

**Minutes of Regular Meeting  
Board of Directors  
El Paso County Water Improvement District No. 1  
("EPCWID")  
December 14, 2016**

<b>DIRECTORS PRESENT</b>	<b>OTHERS PRESENT</b>
<b>Johnny Stubbs, President</b>	<b>Jesus Reyes, General Manager</b>
<b>Indar Singh, Secretary</b>	<b>Al Blair, District Engineer/Consultant (via skype)</b>
<b>Larry Ceballos, Director</b>	<b>Jim Speer, Attorney At Law</b>
<b>DIRECTORS NOT PRESENT</b>	<b>Jay Ornelas, Assistant District Engineer</b>
<b>Art Ivey, Vice-President</b>	<b>Sharon Atilano, Administrative Assistant</b>
<b>Miguel Teran, Director</b>	<b>Lisa Aguilar, HR Manager</b>
	<b>Mary Cortez, CFO</b>
	<b>Pete Rodriguez, Maintenance Manager</b>
	<b>Rose Rodriguez, Tax Assessor/Collector/Office Manager</b>
	<b>Rueben Chavez, Visitor</b>
	<b>Robert Kimpel, Visitor</b>
	<b>Agent Olivas, Clint Border Patrol</b>
	<b>Mike Churchman, Comanche Trail Pipeline</b>
	<b>Xoxi Naraputzin, Visitor</b>

1. Call to order and establishment of a quorum.

**There being a quorum of Directors present, the meeting was called to order by President Johnny Stubbs at 8:30 a.m., and the Directors then proceeded to consider the following:**

2. Welcome of guests.

**No action was taken on this item.**

3. Approval of minutes of Regular Meeting held on November 9, 2016.

Draft minutes of the Regular Meeting held on November 9, 2016 of the Board of Directors were presented for approval.

After a motion by Indar Singh, seconded by Larry Ceballos, duly considered and carried by unanimous vote of the Board it was:

**RESOLVED: that the draft minutes of the Regular Meeting held on November 9, 2016 are approved.**

4. Report and recommendations by Mary Cortez, Chief Financial Officer, concerning financial information, expenditures, budget, and investment policy:
  - a. **November Report for the month ending November 30, 2016 were presented to the Board of Directors.** No action was taken on this item.
  - b. **\$500 Expenditure Report for the month of November was presented to the Board of Directors.** No action was taken on this item.
  - c. **Legal & Consulting Fees Budget Report.** No action was taken on this item.
5. Report and recommendations by Rose Rodriguez, Tax Assessor/Collector/Office Manager, concerning adjustments and corrections, if any, to assessments, taxes, and charges by EPCWID.
  - a. **Review tax reports for the month of November.** There were no adjustments.
  - b. **2013-2016 El Paso Public Service Board Assignments.** No action was taken on this item.
  - c. **2015-2016 Lower Valley Water District Assignments.** No action was taken on this item.
  - d. **Comparison of EPCWID tax assessments and collections during 2014 and 2015.** No action was taken on this item.
  - e. **Report on tax suits and interventions filed by EPCWID.** No action was taken on this item.
6. General Manager's report concerning the following:

**a. End of the year report.** No action was taken on this item.

**b. Discuss and take action on proposed compromise and settlement agreement for litigation identified under items f and g on Closed Session Agenda.**

After a motion by Larry Ceballos, seconded by Indar Singh, duly considered and carried by unanimous vote of the Board it was:

**RESOLVED: that the Settlement Agreement among the District, Comanche Trail Pipeline, L.L.C. et al, and the United States of America, in regard to items 1f and 1g of the Closed Meeting Agenda for December 14, 2016, is approved and the officers of EPCWID No. 1 are authorized and directed to execute such agreement, a copy of which is attached hereto if the other parties agree to execute the Agreement prior to December 21, 2016.**

7. District Engineer's report and recommendations concerning the following:

**a. Rio Grande Project Operating Agreement Accounting.**

After a motion by Indar Singh, seconded by Larry Ceballos, duly considered and carried by unanimous vote of the Board it was:

**RESOLVED: that the board resolves to approve the final allocation charges for the year 2016 including the recommendations of the EBID and EPCWID's members of the Rio Grande Project Allocation Committee described in their memorandum dated December 15, 2016 and attached hereto.**

**b. Rio Grande Compact Accounting.** No action was taken on this item.

**c. Status of 3<sup>rd</sup> Party Construction in District Canals and Drains.** No action was taken on this item.

8. Maintenance Manager's report and recommendations concerning the following:



**Drain maintenance program and water delivery system.** No action was taken on this item.

9. Water master's report and recommendations concerning the following:

**Water use and availability.** No action was taken on this item.

10. Water delivery allocations to EPCWID water users and water available by contract.

No action was taken on this item.

