

**SOUTHERN SANDOVAL COUNTY ARROYO FLOOD CONTROL AUTHORITY  
(SSCAFCA)  
MINUTES OF NOVEMBER 18, 2003  
BOARD OF DIRECTORS REGULAR MEETING**

**CALL TO ORDER.**

The regular meeting of the SSCAFCA Board of Directors was called to order by Dub Yarbrough, Chairman, at 1:15 p.m.

**ROLL CALL OF DIRECTORS.**

Directors in attendance were John Chaney, Mark Conkling, Richard Deubel, Donald Rudy and Dub Yarbrough. David Stoliker, Executive Director, and other staff were present. Bernard Metzgar, SSCAFCA's attorney, was also present.

**PLEDGE OF ALLEGIANCE.**

The Board was led in the Pledge of Allegiance by Dub Yarbrough.

**APPROVAL OF AGENDA.**

Mr. Stoliker stated that they added letters 'd' through 'i' under the 'For Your Information' portion of the Agenda.

A motion was made by Mark Conkling to approve the Agenda as presented. It was seconded by Donald Rudy and passed unanimously.

**ANNOUNCEMENTS.**

Announcements were made by Dub Yarbrough that all electronic devices needed to be turned off during the meeting and that the microphones are voice activated.

**CONSENT AGENDA.**

**Minutes of October 21, 2003 Regular Meeting.**

A motion was made by Richard Deubel to approve the Minutes of October 21, 2003 as presented. It was seconded by Mark Conkling and passed unanimously.

**Minutes of October 30, 2003 Special Meeting.**

A motion was made by Richard Deubel to approve the Minutes of October 30, 2003 as presented. It was seconded by Mark Conkling and passed unanimously.

Recognition/Acknowledgment of the Treasurer ' s Report for October 31, 2003.

Mark Conkling indicated that the Treasurer ' s Report for October 31, 2003 was in the Board members ' packets for review, acknowledgment and recognition and that he would be happy to answer any questions on it.

Audit Report Fiscal Year ending 06/30/03.

A motion was made by Dub Yarbrough to approve the Audit Report for the Fiscal Year ending June 30, 2003 as presented. It was seconded by Mark Conkling and passed unanimously.

PUBLIC FORUM.

None.

CHAIRMAN ' S REPORT.

Mr. Yarbrough stated that he and David Stoliker had met with the people from Mariposa. He stated that if they go through with what they are proposing, the Board will be pleasantly surprised.

BOARD OF DIRECTORS ' COMMENTS.

None.

ATTORNEY ' S REPORT.

Mr. Metzgar stated that he does not have anything of a general nature to present. He will, however, be commenting on specific items coming up in the Agenda.

EXECUTIVE DIRECTOR ' S REPORT.

1. Action/Approval of Property Exchange/Sale with Tierra De Corrales Subdivision.

Mr. Stoliker stated that Mr. Westman is looking to approve an exchange of approximately .83 acres of right-of-way that SCAFCA currently owns, for an equal amount of land and to work out an arrangement for purchase of additional lands currently owned by SCAFCA. Both the exchange and outright purchase would allow SCAFCA to perform its necessary functions.

Mr. Jack Westman stated that the effect of the exchange of the two pieces of land is to make more useable tracts of land for both parties involved. This is basically an across the board exchange, although they are also agreeing to construct a drainage area which would, in effect, impound the first quarter inch of rainfall on the subdivision and keep it so that the UV rays would give some treatment to the fecal coliform levels and give a better

quality discharge into SSCAFCA's facility. He stated that SSCAFCA also owns approximately two acres of land outside of its drainage facility which is of no use to SSCAFCA. The appraiser who appraised the land appraised it at \$12,000.00 per acre. He stated that the Board was not happy about selling the land at \$12,000.00; that the subdivision would then improve and get a substantially higher amount of money after the cost of improvements. He met with SSCAFCA's Executive Committee and, as a result of that meeting, the parties agreed that there would be a sale of the two acres of land, which would be declared excess by SSCAFCA, to the Tierra De Corrales LLC and the initial payment to SSCAFCA would be the appraised value of those two acres at \$12,000.00 per acre. Then, there would be a deferred payment schedule in which SSCAFCA would share in the net profit of the LLC on the lands of the LLC. At the present time, if the plats of the subdivision go through as they are presently proposed; there is a construction cost of about \$2.2 million. This includes a bridge across the Harvey Jones Channel. That \$2.2 million cost would be spread across the land. The net effect right now is a profit, per acre, of approximately \$48,000.00 per acre. The way the document would be structured would be that the initial payment from the corporation to SSCAFCA would be at \$12,000.00 per acre. The deferred payments would come in as they sell lots and money comes in to the corporation on the same per acre basis that all the other owners of the land in the area would receive. In this scenario, SSCAFCA would come out as if it had been a member of the corporation from the start and contributed their land in. However, there would be the initial sale up front to make it an arms length transaction.

Mr. Metzgar stated that Mr. Westman presented very accurately what was discussed. He is not presenting this to the Board as a recommendation, but rather as an alternative. He stated that other alternatives are to not make a sale now and wait; or sell to Mr. Westman now at a higher amount than the \$12,000.00, but not taking the deferred payments when the project is completed. He is also not sure that DFA would approve the original payment with deferred payments later.

