

## **APPENDIX A**

UNITED STATES  
DEPARTMENT OF THE INTERIOR

Memorandum of Agreement  
the  
Bureau of Reclamation  
and the  
El Guique Acequia

This Memorandum of Agreement entered into this 22nd day of December, 2003, pursuant to the Act of June 17, 1902 (32 Stat. 388), the Act of August 4, 1939 (53 Stat. 1187) and Acts amendatory thereof or supplementary thereto, and in particular the Flood Control Act of June 30, 1948 (62 Stat. 1171), by and between THE UNITED STATES OF AMERICA, Department of the Interior, Bureau of Reclamation (Reclamation) and the El Guique Acequia Commission, each represented by the duly authorized officer executing this Memorandum of Agreement:

**RECITALS:**

WHEREAS, Reclamation constructed a berm, from the San Juan Diversion Dam to upstream past the Estaca Arroyo on the west side of the Middle Rio Grande River impounding water on the adjacent properties from storm runoff, arroyo flows and irrigation ditch overflows; and,

WHEREAS, Reclamation's construction of berms across the confluence of the Estaca, Borrego and Lopez Arroyos (Arroyos) did not provide for adequate drainage of flows to the Rio Grande; and,

WHEREAS, the El Guique Acequia Commission has an easement and jurisdiction over the return flows from its Acequia; and,

WHEREAS, the El Guique Acequia Commission has requested Reclamation to clear the Arroyo of debris and channel the Arroyo flows towards the Rio Grande and provide for drainage of flows to the Rio Grande; and,

WHEREAS, Reclamation has assumed the obligation to correct the impediment and provide facilities to allow the Arroyo flows to reach the Rio Grande.

THEREFORE, in the interests of the parties hereto the following terms and conditions are provided to improve correct the existing conditions by improving drainage conditions and place culverts through the levees.

**IT IS AGREED:**

1. That Reclamation, where feasible, will design and place certain features within the Arroyos and provide drainage to the Rio Grande by placing culverts through the levee or by creating an open channel through the levee as appropriate to the best design criteria for such work.
2. That Reclamation will obtain the necessary permits for temporary access, staging and placement of facilities to complete the work as reviewed and approved by the El Guique Acequia Commission. Permits will be obtained from adjacent Borrego Arroyo (1<sup>st</sup> construction scheduled) land owners Mark Roschke, Paul Cedilla and Dave Jardine to access across their respective properties. Permits will be obtained from adjacent land owners for Estaca and Lopez Arroyos prior to construction anticipated to take place within 3 years of the signing of this agreement.

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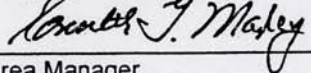
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3. The El Guique Acequia Commission provides Reclamation with the right to occupy, access, store and place features as needed to initiate and complete construction of the features mutually agreed to by the parties to this MOA.

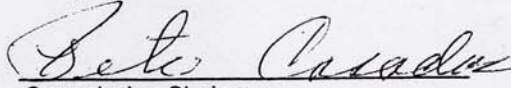
4. The El Guique Acequia Commission, once the construction is complete, assumes the responsibility and obligations to operate and maintain the culverts or open channel at no expense to the United States.

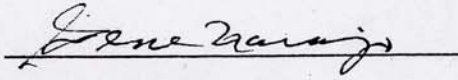
IN WITNESS WHEREOF this Memorandum of Agreement is entered into as of the date of execution written below.

UNITED STATES OF AMERICA  
Bureau of Reclamation

  
\_\_\_\_\_  
Area Manager  
Albuquerque Area Office

Acequia Commission

  
\_\_\_\_\_  
Commission Chairman  
Pete Casados

  
\_\_\_\_\_  
Commissioner El Guique  
Gene Naranjo