11. Approval of Applications for Licenses for Use of District Real Property:

After a motion by Indar Singh, seconded by Larry Ceballos, duly considered and carried by unanimous vote of the Board it was:

- a. **Applications 1780 through 1795 for Comanche Trail Pipeline, LLC to construct a 42-inch Diameter Steel High Pressure Natural Gas Pipeline and 6-inch diameter Steel Casing for a Fiber Optic System under the following irrigation facilities: Crismore Lateral, Salitral Lateral, Mesa Drain, Lee Lateral, Middle Drain, Webb Lateral, Franklin Canal, Franklin Intercepting Drain, IF-57 Lateral, Island Feeder Intercepting Drain, Island Feeder Canal, River Spur Drain, River Drain, San Elizario Main Lateral, Riverside Intercepting Drain, Riverside Canal.**

After a motion by Indar Singh, seconded by Larry Ceballos, duly considered and carried by unanimous vote of the Board it was:

**RESOLVED: that the Applications for Licenses for Private Use of District Real Property numbered L-1780 through L-1795 to Comanche Trail Pipeline, L.L.C. a limited liability company registered in Texas (Licensee) are approved upon the condition that the District, Licensee, and the United States of America execute the Settlement Agreement approved by District's board under item 6b of the Open Meeting Agenda for December 14, 2016 within 35 days**

**hereafter and that the Licensee provide to the District two executed copies of each license prior to December 21, 2016, and the officers of EPCWID No. 1 are authorized and directed to execute such licenses, copies of which is attached hereto.**

Approval of Construction Dewatering Licenses for Conveying Groundwater:

- b. Application 1887, by Pumpco, Inc. for dewatering into Franklin Canal and/or River Drain for Construction of 42” Diameter High Pressure Natural Gas Pipeline near FM 258 and Franklin Canal.**

After a motion by Indar Singh, seconded by Larry Ceballos, duly considered and carried by unanimous vote of the Board it was:

**RESOLVED: that the Applications for Licenses for Use of District Facilities for Conveyance of Groundwater from Construction Dewatering numbered L-1887 and L-1888 and Application for a License for Private Use of District Real Property for Temporary Construction Uses numbered L-1889 to Pumpco, Inc. a corporation registered in Texas (Licensee) are approved upon the condition that the Licensee provides to the District two executed copies of each License to the District within 35 days hereafter, and the General Manager of EPCWID No. 1 is authorized and directed to execute such licenses, copies of which is attached hereto.**

- c. Application 1888, by Pumpco, Inc. for dewatering into River Drain, Riverside Intercepting Drain, and San Elizario Main Lateral for Construction of 42” Diameter High Pressure Natural Gas Pipeline near Chicken Ranch Road and Riverside Road.**

After a motion by Indar Singh, seconded by Larry Ceballos, duly considered and carried by unanimous vote of the Board it was:

**RESOLVED:** that the Applications for Licenses for Use of District Facilities for Conveyance of Groundwater from Construction Dewatering numbered L-1887 and L-1888 and Application for a License for Private Use of District Real Property for Temporary Construction Uses numbered L-1889 to Pumpco, Inc. a corporation registered in Texas (Licensee) are approved upon the condition that the Licensee provides to the District two executed copies of each License to the District within 35 days hereafter, and the General Manager of EPCWID No. 1 is authorized and directed to execute such licenses, copies of which is attached hereto.

- d. Application 1889, by Pumpco, Inc. for a temporary construction license for the District to construct a flow bypass system in the River Drain near Chicken Ranch Road and Riverside Road.

After a motion by Indar Singh, seconded by Larry Ceballos, duly considered and carried by unanimous vote of the Board it was:

**RESOLVED:** that the Applications for Licenses for Private Use of District Real Property for Temporary Construction Uses numbered L1889 to Pumpco, Inc. a corporation registered in Texas (Licensee) is approved upon the condition that the Licensee provide to the District two executed copies of each License to the District within 35 days hereafter, and the General Manager of EPCWID No. 1 is authorized and directed to execute such license, a copy of which is attached hereto.