Mr. Conkling asked whether or not SSCAFCA would have any liability under the agreement. Mr. Westman stated that, under the agreement, SSCAFCA would do an arms length sale of the land into the LLC with the initial payment. SSCAFCA would not be a participant in the construction loan that would be entered into on the subdivision; however, the land that SSCAFCA would sell to the LLC on the initial payment, deferred compensation, would be part of the security to that loan. There would be no direct recourse from the lender to SSCAFCA. The risk that SSCAFCA faces is that the market goes to hell and, instead of selling this out in two or three years, it takes five years to sell it out. Therefore, the profitability goes down because of the interest carried on the loan, and the LLC cannot guarantee that SSCAFCA will get a total of \$48,000.00 per acre. The LLC will guarantee that SSCAFCA will share in the profitability on this project at the same rate as the other people who have contributed their land into the corporation.

Mr. Stoliker stated that, as he understands it, SSCAFCA can't take any risk. Mr. Metzgar stated that, generally, DFA does not like to see any kind of contract entered into where there is risk. DFA generally approves cash transactions. The risk with this project would be that SSCAFCA doesn't get the deferred payments. However, SSCAFCA would receive payment for the appraised value of the raw land right now.

Mr. Conkling asked why SSCAFCA should get paid up front and then gets the deferred payments also. Mr. Deubel stated that by SSCAFCA putting in its land, the developer can finish the subdivision as planned. If SSCAFCA does not put in its land, this cannot be done. Mr. Metzgar stated that any scenario in which SSCAFCA did not get paid anything up front for the land would most likely not be approved by DFA. Mr. Westman stated that the scenario described by Mr. Conkling would be ideal for him since the developer is concerned about spending a lot of time working on a document and then having it turned down by DFA. However, paying SSCAFCA up front expedites the process. They will be submitting a sketch plat to the Corrales Planning and Zoning Commission for their December 17, 2003 meeting. They would like to show SSCAFCA's land as part of that transaction, otherwise, they have to plat around it.

Mr. Yarbrough stated that the Village of Corrales has decided that they couldn't keep the developer from restricting the amount of animals in its subdivision. Mr. Westman stated that the Village had proposed an ordinance that would have prohibited any restrictions on any animals, which was defeated. He stated that before they realized that SSCAFCA wanted a ponding area to detain the first quarter inch of rainfall, they thought that they could acquire the entire Y-shaped piece from SSCAFCA and had proposed putting a horse facility in that Y-shaped piece. He stated that SSCAFCA wants the ponding in that area and the developer has to build it. Mr. Westman stated that they are proposing that the little piece on the north end that they would acquire from SSCAFCA is where they will put a horse arena and a common horse facility. There will not be a common barn area or stalls in that area. They will be putting a well on the property which will be able to be used by the fire department also.

Mr. Yarbrough asked what happens to the inlet that is there right now for the drainage that comes down into the area. Mr. Westman stated that they may re-route that a little bit, and that they are going to give SSCAFCA an easement for that. They have discussed this issue with the SSCAFCA staff and they understand the need to keep that inlet operating. Mr. Stoliker stated that the inlet is fairly close to where the road will come in from the north. Staff is concerned that there is a certain amount of backwater that needs to be in that area and SSCAFCA needs an easement over that area. Mr. Westman stated that the little road that is shown on the new plat will not be there. Mr. Yarbrough expressed concern over the horse manure that will certainly be in the area. Mr. Stoliker stated that they have had discussions to berm any common horse area so that it will hold the 100 year event and let flow get around the outside of it. Right now, however, they are only at sketch plat level of detail. He stated that SSCAFCA owns the shaded area and the irregular

shape that goes all the way down. The two wings of the Y-shaped property are two soil cement berms that were put in to direct the flow into the box culvert. He assumes that those will get taken out and it is not known how extensive that will be. The major flow from the subdivision will go into the area shown with diagonal hatches. That is the property that would be given to SSCAFCA by Mr. Westman. Mr. Stoliker stated that what Mr. Westman proposes will actually work better for SSCAFCA as it will elongate the pond and allow a longer time for it to flow across, which will give the ultraviolet rays more time to kill any fecal coliform in the water.

Mr. Eddie Paulsgrove, of the Corps of Engineers, stated that this water is most likely going to drain to the Rio Grande and will be considered jurisdictional waters. Any fill placements within the channel will be under the jurisdiction of the Clean Water Act and will require a permit 99.9% of the time. If there is going to be fill placement, road crossings, bank stabilization, inlets, outlets, etc., those will require a permit. Depending on the nature of the work, they may evaluate the nature of the UV impact on any fecal coliform in the water. Mr. Westman stated that the flow will be about 160 cfs.

A motion was made by John Chaney to approve the exchange of property between the parties and reserve the issue of the proposed agreements for discussion later in this meeting. It was seconded by Mark Conkling.

