Members is assessed for maintenance, repair, and improvements as these directly affect the value and use potential of the land. Those lands under irrigation are assessed an additional amount for delivery of water.

B. Annually the Commissioners determine the amount necessary to cover the cleaning, maintenance, repair, and necessary improvements for the ditch, the pay of the Majordomo, and all operating expenses of the association for the ensuing year.

C. The amount needed to cover those expenses shall be assessed to each member in proportion to the number of their benefited acres.

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**Section 10: Commissioners Compensation**

Commissioners receive no pay or salary but are to be reimbursed for any out-of-pocket expenses and travel incurred in the conduct of approved ACEQUIA business.

**Section 11: Delinquencies**

The Commissioners shall file a civil action suit in Magistrate Court for the collection of any assessment which, after due notice, any member has failed to pay. They also shall deny the member the use of water until the assessment and any penalties are paid in full. All delinquencies shall incur interest at a rate of One Percent (1%) per month. All unpaid assessments after two (2) years shall constitute a lien upon the assessed property and be recorded in the office of the County Clerk of Socorro County.

**Section 12: Water Distribution**

The available water in the ACEQUIA shall be distributed as nearly as practical in proportion to the irrigated land of each member of the association. The Majordomo will schedule the distribution of the water to the members based on the applicable provisions of the Rules and Regulations of the ACEQUIA as established by the Commissioners. Such Rules and Regulations are attached and made part of these By-Laws.

**Section 13: Interference, Illegal Use**

A. Any person who interferes with the ACEQUIA structure or operation in any manner or who takes water without the permission of the Majordomo, Commissioners, or other person charged with water distribution shall be charged with a criminal misdemeanor and shall be prosecuted in accordance with the laws of the State of New Mexico.

B. When someone cut off the ongoing irrigation, the penalty shall be a thirty (30) day lock-out.

**Section 14: Penalties**

It shall be the duty of the Majordomo and the Commissioners to levy any authorized penalties for violations of the laws of the State of New Mexico and these By-Laws and the Rules and Regulations of the *La Joya Acequia*, and with the assistance of the District 7 District Attorney bring civil or criminal action against the accused before the proper court.

**ARTICLE IV: ACEQUIA APPROVAL OF CERTAIN WATER RIGHT TRANSFERS****Section 1: Policy**

A. The *La Joya Acequia Association* declares that a transfer of a water right served by 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 the point of diversion, and/or the place, and/or the purpose of use of a water right.)

B. It is therefore the policy of the ACEQUIA that any such proposed transfer by any person or entity must be formally approved by the Commissioners, using the procedures in this Article, prior to the application for the transfer to the Office of the State Engineer.

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C. 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.

D. This Article is adopted under Section 73-2-21(E) NMSA 1978.7.

## **Section 2: Approval Procedure**

A. A request for approval of a transfer of a water right served by the ACEQUIA or a transfer of a water right into the area served by the ACEQUIA 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.

B. Within ninety (90) days of the written request, the Commissioners will hold a public meeting to allow members who support and oppose the request to be heard or submit additional information.

C. Notice of the meeting will be given in the same manner required for the ACEQUIA's Annual Meeting. In addition, notice will be given:

- a. By mail to the applicant at the address on the request form, and
- b. By posting a notice of the request and meeting date at least ten (10) days before the meeting.

D. The Commissioners shall 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, as well as any statements made by individuals who may be presented by the applicant or any ACEQUIA member. The applicant or any ACEQUIA member may respond to evidence or arguments offered at the meeting, directing such response to the Commission. The applicant or any ACEQUIA member 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.

E. The Commissioners may ask any questions they believe will help in their decision. The Commission is not required, during the meeting, to make any decisions or answer any questions on issues raised. Its conclusions on all relevant matters will be contained in its written decision. The Commission may be represented by an attorney or other representative, and may be assisted in the conduct of the meeting by other persons it may designate. Except as provided above, only the applicant, other ACEQUIA members and the Commissioners may speak at the meeting.