12. Status of and/or action on for purchases or sale/or easements and/or leases and/or bids of property: **None**

13. Any or all of the items shown on the attached Closed Meeting Agenda. **The Board then entered into a closed session at 8:56 a.m. regarding the items to be considered in closed session as shown on the Notice of Public Meeting. The Board subsequently returned to the open session at 12:10 p.m. with no action having been taken in the closed session.**



14. **Adjournment.** On motion duly made, seconded and carried, the Board Meeting adjourned at 12:19 p.m.



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Indar Singh, Secretary

COMANCHE TRAIL PIPELINE, LLC  
*Plaintiff,*  
v.  
EL PASO COUNTY WATER  
IMPROVEMENT DISTRICT NO. 1,  
*Defendant,*  
and  
THE UNITED STATES OF AMERICA,  
*Intervenor.*

1. Comanche Trail Pipeline, LLC is the Plaintiff in the above-entitled and numbered cause, and shall be referred to herein as "Comanche."
2. "CTP Companies" means Comanche Trail Pipeline, LLC, and its officials, agents, owners, managing members, subcontractors, and assigns, including but not limited to Energy Transfer Company; Energy Transfer Partners, L.P.; La Grange Acquisition, L.P.; LA GP, LLC; and their officials, agents, owners, managing members, subcontractors, and assigns.
3. El Paso County Water Improvement District No. 1 is the Defendant in the above-entitled and numbered cause, and shall be referred to herein as "EPCWID."
4. The United States of America on behalf of the Bureau of Reclamation is the Intervenor in the above-entitled and numbered cause, and shall be referred to herein as "the U.S."
5. "Lawsuit" shall mean the above-entitled and numbered cause, which includes the prior filings in Cause No. 2016DCV0255 in the County Court at Law No. 6, El Paso County, Texas (the "Condemnation Case") and Cause No. 08-16-00231-CV in the Eighth Court of Appeals, El Paso, Texas (the "Appeal").
6. "Settlement Agreement" shall mean this Full and Final Settlement and Release Agreement by and between the parties hereto. The "Parties" shall collectively mean Comanche, EPCWID, and the U.S.



**B.**

**CONTRACTUAL RECITALS AND STATEMENT OF PURPOSE**

**WHEREAS**, Comanche initiated the Lawsuit against EPCWID to condemn certain easements across land EPCWID claims to own; and

**WHEREAS**, EPCWID has denied, and continues to deny, all such allegations by Comanche; and

**WHEREAS**, the U.S. has intervened on behalf of the Bureau of Reclamation, an agency of the Department of Interior, and has alleged, among other claims, trespass and conversion causes of action against Comanche for its alleged failure to secure the proper authorizations to enter upon the subject lands; and

**WHEREAS**, Comanche has denied, and continues to deny, all such allegations by the U.S.; and

**WHEREAS**, this Settlement Agreement, and the execution hereof, does not, and is not intended to be construed to be, or is an admission of any fault or wrongdoing by or on behalf of the Parties, and all such claims having been expressly denied heretofore, and the Parties continue to deny the same; and

**WHEREAS**, all provisions of this Settlement Agreement are contractual in nature, and not mere recitals only; and

**WHEREAS**, the purpose of this Settlement Agreement is to set forth and embody a negotiated compromise, settlement, and release, as set forth herein.

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions herein contained, and the incorporation of the above Recitals, the Parties hereto agree as follows:

**C.**

**PERSONS AND ENTITIES BOUND BY THE SETTLEMENT AGREEMENT**

1. CTP Companies understands and agrees that by execution hereof, the terms of this Settlement Agreement are binding upon CTP Companies and upon all representatives, successors, and assigns of CTP Companies.

2. EPCWID understands and agrees that by execution hereof, the terms of this Settlement Agreement are binding upon EPCWID and upon all representatives, successors, and assigns of EPCWID.

3. The U.S. understands and agrees that by execution hereof, the terms of this Settlement Agreement are binding upon the United States Bureau of Reclamation.

4. CTP Companies represents and warrants that CTP Companies has approved of all the terms, conditions, and covenants of this Settlement Agreement as evidenced by its duly authorized signature to this Settlement Agreement.