Mr. Donald Rudy stated that staff and Mr. Westman have assumed that normal UV radiation in the depth of water is adequate to disinfect the water. He asked what alternatives SSCAFCA might have if it is not adequate. Mr. Stoliker stated that this solution provides for removal of floatables and to install a best management practice for fecal coliform reduction. Staff believes that this is what EPA and other experts in the field are telling SSCAFCA that it needs to do under its best management practices checklist of approved technologies. If it doesn't work, staff believes that there is enough space in there to retrofit something else that would possibly work in the future. Mr. Rudy stated that he is concerned about the two acres being enough because, generally, when you have high flows is during a storm and during a storm is when you are the most overcast and when you have the least UV radiation. Mr. Chaney stated that it is also when the fecal loading is at its heaviest. Mr. Yarbrough stated that if it doesn't work, SSCAFCA will have to make the improvements. Mr. Stoliker agreed. Mr. Stoliker stated that it is difficult for SSCAFCA to ask a developer to pay for something that nobody knows how to treat. He stated that a ten year event will flush through the system, but a one year event will stay there for an extended period of time.

Mr. Deubel stated that if the facility won't contain a ten year event, SSCAFCA will most likely be liable for a release of coliform in the event that any rain event causes a release of water into the Rio Grande. Mr. Deubel stated that he is very concerned about the potential for pollution, not only from animal feces, but from nitrates, nitrites, etc. He would like to see this issue addressed before voting on acceptance of an exchange. He

believes the potential for liability to SSCAFCA is high given the storm water regulations by which it must abide. He does not believe that natural UV radiation will take care of this issue. Mr. Stoliker stated that this exchange helps SSCAFCA's ability to accommodate the possible fecal overloads. By installing this ponding system, SSCAFCA actually improves its situation over what is there today. Mr. Deubel stated that if the conduit for the pollutants is a SSCAFCA project, his understanding is that SSCAFCA is liable and is required to treat the waters for those pollutants, regardless of the source. Mr. Conkling asked that, given the best management practices, and the EPA standards that SSCAFCA has been handed, if SSCAFCA is fulfilling those, how can it be given any added liability because the rules change. He believes that SSCAFCA would be held accountable to the rules that it operated under, which are the best management practices, which is a recommendation for a UV pond. That may be wrong and it may come to light in ten years, but in the meantime, SSCAFCA has done what the EPA has asked, and how can it be liable. SSCAFCA is well within the arena of compliance rather than an arena of liability. Mr. Metzgar stated that is correct so long as SSCAFCA is complying with the EPA regulations. Mr. Deubel asked where it states that natural UV radiation is the best management practice for the treatment of any bacterial pollutant. Mr. Stoliker stated that it is contained in documents that are available on water quality websites that SSCAFCA has investigated. He stated that they have done a total maximum daily load on the Rio Grande; however, they have not taken the next step and done a waste load allocation for each of the different arroyos dumping into the Rio Grande. It is staff's understanding that until they do that, there is no liability so long as SSCAFCA does the best it can with trying to implement the rules and falls into compliance with the letter of the law.

Mr. Deubel asked what would be necessary to have complete detention of this flow in a 100 year event so that there would be no release. Mr. Grayson stated that SSCAFCA would need a pond that is at least 16 acre feet, instead of the proposed two acre feet. Mr. Yarbrough stated that the Village of Corrales has said that the developer can put restrictions on the animals owned by residents. Mr. Westman stated that he is not going to restrict the residents from having horses. He stated that they are going to designate where the septic tank leach field must be on every lot. They are also going to designate a building envelope to where the house can go. There is not a strong demand for horses in this area. The demand is in the area where there are more irrigated farms.

Mr. Deubel stated that he would be comfortable with this exchange if there was an agreement that, should there be any spill of pollutants for which SSCAFCA might be liable, that the developer would be liable instead and would be responsible for treating any spill and paying any fines that may result from a spill. Mr. Westman stated that he would withdraw his request for the exchange if that is a provision. He will not agree to that. Mr. Conkling stated that an agreement could be phrased that it would be the responsibility of the future homeowners association of the subdivision. Mr. Westman stated that he is willing to design a ponding area to the specifications provided by SSCAFCA. However, he will not be responsible for maintaining that area. He stated that it would be unfair to saddle

a future homeowners association with future liability of a possible spill. Mr. Conkling stated that right now, SSCAFCA is receiving compliance with its regulations, and compliance with best management practices from the EPA. He stated that his belief is that SSCAFCA would not be responsible for a spill because it has complied with best management practices and required of the developer what the regulations require. SSCAFCA has been very prudent in exercising its authority at this time in history.

Mr. Paulsgrove stated that if there is a foreseeable event that can be anticipated, it has to be planned for under federal law. The way that SSCAFCA applies the current laws to current situations, he does not believe that in less than seven years the EPA will grandfather them in to allow SSCAFCA to not comply with future adopted standards of practice and future adopted standards of criteria for contaminants. Changed standards require changed methods of operation. Mr. Chaney stated that a lot of the problem is the confusion that has been engendered by the EPA's lack of definable standards. He stated one option would be to table this until SSCAFCA could have a meeting with the EPA to get further clarification. He believes it is unreasonable to stop private activity in the community based on some unforeseeable future event. Mr. Rudy stated that Mr. Stoliker has stated that this land transfer will improve SSCAFCA's ability to accommodate this situation and, therefore, the situation exists, whether SSCAFCA does the land transfer or not.

Mr. Stoliker stated that his understanding about SSCAFCA's current permit with EPA through the NPDES program does not require this type of action at this time. SSCAFCA is going above and beyond by trying to allow for SSCAFCA to start working on some of these issues and Mr. Westman is going above and beyond what SSCAFCA would normally ask by putting in the pond and doing the extra concrete work so that if SSCAFCA needs something in the future, it can address it better. He does not see this as a liability. He believes that SSCAFCA is in complete compliance with the EPA.

