

APPENDIX A

Applicable Laws, Regulations, And Permits

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APPLICABLE LAWS, REGULATIONS, AND PERMITS

The proposed implementation of the project must meet the requirements of NEPA, the Endangered Species Act (ESA), the National Historic Preservation Act (NHPA), Fish and Wildlife Coordination Act, Clean Water Act and other applicable laws and regulations. This EIS addresses part of those requirements.

A listing of the required federal, state, and local permits and approvals for Drinking Water Project is presented in Table A-2. This table also identifies the entity that is responsible for obtaining each permit.

**TABLE A-1
REQUIRED ACTIONS, PERMITS, AND LICENSES**

Agency or Organization	Actions, Permits, And Licenses	Description
U.S. Bureau of Reclamation (Reclamation)	National Environmental Policy Act (NEPA) compliance	Reclamation would need to issue a license to the City for location of project facilities on Reclamation owned property or right of way or approve a license between the City and the MRGCD for location of facilities on MRGCD property in which the Bureau has an interest. Reclamation is responsible for ensuring compliance with NEPA, Warren Act and other environmental statutes and Executive Orders, overall coordination of the environmental review, and issuing the Record of Decision.
	Secretarial Order 3175 – Identification, Conservation, and Protection of Indian Trust Assets	Reclamation is responsible for inter-agency government consultations with Tribal and Pueblo entities.
U.S. Fish and Wildlife Service (USFWS)	Endangered Species Act (ESA) (Section 7 Consultation) (Section 10 Compliance)	Consultation under Section 7 of ESA is required to determine if the project will adversely affect threatened or endangered species or designated critical habitat.
	Fish and Wildlife Coordination Act (FWCA) Report	USFWS must prepare a FWCA report that determines effects on fish and wildlife populations and their habitats from water-resource developments and recommends ways to avoid or mitigate adverse effects.
U.S. Army Corps of Engineers (USACE)	Permit pursuant to Section 404 of the Clean Water Act (CWA)	USACE is a cooperating agency for the proposed project under NEPA, and would issue a CWA Section 404 Permit, which would be required for discharge of fill material into waters of the U.S., including wetlands.

**TABLE A-1 (Continued)
REQUIRED ACTIONS, PERMITS, AND LICENSES**

Agency or Organization	Actions, Permits, And Licenses	Description
Federal Executive Orders (EOs) ^{a/}	EO11990 – Wetlands	Minimize destruction, loss, or degradation of wetlands.
	EO11998 – Floodplains	Reduce the risk of flood loss, minimize flooding effects.
	EO12898 – Environmental Justice	Avoid disproportionate adverse effects to minority and/or low income populations.
	EO 13077 – Native American Sacred Sites	Accommodate access to and avoid adversely affecting sites.
	EO11593 – Protection and Enhancement of the Cultural Environment	Leadership role in surveying and preservation of the cultural environment.
U.S. Environmental Protection Agency (EPA)	Oversight authority for CWA Section 404 Permits.	EPA provides review comments to the USACE on Section 404 permit applications during the public process. EPA has veto authority of USACE permit decisions under Section 404(c) of the Clean Water Act.
EPA	EPA Review of DEIS	EPA will review the DEIS for environmental impact of the project, and will rate the adequacy of the DEIS when it is filed with EPA.
	Section 309 of the Clean Air Act	
	NPDES	Appropriate NPDES Permit coverage for the contractors will be required.
	Section 402 of the Clean Water Act	A surface water pollution prevention plan (SWPPP) will be required for the project.
Sandia Pueblo	Section 401, Certification Authority under the Clean Water Act	If Angostura Alternative were selected, this certification would be required.
New Mexico Department of Game and Fish (NMDGF)	Management of fish and wildlife in New Mexico with concurrent responsibility for the USFWS FWCA report	NMDGF would comment on the FWCA Report. If the Department does not concur with USFWS findings, it may prepare its own FWCA report.
New Mexico Environment Department (NMED) or Water Quality Certification Agency	Section 401 Water Quality Certificate (CWA)	NMED or WQ Agency Section 401 certification is required prior to USACE issuance of individual Section 404 permit.
	Ground Water Discharge Plan	NMED would review the plan to ensure compliance with discharge and compliance limitations.
	20 NMAC 7.1.502 approval	Two copies of plans and specifications to be provided to the NMED prior to bidding on construction.

TABLE A-1 (Continued)
REQUIRED ACTIONS, PERMITS, AND LICENSES

Agency or Organization	Actions, Permits, And Licenses	Description
New Mexico Historic Preservation Division, State Historic Preservation Officer (SHPO)	National Historic Preservation Act Compliance	Reclamation is required to consult with SHPO regarding the effects of the project on historic and archeological sites (sites eligible for listing on the National Register of Historic Places) and to mitigate any adverse effects to these sites.
Office of the State Engineer (OSE)	Surface Water Diversion Permit	State Engineer approval of permit to divert water from the Rio Grande.
Middle Rio Grande Conservancy District (MRGCD)	License Agreement	For construction of project facilities within existing MRGCD property.
Albuquerque Metropolitan Arroyo and Flood Control Authority	License Agreement	For construction of project facilities within existing AMAFCA property.
City of Albuquerque	Open Space Division Permit	City permit required by Open Space to build and operate extraordinary facilities within bosque areas.

^{a/} Reclamation must ensure compliance with these pertinent Executive Orders.

TABLE A-2
PROJECT PERMITS REQUIRED^{a/}

Source	Permit	Acquisition Responsibility
Federal		
United States Army Corps of Engineers	Clean Water Act, Section 404	City of Albuquerque
State		
New Mexico Office of the State Engineer	Surface Water Diversion Permit	City of Albuquerque
Local		
City of Albuquerque, Open Space Division	Open Space Extraordinary Facility Permit	City of Albuquerque
City of Albuquerque	Lane closure/barricade	Construction contractor
City of Albuquerque	Excavation	Construction contractor
City of Albuquerque	Grading	Construction contractor
City of Albuquerque	Surface disturbance	Construction contractor

^{a/} Sources: Albuquerque, City of, 1997; CH2M Hill, 1999b and 1999c.