5. EPCWID represents and warrants that EPCWID has approved of all the terms, conditions, and covenants of this Settlement Agreement as evidenced by its duly authorized signature to this Settlement Agreement.

6. The U.S. represents and warrants that the U.S. has approved of all the terms, conditions, and covenants of this Settlement Agreement as evidenced by its duly authorized signature to this Settlement Agreement.

#### **D. NO OUTSTANDING CLAIMS**

1. CTP Companies warrants and represents that CTP Companies is unaware of the existence of any actual or potential claim, demand, suit, cause of action, charge, or grievance possessed by CTP Companies, which is not subject to and fully released by this Settlement Agreement, that concerns or relates in any way, directly or indirectly, to the Lawsuit or subject matter forming the basis of the Lawsuit.

2. EPCWID warrants and represents that EPCWID is unaware of the existence of any actual or potential claim, demand, suit, cause of action, charge, or grievance possessed by EPCWID, which is not subject to and fully released by this Settlement Agreement, that concerns or relates in any way, directly or indirectly, to the Lawsuit or subject matter forming the basis of the Lawsuit.

#### **E. CONSIDERATION**

1. In complete settlement of all claims of the Parties to this Lawsuit, the Parties agree as follows:

- a) EPCWID shall execute 16 license agreements, the form of which is mutually agreeable to Comanche and EPCWID and as is attached hereto as **Exhibit A**, which the U.S. shall approve and ratify, for a term of twenty-five (25) years, each beginning on June 1, 2016, for a 42" Diameter High Pressure Natural Gas Pipeline (the "Pipeline") and a 6" Diameter Steel Casing Conduit for a Fiber Optic System. Each license shall include an option to renew such license; which payment to renew all 16 license agreements for an



additional twenty-five (25) years shall be \$5,417,000.00 adjusted for inflation at the time of the option's exercise, using the United States Bureau of Labor Consumer Price Index-All Urban Consumers-US City Average.

b) By December 16, 2016, Comanche shall deliver to James M. Speer, Jr, counsel for EPCWID, a check payable to EPCWID in the total amount of \$5,417,000.00 ("Settlement Consideration"), which Mr. Speer shall hold in trust pending (i) the signature by all parties on this agreement; (ii) delivery by EPCWID to Comanche of the 16 license agreements referenced in paragraph 1 a) above and a signed ratification of those licenses by the U.S.; (iii) delivery to Comanche of dewatering licenses and a signed ratification of those licenses by the U.S., allowing Comanche and, or its contractor to immediately drill and operate water wells on EPCWID property and to discharge any water removed by Comanche at the Remaining Crossings into EPCWID canals, laterals and, or drains; (iv) dismissal of the Lawsuit and delivery to Comanche of a motion to dismiss the Appeal signed by EPCWID's counsel; and (v) the performance of all other actions necessary by the Parties to entitle Comanche to re-commence construction operations on EPCWID property to complete the Franklin Canal crossing as well as the San Elizario Main Lateral and River Drain crossings at Chicken Ranch Road (the "Remaining Crossings") by 5:00 pm, on December 19, 2016 or as soon thereafter as practicable, and to complete same without interruption (provided the crossings are performed in accordance with the procedures agreed to between Comanche and the EPCWID and approved by the United States, which procedures are attached hereto as **Exhibit B**, and in accordance with applicable state and federal regulations), including, without limitation, dissolution of the temporary restraining order entered by the federal district court in the Lawsuit and that court taking whatever other actions are necessary to allow Comanche to re-commence construction as discussed above by 5:00 p.m. on December 19, 2016 or as soon thereafter as practicable and to complete such construction. Upon timely and complete satisfaction of (i) through (v) (collectively "Funding Requirements"), Mr. Speer shall deliver the check he is holding in trust to EPCWID. If all of the Funding Requirements are not timely and fully met, and unfulfilled requirements are not mutually extended or waived by agreement of the Parties, Mr. Speer, upon demand by Comanche, shall immediately return the check to Comanche, whereupon this Agreement shall become null and void.