Mr. Eduardo Pineda, a member of the public, stated that he believes what Mr. Stoliker is proposing is a wise step. He stated that he would like SSCAFCA to consider being proactive and take more precautions than just what it is obligated by law to undertake.

Mr. Chaney called the question. Roll call vote on Mr. Chaney's motion: John Chaney, yes; Mark Conkling, yes; Donald Rudy, yes; Richard Deubel, no; Dub Yarbrough, no. The motion passed, 3-2.

Mr. Westman asked where they now stand on the second issue, which is the sale of the two acres of land.

A motion was made by John Chaney to accept the proposal from the developer for the sale of the two acres of land, subject to DFA approval. It was seconded by Mark Conkling.

Mr. Stoliker stated that he had received some comments by private citizens and elected officials who were concerned about the public notice and maximizing the benefit to the public. Mr. Metzgar stated that prior to the change in the law that allows negotiation and sale to a private person, the only way to sell excess property was by closed bid, auction, etc. Public notice was to advertise the property for bid. With the change in the law, by being able to sell to a private person, you don't have a legal notice in the papers of the private sale. However, SSCAFCA's meetings are open to the public and there is public notice. Mr. Rudy asked, with respect to the entire drainage issue in this area, is SSCAFCA absolutely convinced that it has no reasonable probability of needing any or all of this piece of property in the future. Mr. Stoliker stated that he and staff have discussed this issue and he does not see any need for this property.

Bob Borman, a resident of the Village of Corrales, stated that he is concerned about the sale portion of this issue. He is concerned about the Board giving up its stewardship of land that has already been bought and paid for by taxpayer dollars. He is concerned that with all of the development in the area that there will be no more open space for the public to enjoy. He is asking the Board to not proceed with the sale of this land as he would like to see this land remain in the public domain. Mr. Pineda stated that he agrees with Mr. Borman with regard to this issue. Mr. Westman stated that they have given up all their profit on this land, so there is no profit to be made. He further stated that the land is not available for horseback riding or public use because it is fenced. He stated that there was a revegetation project done on this piece of land which failed. It is a two acre piece of barren land with nothing on it except weeds. It is not imperative that the developer acquire the land, but from the public side of things, if the developer does not acquire the land and it remains in public ownership, at some point in the future, there will be no roads to the land, other than the maintenance road for the ditch, and SSCAFCA will not get the price for the land that it will get today.

Mr. Chaney stated that, as a flood control board, they are in the flood control business, not the parks and recreation business. It seems inappropriate to not take advantage of this deal and gain those revenues to put into flood control projects. Mr. Yarbrough stated that the Board will be selling this property at the appraised price and participate in any future gain when this project is finished.

Mr. Yarbrough called for a roll call vote on the motion: John Chaney, yes; Mark Conkling, yes; Richard Deubel, yes; Donald Rudy, yes; Dub Yarbrough, no. The motion passed, 4-1.

Mr. Metzgar stated that there is no drawn contract on the sale as yet. When that contract is drawn up, he will review the draft. That contract will then have to come back to this Board because the Board will have to approve the actual terms of that contract. The contract will also state that it is subject to DFA approval.



2. Action/Acceptance of Unit 20 Storm Drain Project Design (Joiner Property).

Mr. Stoliker stated that the final drainage report on this matter has been completed, staff has approved it and they are asking for Board approval of it. The Board is also being asked to grant Mr. Stoliker the right to sign off on the construction drawings, contingent upon the City of Rio Rancho's approval, and to authorize the Chairman to accept the grant of easement for the summary plat upon approval by the City of Rio Rancho.

Mr. Kim Kemper, of Huitt-Zollars, stated that the drainage report shows how the property will be replatted. The dotted lines on the picture are what are referred to as the drainage tracts that have been platted forever. The arroyos, however, are not in the drainage tracts. They intend to create a new tract, which would be dedicated to the City of Rio Rancho, with a SSCAFCA easement on top of it, thereby putting the pipeline within the property and relinquishing that to the public. Mr. Stoliker stated that staff has looked at the drainage report and the plans, everything looks great and they recommend approval. He stated that this project will be at no cost to SSCAFCA. The intention of this project is that the existing open arroyo will be filled. Mr. Kemper stated that they made provisions for the pipeline and it holds more than 100 cfs.

Mr. Paulsgrove stated that he issued the violation notice for the project based on the initial problem with sediment going into the arroyo. It appears to him that everyone has taken some diligent, well thought out approaches to trying to resolve the violation and still make the best use of their property, which is the whole essence of what the Corps wants to do under the Clean Water Act. He may have misinterpreted the drainage plan somewhat. It appears as though that same 48 inch pipe is going to accept flow from the western detention ponds. If the potential flow conveyed from those ponds has been taken into consideration into the 100 cfs determination, then that is perfect.

Mr. Rudy stated that this has been designed for the 100 year storm; however, if the flow is exceeded by 50%, he wanted to know where the water flows. Mr. Kemper stated that the water will flow over the swale and go into the constructed overflow area.

A motion was made by Mark Conkling to approve the Unit 20 Storm Drain Project Design as presented. It was seconded by Richard Deubel and passed unanimously.