F. 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 is on the applicant to prove that the proposed transfer will not have a detrimental impact. The Commission will base its decision on the presentations, documents and arguments made at the meeting; provided that the Commission may take notice of facts and circumstances generally known with respect the ACEQUIA and its operation. Approval requires a unanimous vote of the Commissioners, including an approval sought on reconsideration.

G. Within thirty (30) days of the public meeting, the Commission 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 reason for their decision. This will

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constitute a decision of the ACEQUIA in compliance with the one hundred (120) day deadline set forth in Section 75-5-24.1(D) NMSA 1978 regardless of whether there is a request for reconsideration.

H. Transactions made in accordance with the *La Joya Acequia* water bank rules are exempt from procedures in this Article with the Commissioners' approval.

## ARTICLE V: WATER BANK

### Section 1: Policy

The *La Joya Acequia* has adopted Water Bank to promote conservation and beneficial use of ACEQUIA water rights under the ACEQUIA powers as a political subdivision of the State of New Mexico and under Section 73-2-55.1 NMSA.

## ARTICLE VI: GENERAL

### Section 1: Transfer of Title, Water Usage

A. It shall be the responsibility of a new owner who has purchased land from a member to report such transaction promptly to the ACEQUIA for recording in the association records. Delinquencies, if any, due on said land, must be paid at time of sale as per Article III, Section 10, before the new owner may be entitled to the use of the ACEQUIA.

B. It shall be the responsibility of any member who has changed the place, purpose, and/or method of use of the water from the ACEQUIA to report those changes to the ACEQUIA.

### Section 2: Adjudication

Upon final adjudication of water as provided by law, the number of acres, amount of water, and priority date for each parcel of land, as shown on the Court Decree, shall be used by the *La Joya Acequia* as the official list for purpose of assessments and water distribution.

## ARTICLE VII: ATTACHMENTS

The *La Joya Acequia* Rules and Regulations are attached to and made a part of these By-Laws.

## ARTICLE VIII: ENACTMENT

These By-Laws may be amended, altered, added to, suspended, or replaced by a majority vote of the Acequia Association members after a thirty (30) day review of the proposed changes at any regular meeting or at a special meeting called as provided herein. A printed copy shall be provided to each water user.

## ARTICLE IX: Extent of Regulations

Nothing contained within these By-Laws shall be interpreted or construed in conflict with the water laws of the State of New Mexico regulating water, water rights and Acequia

Associations. Further, by such By-Law so determined is hereby declared null and void without invalidating the remaining By-Laws.

THE FOREGOING REVISED BY-LAWS WERE PROMULGATED AT A MEETING DULY CALLED AND HELD ON JULY 11, 2018 AT THE LA JOYA COMMUNITY CENTER IN LA JOYA, COUNTY OF SOCORRO, NEW MEXICO.

*Mark Miller 7-11-18*  
Commissioner

*John J. Carangelo*  
Commissioner

*Marcel Abeyta 7/11/18*  
Commissioner

*Thomas J. Abeyta*  
Majordomo

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**LA JOYA ACEQUIA  
RULES AND REGULATIONS**

**Revised March 9, 2018**

The purpose of these Rules and Regulations is to protect the Acequia from damage or misuse, preserve water, assure the delivery and equitable distribution of the available water supply, and to facilitate the management of the Acequia.

1. The watering year shall be the same as the calendar year. Water is usually available from March 5 to October 30, more or less, depending on the water supply and the condition of the ditch.

2. All persons who desire to use ditch water for any reason, should declare their intentions prior to February 28 and must be paid in full on or before March 1 of each year. Turnouts will be sealed or removed should land owners fail to request water and/or have not paid their assessments in full.

a. The new turnouts on the Acequia property fifteen-inch (15") standard requirement.

3. The owner of record of the land is responsible for the payment of all assessments. Payments from some other person will be credited to that owner.