2. In consideration of the Settlement Consideration described above, the receipt and sufficiency of which is hereby acknowledged by the Parties, and in consideration of the mutual agreements, conditions, representations, warranties, recitals, covenants, and statements of intention contained herein, the Parties do hereby compromise and release all claims among them arising out of the Lawsuit, pursuant to this Settlement Agreement. The Settlement Consideration shall fully compensate EPCWID for all easement/license rights sought by, and, or utilized by Comanche through the 25-year term of the sixteen license agreements and shall fully compensate



EPCWID for damages, if any, caused by Comanche to EPCWID property and facilities arising out of any act or omission occurring prior to the date of this Agreement. EPCWID and the U.S. waive any claim to the monies on deposit in the registry of the County Court of Law No. 6, El Paso County, Texas, and consent to the cancellation of any bonds posted with such court.

3. Contemporaneously with the execution of this Settlement Agreement, the counsel for the Parties hereto will sign and enter a dismissal of the Lawsuit.

4. Unless included within the Settlement Consideration, each party agrees to be solely responsible for the payment of its respective attorneys' fees, court costs, expert witness fees, court reporter fees, and all other expenses incurred on said party's behalf as a result of or in connection with the Lawsuit and/or this Settlement Agreement.

5. EPCWID agrees that, to the extent it has any authority with respect to private property adjacent to property that it owns or controls, it will not exercise such authority to interfere with initiation and construction of the Comanche Trail Pipeline on such private properties.

#### F. MUTUAL RELEASE

The Parties and CTP Companies hereby covenant, agree, and consent to the following:

1. The intent of the Parties and CTP Companies hereto is that each person or entity executing this Settlement Agreement shall, by reason of such execution, be entirely free of any and all actual or potential claims, suits, demands, causes of action, charges, or grievances of any kind or character regardless of the nature or extent of the same, arising out of the Lawsuit. Again, as it pertains to the United States, those claims are limited to the trespass and conversion causes of action asserted by the Bureau of Reclamation in the Lawsuit.

2. Except for the power of eminent domain, CTP Companies hereby fully and finally **RELEASES, ACQUITS, AND FOREVER DISCHARGES** EPCWID and the U.S., and CTP Companies further covenants not to assert in any manner against the EPCWID and the U.S., any and all actual or potential claims held by CTP Companies against EPCWID and the U.S., and/or any suits, demands, causes of action, charges, or grievances of any kind or character whatsoever, heretofore or hereafter accruing for or because of any matter done, omitted, or suffered to be done by EPCWID and the U.S. prior to and including the date hereof, and in any manner (whether directly or indirectly) arising from or related to the Lawsuit.

3. Except for the power of eminent domain, EPCWID hereby fully and finally **RELEASES, ACQUITS, AND FOREVER DISCHARGES** CTP Companies, and EPCWID further covenants not to assert in any manner against CTP Companies, any and all actual or potential claims held by EPCWID against CTP Companies, and/or any suits, demands, causes of

action, charges, or grievances of any kind or character whatsoever, heretofore or hereafter accruing for or because of any matter done, omitted, or suffered to be done by CTP Companies prior to and including the date hereof, and in any manner (whether directly or indirectly) arising from or related to the Lawsuit.

4. Subject to Comanche fully and completely satisfying all permitting and licensing processes required by EPCWID and the Bureau of Reclamation covenants and agrees that the rights exercised under and in accordance with the license agreements will not interfere with its rights or interests in the water facilities covered by the license agreements or violate any provisions of the Reclamation Act as amended, and that the dismissal of its counterclaims for trespass and conversion arising in or related to the Lawsuit shall be with prejudice, and that those claims shall be fully and finally **RELEASED, ACQUITTED, AND FOREVER DISCHARGED.**

5. Each of the foregoing releases shall run in favor of the released parties and their respective agents, representatives, attorneys, insurers, contractors, and sub-contractors.

#### **G. INUREMENT**

It is understood and agreed that this Settlement Agreement shall inure to the benefit of the Parties. No other person or entity is intended to benefit or be deemed a third-party beneficiary of this Settlement Agreement.

#### **H. EXPRESS DENIAL OF LIABILITIES**

The Parties and/or their respective representatives, understand and agree that the provisions of the payment and the Settlement Consideration, as set forth herein, are not intended to be, nor shall be construed to be, an admission of liability by any Party, and any and all such liability is expressly denied by the foregoing parties.

#### **I. SEVERABILITY**

If any one or more of the provisions contained in this Agreement are for any reason held to be invalid, illegal, or unenforceable in any respect, the invalidity, illegality, or unenforceability will not affect any other provision of this Agreement, which will be construed as if it had not included the invalid, illegal, or unenforceable provision, provided such provision or provisions are not essential to the substance of this Agreement.