3. Action/Acceptance of Enchanted Hills Boulevard Channel Project Design.

Mr. Stoliker stated that a number of years ago, there was a flooding problem in the Enchanted Hills area. The City of Rio Rancho applied for and received a federal grant and they have performed the design work and are now ready to take this project out for bid. The SSCAFCA Board agreed to put in \$100,000.00 as part of the match on that grant. Staff is looking for Board approval to accept channel improvements as depicted in the

construction plans, and also authorize Mr. Stoliker to sign off on those plans. He is recommending approval of the project design.

A motion was made by Donald Rudy to accept the Enchanted Hills Boulevard Channel Project Design as presented. It was seconded by Mark Conkling.

Robert Schultz, of the City of Rio Rancho Public Works Department, stated that the City went through an extensive evaluation process to select an alternative that matched the benefits because of the strong regulations of the federal government. The project is the best the City can get for the money received. The total amount of the project was ~\$560,000.00. Seventy-five percent of that will be federally funded and 25% of that has to be a matching local grant. SSCAFCA picked up \$100,000.00, which is a portion of the 25% and the City of Rio Rancho is picking up the rest. If the money is not spent now, more money would have to be spent in the future, and the City might also have had to face lawsuits if the work had not been done.

Mr. Yarbrough called for a vote on the motion and the motion passed unanimously.

4. Presentation on Mariposa Development  
Discuss Work study scheduled for December 9, 2003 to view High Desert.

Mr. Stoliker stated staff is looking for direction on three items with regard to this matter: 1) Is discharge of hungry water acceptable into many locations if the discharge rate is at or less than historic?; 2) Is an easement acceptable for O & M for arroyos within the development if covenants are properly formulated?; and 3) If the historic flow pattern is not altered by construction, but is onto private property, should staff pursue ownership of the arroyo between Unser and Mariposa?

Douglas Collister, president of High Desert Investment Corporation, stated that they are a subsidiary company of the Albuquerque Academy. Their mission has been to plan, design, develop and sell properties that the Academy owned over the years and return those funds to the school for educational purposes. They are nearing completion of 1,000 acre development on the east side of Albuquerque called High Desert. Approximately 1,800 dwelling units will be in that property and they are down to the last few lots. They have done a lot of natural or near-natural drainage kinds of solutions and approaches in the subdivision which integrate open space drainage solutions and passive kinds of public uses. He stated that Mariposa is a 6,500 acre development that was annexed into the City of Rio Rancho in February 2002. At that same time, their master plan and zoning was approved on the property. It provides for approximately 6,500 dwelling units within the property and almost a million square feet of commercial and/or mixed use within the property. Since that annexation, they have been working on the engineering problems. They are now at the point where they are bringing to SSCAFCA their master drainage plan and seeking input from the Board.

Mr. Howard Stone, of Bohannon-Huston, stated that the master planning for Mariposa started around 1995. They obtained master plan approval from the City of Rio Rancho in 2002, along with annexation into Rio Rancho. The vicinity map he is referring to shows that the project is next to the Hawk Site. Planning area 1 is shown in red; within that is a blue area, and is the first phase of planning area 1. The second phase, planning area 2, will occur upon completion of planning area 1, and is about 8 to 10 years from now, depending on the economy. The Mariposa Reserve is a large area to be reserved from any development and will be left in its natural state. One reason for that is that it is a very pristine area and is very delicate because it has very steep arroyos and would not be a good place for development. It also has excellent vistas and is an amenity for the project.

Mr. Stone stated that the total acreage of the project is about 6,440 acres. Planning area 1 is about 1,440 acres. The total dwelling units for Planning area 1 is about 1,650. The preserve for non-development is 2,000 acres. Planning area 2 is about 2,900 acres and will have about 5,100 dwelling units in the future. They are presently planning on a target time of Spring 2004 to begin construction on the infrastructure required to begin phase 1; construction of homes to begin in 2005.

Mr. Stone stated that they are intending for the arroyos to be left in their naturalistic state, however, they recognize that urban influence will have an effect on those arroyos and they will accommodate and sometimes mitigate those urban effects. The arroyos will have grade control structures where appropriate or bank protection where appropriate, along with detention ponds. The LEE line concept will be used in this project. They are also trying to define how to look at the points of discharge from the property with respect to how they are releasing water from the boundary. With respect to planning area 1, they are at the top of the watershed. They are well aware that they have to control, as best they can, the releases from the property to the downstream arroyos. They have identified three types of conditions. One is where they have no platted arroyos downstream in the Rio Rancho Estates area. There are two arroyos that do not have any downstream platting. In that condition, they are proposing to divert those flows to another arroyo that is platted as an arroyo. In this manner, they would not be dealing with the issue of flows going from the Mariposa property into an unplatted arroyo. The second condition is where they have platted arroyos downstream, and there are two sub-conditions to that. One is with respect to where they are not doing any downstream improvements. They don't own any property downstream and are doing their best to release those flows in that condition to historic flows, however, they are doing it at 75% of the historic. They are doing this to mitigate the effects from urban development. The third condition is where they have downstream improvements. In this condition, there is one arroyo in which they will release at historic flows. They are proposing to do a mitigation downstream to take care of the urban effects on that arroyo.