4. Anyone whose land is being or could be irrigated from the Acequia, or is benefited by the presence of the Acequia, is subject to assessments in an amount appropriate to the actual or potential use of the land, as made necessary by the cost of operation, such as administration, maintenance, repair and improvements.

5. Land owners are liable retroactively for assessments on discovered unreported irrigable or irrigated acreage.

6. Water will only be furnished after assessments and other charges are paid in full.

7. All payments due the Acequia carry over from year to year, accruing interest, and are a lien on the assessed land payable at time of sale and/or before a request for water is granted.

8. Livestock is not allowed within the ditch assessment boundary. Repair of damage to ditch canal, banks, etc. will be charged to the livestock owner. The area served by the Acequia is by Socorro County ordinance, a closed range.

a. The cost for the removal of dead or live animals from the ditch will be billed to the animal owner.

9. Land owners are responsible for reporting acres that are being or that could be irrigated and are also responsible for reporting change of land ownership (see Rule 5).

10. The use of water from the Acequia, in any amount, for any reason, by anyone other than an approved and fully paid Acequia member is a strictly prohibited and constitutes a criminal act.

11. Use of water taken from the San Juan Drain or from wells is subject to Acequia assessments.

12. Members must call the Majordomo for clearance before opening turnout gates. At the discretion of the Majordomo, as many members as possible may be irrigating at the same time.

a. No irrigation shall be conducted that interferes with any already in-progress downstream watering.

b. The irrigation of land will be distributed at least one (1) hour per acre; otherwise the irrigation process will be terminated and given the right to water to the next irrigator in line.

c. When somebody cuts off the ongoing irrigation, the penalty shall be a thirty (30) day lock-out.

13. Any Member who requires the use of an approved check gate must strictly adhere to Rule 12(a). The Check must be completely opened as soon as the irrigation is completed unless at the request of the Majordomo, it is to be left closed to assist an upstream irrigation or to conserve water.

a. All existing check gates may be used by any Member if such use facilitates watering.

b. Any upstream bank erosion, break, or damage caused by elevation of ditch water beyond containment shall be the responsibility of the irrigator.

14. There shall be no unattended watering.

15. No trash, garbage, or debris or materials of any kind shall be thrown into the ditch.

16. All areas to be irrigated must be constructed with suitable borders. Any overflow to surrounding areas constitutes wasteful use of water and may cause adjacent property damage. Infractions may result in civil action by the offended land owner in addition to Acequia fines and penalties.

a. Land allowed to be watered from a neighbor's overflow will be subject to the Acequia irrigation assessment.

17. In the case of a conflict in watering dates or scheduling or when water is in short supply, newly seed fields, seedling and truck farming will take precedence in that order over established hay and permanent pasture.

18. The installation of check gates, turnouts, culverts, bridges, or any structure in or on the ditch, and/or activity within the 60-foot easement boundary must have prior approval of the Majordomo and be done in accordance with Acequia specifications.

19. Violations of the above Rules and Regulations and comparable By-Laws provisions will be subject to fines and penalties and/or legal action as prescribed by New Mexico State Water and Acequia laws as deemed appropriate by the infraction.

20. In general, except for penalties for prosecutions of misdemeanors and criminal acts, the first violation of these Rules and Regulations and By-Laws will result in a Twenty-five Dollars (\$25.00) fine, the second violation fine will be Fifty Dollars (\$50.00), the third One Hundred Dollars (\$100.00). A fourth violation will result in the loss of the right to water for the season.

21. These Rules and Regulations will be enforced in Magistrate or District Court in accordance with the New Mexico State statutes governing Acequias and water law.

Where not otherwise covered by our By-Laws and these Rules and Regulations the requirements of State law will be applicable. These are supplemental to any provisions of state law not consistent with them. If any part of application of these is held invalid, the remainder of its application to other situations or persons shall not be affected.

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