**J.**  
**ENTIRE AGREEMENT OF THE PARTIES**

This Settlement Agreement constitutes the entire agreement and understanding of the Parties with respect to the transactions contemplated hereby, and supersedes all prior agreements, arrangements, and understandings related to the subject matter hereof, including but not limited to, the Lawsuit. No representations, warranties, recitals, covenants, or statements of intention have been made by, or on behalf of, any party hereto which is not embodied in this Settlement Agreement or in connection with the transactions contemplated hereby, and no party hereto shall be bound by, or liable for, any alleged representation, warranty, recital, covenant, or statement of intention not so set forth. All the terms, provisions, conditions, covenants, warranties, recitals, and statements of intention in this Settlement Agreement shall be binding upon, inure to the benefit of, and be enforceable by the Parties.

**K.**  
**GOVERNING LAW**

This Settlement Agreement shall be construed in accordance with the governing laws of the State of Texas, and to the extent applicable, federal law as it pertains to the United States. The obligations of the parties are performable, and venue for any legal action arising out of this Settlement Agreement shall lie in El Paso County, Texas.

**L.**  
**FULL UNDERSTANDING AND  
AGREEMENT**

EACH RELEASING PERSON, ENTITY, OR PARTY WARRANTS THAT SUCH PARTY HAS RETAINED COUNSEL OF ITS OWN CHOOSING, AND HAS READ THIS FULL AND FINAL SETTLEMENT AND RELEASE AGREEMENT AND FULLY UNDERSTANDS IT. EACH PARTY WARRANTS THAT SUCH PARTY IS OF LEGAL COMPETENCE OR LEGAL CAPACITY, AND IS FREE, WITHOUT DURESS, TO EXECUTE THIS SETTLEMENT AND RELEASE AGREEMENT, AND THAT SUCH PARTY HAS DONE SO OF FREE WILL AND ACCORD, WITHOUT RELIANCE ON ANY REPRESENTATION OF ANY KIND OR CHARACTER NOT EXPRESSLY SET FORTH HEREIN.

**M.**  
**EXECUTION AND EFFECTIVE DATE**

This Settlement Agreement may be signed in counterparts, and each counterpart shall constitute an original. The parties hereto have executed this Full and Final Settlement and Release Agreement on the dates set forth below their names, to be effective as of \_\_\_ day of December 2016.



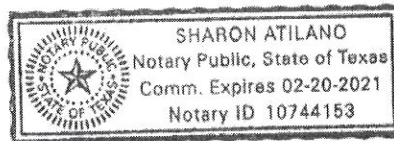
COMANCHE TRAIL PIPELINE, LLC

By: Richard Smith Date: 12/19/16  
Name: [Signature] Title: VICE PRESIDENT  
COMANCHE TRAIL PIPELINE, LLC  
STATE OF TEXAS §  
COUNTY OF EL PASO §

On this 19th day of December, 2016, before me, the undersigned notary public, personally appeared Richard Smith known to me to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

Notary for the State of Texas

[Signature]



ENERGY TRANSFER COMPANY; ENERGY TRANSFER PARTNERS, L.P.;  
LA GRANGE ACQUISITION, L.P.; LA GP, LLC

By: Richard Smith Date: 12/19/16

Name: [Signature] Title: Vice President,  
Engineering

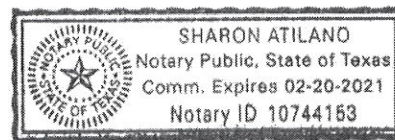
STATE OF TEXAS §

COUNTY OF El Paso §

On this 19th day of December, 2016, before me, the undersigned notary public,  
personally appeared Richard Smith known to me to  
be the person whose name is subscribed to the within instrument and acknowledged that he  
executed the same for the purposes therein contained.

Notary for the State of Texas

[Signature]



THE UNITED STATES OF AMERICA ON BEHALF OF THE BUREAU OF  
RECLAMATION

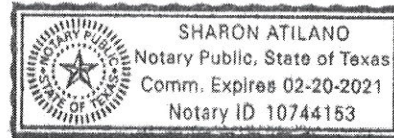
By: Kell Date: 12/19/16  
Name: KRISTY CALLAHAN Title: ASST U.S. ATTORNEY

STATE OF TEXAS §  
COUNTY OF EL PASO §

On this 19th day of December, 2016, before me, the undersigned notary public,  
personally appeared Kristy Callahan known to me to be  
the person whose name is subscribed to the within instrument and acknowledged that he  
executed the same for the purposes therein contained.