Mr. Stone stated that, in addition to the above, they are looking at environmental mitigation in the detention pond work that they will build. This will do two things: 1) catch the sediment for the small frequency storms, such as the two and five year storms; and 2) remove floatables. With respect to the pond components, one proposal is to do ported risers, which will be a tower that has risers in it that has small holes in it that will allow the flow to get into the principal spillway (the pipe) and will mitigate such things as floatables, along with dropping off sediment due to the lower velocity around the riser tower. They will also have hard emergency spillways, for any flows that are in excess of a 100 year event. The pond storage is roughly between one and ten acre feet. The majority are of the order of three to four acre feet. The maximum berm height will be ten feet, so they will stay under the state engineer criteria of less than ten acre feet and less than ten feet high. They will also do their best to mimic the natural land forms and meld the ponds into the landscape so that it looks fairly naturalistic. They have also reviewed the property with respect to archaeological sites and endangered species.

Mr. Craig Hoover, of Bohannon-Huston, stated that there are a number of watersheds that are impacted by planning area 1. These include the Jemez, the Venada, the Barranca and the Montoyas by the Panta de Leon tributary to the Montoyas. The concept is to leave the arroyos as naturalistic as possible. The green outlines on the map are the designation of the LEE lines for each of the arroyos. At the point of discharge, which will most likely be at a road crossing where there are culverts, there will also be structures downstream of the culverts that will control erosion and help mitigate the effects of the flows from the development. They also envision additional mitigation midway on each of the arroyos in order to offset the fact that they are putting cleaner waters into the arroyos. These plans include drop structures that would help control the arroyo both laterally and vertically. There are also a number of environmental mitigation ponds at the boundary of Mariposa whose purpose is to control the flow rate that they discharge and, in some cases, redirect the flow rate. The two arroyos downstream that are not platted currently flow over private lots with no drainage easements. At these two arroyos, they plan to divert the flow through a storm drain system into a combined discharge arroyo, which then joins the main stem of the Venada. As part of that diversion, they will control flows back to historic and controlled to at or less than the 100 year flow. Their plan also calls for a grade control structure at the confluence of those two arroyos that will help control the arroyo vertically and horizontally.

Mr. Stone stated that in the eastern part of the property is a proposed waste water treatment plant that will be built by High Desert and owned by the City of Rio Rancho. This is intended for not only the Mariposa property but also the surrounding development. The plant will have a capacity of two million gallons per day; the first phase will be up to 500,000 gallons per day. The Venada Watershed Management Plan identified an area by Unser and the Venada in which to put a detention pond. They anticipate that when that pond or dam goes in, that will serve as an environmental feature that will serve Mariposa and the surrounding area.

Mr. Hoover stated that Phase One is entirely within the Venada. The focus is to leave the arroyos naturalistic. If there are reasons to encroach into the LEE lines, those will be handled through some sort of bank protection, possibly soil cement or rip rap. The ponds at the boundary will control the discharge to either 75% of historic flows where they are not doing downstream mitigation. At other locations, they will discharge at historic flows, but they will be doing downstream mitigation via the drop structure at the confluence.

They are also proposing to construct two culverts on Pedgehog, which currently serves as the main access to the City's well site. Right now, those crossings are dip crossings, but they are proposing to replace those with a culvert so that there will be an all weather crossing and give access to those locations. The discharge of hungry water has been identified and they feel that the SSCAFCA Drainage Policy does require the person to release at historic and they are releasing water at or less than historic rates. The ownership of the arroyo will be in private hands, either owned by each lot or by the homeowners' association, with an easement to both the City and to SSCAFCA for O & M responsibilities. The arroyos in the area are presently in private hands and common ownership. The majority of the arroyo is owned by AMREP. With the prior action with AMREP in the Enchanted Hills project downstream, AMREP put into public hands the Venada Arroyo all the way up to Unser. They would like to continue that same kind of concept in areas where there is a platted arroyo.

Mr. Yarbrough asked whether the discharge of hungry water, even though it would be at rates less than historic flows, would be more erosive than regular water. Mr. Stone stated that it would be more erosive by nature. The flow that they are releasing on the combined arroyos is 136 cfs. For the other, it is 117 cfs. They are proposing to build a mitigation structure to help slow down the water before it goes farther down to the future Unser Dam. Mr. Rudy stated that the water has not flown a great deal in this area and it is at a relatively low grade. It doesn't have a tendency to pick up an enormous amount of sediment, even in the natural condition. The water, even under current conditions, is relatively hungry. He stated that the project will not make the issue a whole lot worse than it is already. Mr. Stone stated that the flows coming out of the detention dam will have less sediment than flows that go into the detention dam. If you are going to have a naturalistic arroyo, you must watch it and keep up the O & M.

Mr. Stone stated that the first phase of the waste water treatment plant, up to 500,000 gallons per day, will be discharged on-site into infiltration galleries. It will be released underground and the water will percolate down into the soils. One of the future plans for flows beyond that is for the City to consider other options. One of those would be to have a deeper infiltration system that will have a stronger connection to the groundwater so they can get water right credits for their flows back to the Rio Grande system. The second component of that is to take the flow from the waste water treatment plant and reuse it in Mariposa in designated common areas, such as parks and roadways, to lessen the demand for water in the property. Mr. Pineda asked who would pay for the removal of

the sediment, and Mr. Yarbrough stated that it would be SSCAFCA's responsibility. Mr. Pineda asked if there are any areas of Mariposa that are outside the jurisdiction of SSCAFCA. Mr. Stone stated that the entire Mariposa property is within the jurisdiction of SSCAFCA. The only place where flows are going outside of SSCAFCA's jurisdiction is into the Jemez watershed.