Notary for the State of Texas

[Signature]





EL PASO COUNTY WATER IMPROVEMENT DISTRICT NO. 1

By: Johnny Stubbs Date: 12/19/16  
Johnny Stubbs, President

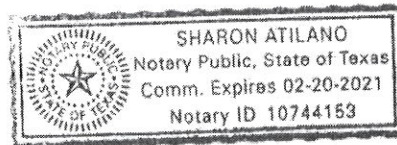
STATE OF TEXAS

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§  
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COUNTY OF EL PASO

On this 9th day of December, 2016, before me, the undersigned notary public, personally appeared Johnny Stubbs known to me to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

Notary for the State of Texas



ATTEST:

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Indar Singh, Secretary

STATE OF TEXAS

§  
§  
§

COUNTY OF \_\_\_\_\_

On this \_\_\_\_ day of \_\_\_\_\_, 2016, before me, the undersigned notary public, personally appeared \_\_\_\_\_ known to me to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

Notary for the State of Texas

## **Rio Grande Project – District Allocation Committee Members 2<sup>nd</sup> Memorandum**

### **Proposed Accounting Procedures Regarding Appendix C of the 2001 Contract**

The Rio Grande Allocation Committee issued a "Memorandum Proposed Accounting Procedures Regarding Appendix C of the 2001 Contract" on December 8, 2010. The purpose of this memorandum was to estimate the impact of the capture of Rio Grande Project (RGP) water supply by groundwater pumping in the Canutillo Well Field (CWF) in Texas during the time period in which EBID's diversion allocation is based on the ratio of the amount of diversion allocation charges to the amount of water released from Caballo Reservoir (Diversion Ratio). In part, as a result of litigation filed by the State of New Mexico against EBID and EPCWID in 2011, the proposed accounting procedures were never approved by EPCWID for incorporation in to the OA operating manual. Resolution of the 2011 litigation has not occurred and may not occur for many years. In consideration of the lack of resolution of this litigation, EPCWID is proposing, that on a year-by-year basis, the District members of Allocation Committee (EBID and EPCWID) issue a memorandum addressing the CWF issue.


The North West Waste Water Treatment Plant (NWWWTP) discharges treated sewage effluent just upstream of the American Diversion Dam. The discharged water becomes part of the RGP Water Supply once the water reaches the bed of the Rio Grande. The net depletion of RGP Water Supply by the Canutillo Well Field (CWF) supply is the difference between the amounts of water captured by the CWF less the amount of discharge from the NW-WTTP during the primary irrigation season. For 2016, the primary irrigation season was from March 28, 2016 to September 30, 2016 or 186 days. However, during the last 15 days of the season, the only party diverting water from the Rio Grande was EPCWID and per requirements of the OA, EPCWID was charged 100% of the water released from Caballo Reservoir during these 15 days. The effective amount of days for calculating water captured by the CWF is (186 - 15) or 171 days. The following equation is proposed to be used as temporary method to be used to estimate the amount of capture:

$$\text{Net Depletion (af)} = 0.95 \times \text{CWF (af)} \times \text{D (days)} / 366 \text{ days} - \text{NWWTTP (af)}$$


Where Net Depletion is the estimate of the amount of net depletion on the RGP Water supply by the CWF during the primary irrigation season of the current year, and D is the duration of the primary irrigation season of the current year, and CWF is the annual amount of pumping for the previous calendar year, and NW-WTTP is the amount of discharge of treated effluent during primary irrigation season of the current year. For 2016 the calculations are: CWF = 23,444 af, and D = 171 days, and NW-WTTP = 2,576 af then the Net Depletion (af) =  $0.95 \times 23,444 \times 171 / 366 - 2,577 = 7,859$  af, and that for the year 2016. It is EBID's and EPCWID's Allocation Committee Members' recommendation that a charge of 7,859 acre-feet be made to EPCWID's allocation balance in 2016 to account for this impact.

**Approved on December 15, 2016 by Allocation Commission Members for:**

**Elephant Butte Irrigation District**

  
J. Phillip King, Ph.D., P.E.

**El Paso County Water Improvement District**

  
A.W. Blair, Ph.D., P.E.