Mr. Collister stated that the waste water treatment plant will create a high quality effluent that is suitable for reuse on parks and common area landscaping without any additional treatment. It is suitable for shallow infiltration also. The City of Rio Rancho has a long-term goal of no discharge of their treated effluent to the river. The City may ultimately be looking at injection back into the aquifer, which would require some additional treatment on the plant to accomplish that. He stated that there will be no discharge in to the Rio Grande or the Jemez.

Mr. Chaney asked why Mr. Collister would propose easements rather than public ownership of the arroyos. If the arroyos are under public ownership, multiple uses could be engineered for the property. Mr. Collister stated that they did not put in the drainage management plan a proposal for that because they thought it would be presumptuous to do that. They did discuss it with Mr. Stoliker and Mr. Yarbrough just last week. They would consider public ownership. They have found that placing the major arroyos in the ownership of the homeowner's association, with easements over them to SSCAFCA and the City of Rio Rancho, would not only provide for the responsibilities of the various parties to maintain, but would also give public access. They do plan to make most of the major arroyos public access. In the more minor arroyos, they would plat those and keep those in the ownership of the individual lot owners with easements over them for O & M, with the homeowner's association picking up a fair amount of the maintenance responsibilities. In the more major arroyos and the more highly developed areas, they would plat those and put them in the ownership of the association, with the same kinds of easements spelling out the responsibilities of the different entities. This would give the association a real vested interest in doing their maintenance. The maintenance responsibilities will be defined very well in all documents. The developer will maintain control of the homeowners association for a number of years, so the developer can assure SSCAFCA and the homeowners that the ownership and maintenance of the arroyos will be managed well. The entire area will be under one homeowners association.

Mr. Stone stated that the platted arroyos downstream are in private ownership. He believes that Mr. Stoliker is asking the Board to consider moving forward to get those in public ownership. Both of the arroyos are completely owned by AMREP. Mr. Stoliker stated that AMREP wants SSCAFCA to purchase the Unser Dam Site from them. If that is done, indications are that AMREP will give SSCAFCA the unplatted arroyo bottoms. Mr. Chaney stated that Mr. Stoliker should set up an executive committee meeting with Mr. Castillo of AMREP to discuss this issue.

Mark Conkling left the meeting at 4:00 p.m.

Mr. Schulz stated that City code requires that they maintain control of the flow path to the farthest upstream property. With any new platting, they are always looking for at least an easement on these properties.

It was the consensus of the Board to allow David Stoliker to go forward in pursuing this matter. Mr. Stoliker indicated that he understands the Board's direction is for staff to pursue acquisition of the Unser dam site and unplatted arroyo bottoms and to further investigate the issue of "hungry water" and what can be done about it.

Mr. Stoliker stated that they have set up a field trip to see the High Desert facility for December 9, 2003 in the afternoon. Several of the Board members were not available at this time and suggested Monday morning. Mr. Stoliker stated that if the members wanted to go to see the facility in groups of two it would be great because then SSCAFCA would not have to advertise it. Mr. Metzgar stated that if the Board goes out in groups of two, there is no problem; if the Board goes out in groups of three or more in one trip, then it might be necessary to call it a work/study session, which would allow the public to go if they wished.

5. Action/Discussion on the Bond Election, Polling Task Order and the Allocation of Bond Project Funds.

Mr. Stoliker stated that staff took all the projects out of the Watershed Management Plans that had a high priority. The projects total \$34.5 million. This would ensure that everything works well. From that, he filtered them out to find out what was really critical. In his first cut, he came up with \$14 million. These projects include dam sites and advance right-of-way acquisition. The point of this exercise was to find out what other things SSCAFCA could do rather than go out and try to build \$35 million worth of infrastructure. Commitments to date include approximately \$1 million. Mr. Baird stated that the original adopted budget is carry-over bond funds from previous bond sales; what has been expended as of two weeks ago; some items were funds already committed, which include task orders that are already out or will be issued; the surplus/deficit from the original adopted budget; and then how the budget might be revised to accommodate all the commitments and needs. Staff is not going for DFA approval because it doesn't affect the bottom line of the fund. Mr. Stoliker stated that there is \$660,000.00 in reserve funds. SSCAFCA has to keep a certain amount, because of DFA requirements, which is 8.99%. He also stated that SSCAFCA must allow some reserve funding for the way that SSCAFCA gets in enough money to pay for debt service. The way the money comes in, it is not timed correctly. Mr. Baird stated that the bulk of SSCAFCA's tax revenues come in January and SSCAFCA has a big principal and interest payment the previous August, so there must be an internal borrowing of about \$250,000.00. This money is paid off in the same year, so it is not budgeted, but it is a cash flow problem because of the timing. Staff would like to

work with a Committee to look at what steps should be taken towards accomplishing SSCAFCA's goals and commitments. This may include going out with another bond election, identifying alternative ways to fund projects, etcetera.

Mr. Stoliker stated that Mr. Cordova could not stay for the polling task order because he had a prior appointment. The cost for the polling task order is approximately \$10,000.00. Mr. Chaney stated that he did not want to spend this money on a polling task order. Mr. Rudy stated that there are other ways to raise money than floating bonds and he would like to investigate those, such as raising the mil levy. The public might be upset that the mil levy was raised, but SSCAFCA did not promise that if the bond election failed, the mil levy wouldn't go up. The mil levy process could begin next spring for the next tax issue. It is possible that the Board could ask that the mil levy be raised and has another bond election in November and if it passes, then SSCAFCA would have more taxes coming in.

It was the consensus of the Board that it did not want any polling done on the bond election, but that it did want staff to investigate alternatives to raise funds. The Board indicated that they would delay any new bond election until at least the next general election.

6. Action/Acceptance of Public Outreach and Construction Slide Show Presentation.

Mr. John Wise, of Stantec, stated that they have completed the two PowerPoint presentations relating to the storm water issues that have been presented to the Board in the past. These will be used to present information to the general public about SSCAFCA's storm water quality program and as a training tool for contractors and inspectors as to how to control erosion, sediment and pollution problems during construction. Both of these are part of SSCAFCA's NPDES Phase II Program which has been presented to the EPA. Each of these programs has been tailored to each community. The six program elements that must be included in the Phase II program are public participation, illicit discharge, construction site run-off, post-construction run-off, municipal operations pollution prevention and good housekeeping, public education and public outreach. The programs show the public the types of things they can do to adhere to the program.

A motion was made by Donald Rudy to accept the public outreach and construction issue as presented. It was seconded by John Chaney and passed unanimously.

7. Discussion on the Completion of NM 528 Project and SWPPP Letter.

Mr. Stoliker stated that the New Mexico State Highway Department has written SSCAFCA a letter and has indicated that they are going to maintain the Library Pond during the SWPPP stabilization process, which is approximately 2 - 5 years. SSCAFCA



has no ownership interest in it so SSCAFCA doesn't have to worry about any liability. Once the State completes the notice of termination, SSCAFCA would take an easement on the ponds.

8. Action/Discussion of Joint NPDES Project with NM DOT, City of Albuquerque and AMAFCA.

Mr. Stoliker stated that this has been taken to the Executive Committee. The action taken was to work with the State (NMDOT), AMAFCA and the City of Albuquerque on a NPDES manual as an outreach program. SSCAFCA had a task order with ASCG to develop this very manual. The State, AMAFCA and the City needed to update their manual because there were new regulations which went into effect in July of 2003. SSCAFCA looked at this manual and found that it contain everything that they needed. Therefore, with this agreement, SSCAFCA was able to get this manual for less than the \$50,000.00 that was originally budgeted. SSCAFCA is now part owner of this document and this complies with NPDES. No action was needed, but the Board was in general agreement to proceed with working with the other entities in this area.

9. Action/Discussion on 319 Grant Submittal.

Mr. Stoliker stated that approximately \$2 million per year is given by EPA for demonstration projects and improving water quality in New Mexico. Furthermore, if you have a TMDL, money will go into that location. SSCAFCA and others are looking at ways to get some of that money for the area. The first part requires formulation of a watershed wide group. SSCAFCA did a first rough draft of the grant submittal. It does require a match of about \$25,000.00, which could be made up by in-kind time and service. If it gets implemented within the next year or two, SSCAFCA and other local jurisdictions could then apply for the \$2 million per year. That money could go into water quality features. There was general consensus to pursue the grant application.

**FOR BOARD INFORMATION:**

A. Lomas Negras ROW Acquisition E. Of NM 528 is Completed and is Being Fenced.

Mr. Stoliker stated that this item is contained in the Board's packets.

B. Personnel Action Forms.

Mr. Stoliker stated that these are contained in the Board's packets.

C. Congratulations from New Mexico Mutual Casualty Company on a Loss Free Year.

Mr. Stoliker stated that this item is contained in the Board's packets.

- D. Executive Committee Meeting Minutes for November 11, 2003.

Mr. Stoliker stated that these are contained in the Board ' s packets.

- E. November 14, 2003 Letter to Bernard Metzgar Regarding Curb, Inc. v. Andrew S. Muha, Jr.

Mr. Stoliker stated that this item is contained in the Board ' s packets.

- F. Notification of Widening and Narrowing of 1% (100-year) Annual Chance Floodplain and Establishment of Base Flood Elevations.

Mr. Stoliker stated that this item is contained in the Board ' s packets.

- G. SSCAFCA Office will be Closed on November 27 & 28, 2003 in Observance of Thanksgiving.

Mr. Stoliker stated that the office will be closed on November 27 & 28, 2003.

- H. David Stoliker Will is off from November 24 through November 28, 2003.

Mr. Stoliker stated that he will be on vacation from November 24, 2003 through November 28, 2003.

- I. July 28, 2003 Letter Regarding Repairs that Will Allow City Acceptance of the Enchanted Hills Boulevard Channel (EHBC) Upstream of the PDV/Power line Corridor.

Mr. Stoliker stated that this item is contained in the Board ' s packets.

**OTHER BUSINESS.**

None.

**ADJOURNMENT.**

John Chaney moved to adjourn. It was seconded by Richard Deubel and passed unanimously. The meeting adjourned at 5:05 p.m.

**BOARD OF DIRECTORS REGULAR MEETING**

**NOVEMBER 18, 2003**

*Richard Deubel*

RICHARD DEUBEL  
Secretary

WM. C. YARBROUGH  
Chairman

*William C Yarbrough*

DATE APPROVED: