

**SOUTHERN SANDOVAL COUNTY ARROYO FLOOD CONTROL AUTHORITY
(SSCAFCA)
MINUTES OF AUGUST 19, 2005
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 9:02 a.m.

ROLL CALL OF DIRECTORS.

Directors in attendance were John Chaney, Steve House, Donald Rudy and Dub Yarbrough. Mark Conkling was noted as absent. David Stoliker, Executive Director, Bernard Metzgar, SSCAFCA's attorney, and members of the public were also present.

PLEDGE OF ALLEGIANCE.

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

APPROVAL OF AGENDA.

Mr. Chaney stated that it might make sense to move some of the Agenda items around for the persons who were waiting for their item to come up in the Agenda. Item number 5 was moved to number 1; and item number 7 was moved to number 2.

A motion was made by Donald Rudy to approve the Agenda as amended. It was seconded by John Chaney and passed unanimously.

ANNOUNCEMENTS.

Announcements were made by Dub Yarbrough that all electronic devices needed to be turned off during the meeting.

EXECUTIVE DIRECTOR'S REPORT.

1. Action/Acceptance of Cielo Norte Subdivision Units I, II, III Master Drainage Plan.

Mr. Stoliker stated that Cielo Norte Subdivision is located between North Hills and Northern Meadows on the Montoyas Arroyo. They are here today to ask for acceptance of the master drainage plan. The acceptance would be for a period of one year; if no activity occurs on the site within one year of the acceptance, the acceptance would be rescinded. Staff would also like authorization for the Chairman to accept the grant of easement for operation and maintenance of the drainage infrastructure when the final subdivision plans are prepared. Staff would like authorization for the Executive Director to sign the construction plans when they are completed; for authorization for the Executive Director to

accept the drainage analysis and construction plans for the multiple phases within the development; and require the developer/engineer to request through the Board acceptance of the drainage infrastructure for operation and maintenance by SSCAFCA when they are complete.

Mr. Fred Arfman, of Isaacson & Arfman, stated that he is representing Melcon Development, LLC, who has assembled all the properties they are taking to the City for preliminary plat. They have assembled the one acre tracts bounded by 28th Avenue, the future Paseo del Volcan, Los Montoyas Arroyo and the existing elementary school and the development of a North Hills Subdivision and 10th Street. This is the first of three phases they are attempting to develop. The DMP takes into effect all the off-site conditions that they must accept for off-site flows. They are all being diverted within improvements down public roads into permanent detention ponds in each individual phase. All the water will then be routed to a permanent detention pond that allows the flows to be discharged at a much lower rate than what they are allowed to discharge. This is in consideration of the highly erosive materials in the Los Montoyas Arroyo and trying to be sensitive to that arroyo's future. Mr. Arfman stated that this is a comprehensive plan that allows for the drainage to be safely managed and is within the parameters of SSCAFCA's and the City's drainage criteria.

Mr. Arfman stated that all of the drainage will be done by on-site ponding. They have about 130 cfs total run-off at this time that they are accepting from both off-site and on-site. They are discharging about 3 cfs into Los Montoyas at this time. Falda Road is an unimproved road at this time, but they will be doing some improvements to that road. It is the east boundary of their development. All the lots between Falda and the Los Montoyas Arroyo are within the LEE line. At this time, their plan is to dedicate the one lot they have which handles the discharge into Los Montoyas Arroyo to the appropriate authority for open space and drainage improvements. Mr. Stoliker stated that normally they would give it to the City and SSCAFCA would take an easement on it. Mr. Arfman stated that there is no ponding on that lot, it is simply a discharge pipe. Mr. Arfman stated that water quality is being handled by a long duration of holding in the detention pond. This allows for the sedimentation to settle out of the water, plus also exposes the water to UV rays for purification.

Mr. Arfman stated that Unit I can be developed without any consequences with regard to FEMA. Unit II, however, has Unit 2A and 2B, of which Unit 2B will be further developed once the FEMA issues are resolved. There will be no development in this area except for the facilities to handle the drainage. Falda Road will be developed at grade, so there will be no dike or diversion of any potential storm flows. Unit III also has an area within the FEMA flood area, but it will also be a permanent facility for drainage. Mr. Stoliker stated that they will go back and do a letter of map revision and Mr. Arfman stated that once the letter of map revision is done, they will come back for replat.

Mr. Metzgar stated that the condition of acceptance for the period of one year is fine, but the further language of 'if no activity occurs on this site within one year, this acceptance will be rescinded' should be changed to not rescind it right off, but rather to

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say that the party must ask for an extension from the Board. Mr. Stoliker stated that staff's concern regarding no activity is that they want some kind of time limit on this subdivision so that it doesn't go on forever. He stated that the activities would be construction, construction drawings, or any sort of dialogue with respect to a letter of map revision, etc. Mr. Metzgar stated that the wording could be changed to include the words "substantial activity." Mr. Chaney suggested "substantial physical improvements." Mr. Stoliker stated that it could even include permits. Mr. Rudy stated that the Board could require that, at the end of the year, they ask for an extension to be considered if construction has not begun.

Mr. Stoliker stated that he wants to have some sort of guideline so that people understand that they can't get approval on something, walk away for six years, and then come in and expect it to remain the same. Mr. Metzgar stated that acceptance should be for a period of one year. If construction of the project has not started, the developer will be required to seek an extension of this acceptance.

A motion was made by Steven House to accept the Cielo Norte Subdivision Units I, II and III Master Drainage Plan as presented, subject to the approval by the City of Rio Rancho, and subject to the executive director's conditions as set forth. It was seconded by John Chaney and passed unanimously.

- 2. Update on Sportsplex Dam Project
 - Presentation from RBC Dain Rauscher on Finance Plan;
 - Discussion of Development Within the LEE Boundary and the Probable Maximum Flood;
 - Discussion of new Dam Design, Construction and Dam Safety Rules and Regulations.

Mr. Howard Stone, of Bohannon-Huston, stated that he will cover what they perceive to be the minimum drainage requirements through the reach; the 404 permit process; and touch on the state engineer requirements. These have a rather big impact on not only the schedule, but the construction as they move forward in the project. The limits for this project are from Broadmoor Boulevard, down to the eastern boundary of the proposed Loma Colorado Project. To the south of the arroyo is the existing Rio Rancho Sportsplex site. They are attempting to identify the pieces of construction that will be needed through this reach that will assume two things: 1) that they are building the dam; and 2) that Loma Colorado will proceed with its development in the near future. On the upstream side of the dam from Broadmoor Boulevard to the entrance to the water quality pond, they are proposing a revised LEE line based on the flows coming into and out of the proposed Sportsplex Dam. They have proposed what will be needed to stabilize the bank on the north side, along with building two grade control structures. Going downstream, they are proposing to line one reach to the first grade control structure to help stabilize the flows coming out of the dam that are accelerated and have a lower amount of sediment exiting

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the dam. The grade control structures will be one at the midway point and one at the bottom.

Mr. Stone stated that they have composed total costs, which include the hard costs and the soft costs for the three components. The first component, the upstream channel, from Broadmoor to the water quality pond is a total of \$1.8 million and comprised of the two grade control structures, along with the bank protection on the north side and a portion of the south side. The dam is still at \$4.4 million. The downstream channel from the detention dam exit to the eastern boundary is approximately \$1.35 million. This totals \$7.5 million that has been identified that needs to be constructed. The width for the dam is proposed to be 80 feet. Mr. Chaney stated that SSCAFCA only has \$4 million with which to build this dam. The presumption of the study is that the other needs that have been identified make it a new project rather than the original project that was contemplated.

Mr. Rudy questioned why the upstream improvements were required by the Loma Colorado development. He can understand the modifications of the detention area in the downstream being dependent, but cannot understand the upstream modifications. Mr. Stone stated that they will be necessary if Loma Colorado develops these because the LEE line is quite a ways into the property.

Mr. Stone stated that the reason for the 404 permit is because they have impacts on the U.S. jurisdictional waters. That is defined as just about any water or headwaters within the Rio Grande system. The losses of those waters that will occur with this plan must be addressed. In addition, they have to do mitigation for those impacts. Part of the same permit process is the threatened and endangered species and the cultural resources. The threatened and endangered species didn't identify any endangered species in the corridor; it did identify as a "watch list," the burrowing owl. There are none in the corridor, but this is the sort of habitat area for the owl, which is a migratory bird that will usually come in around April or May. If construction is started before the migratory season starts, the bird won't stop because of the construction. If construction is started later, they would have to clear the area to make sure there were no burrowing nests before it is started. In the site itself, they have identified two cultural resource sites. They are on top of small hills where shards and flint stones have been identified that were deposited a couple thousand years ago. With the development, the proposal is to avoid those two sites and not do any construction near those sites. This will not be difficult, even considering the proposal to put in a landscaping/recreational facility.

Mr. Stoliker stated that the cost to mitigate these sites has been estimated to be \$43,000.00. He and Mr. Stone met with Ken Marron and Dr. Kenneth Brown to make the recommendation to the Cultural Resources Board that these sites not be touched. If mitigation is needed, the archaeologist will dig down six inches by hand and pick up all the materials to pan for all the artifacts that come up. The artifacts will be cleaned, carbon dated and sent to the State and kept forever. Mr. Stone stated that if SSCAFCA can't

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avoid the sites, then they must be mitigated. The \$43,000.00 is based on what was found on the surface. If they dig down and find something of more significance, the cost to mitigate could go up. Avoidance seems to be the best strategy to preserve the project. Mr. Stone stated that what is commonly done during construction is to fence them off, but after construction is finished, the fences are taken down. This is done to not identify the sites to the public. General consensus from the Board was to avoid the sites if possible.

Mr. Stone stated that the 404 permit process does take quite a period of time. They are on schedule right now to submit the first draft to the Corps of Engineers by the end of August.

Mr. Stone stated that the emergency action plan is required by the State Engineer's office. Additionally, we must prepare a flow chart to describe the chain of command should there be an event at the dam, and who has what responsibilities during an event. Preparedness beyond that is that equipment and manpower need to be identified. Another requirement is the concept of the probable maximum flood. The State Engineer refers to that as the spillway design flood. The reason for this is that the spillway must be intact should it ever receive flows from the probable maximum flood. The intent is that it will not collapse during that type of event. They must also do a flood inundation study to look at the effect of the probable maximum flood going from the dam down to the Rio Grande for both pre-dam condition and the post-dam condition.

Mr. Stone stated that they have done an approximate analysis right now and they are doing a detailed analysis very soon for those reports. In the event of a probable maximum flood, the flows would be 187,000 cfs. This is opposed to the 5,700 cfs going into the dam during existing 100 year flow event. This would be the hydrologically maximum event that could occur in this basin. They are putting a 20 to 25 foot barrier across the arroyo that will force the flow to go over the top of the berm to handle those flows. This pushes the flow higher on both sides of the watershed. The south side is much steeper and the north side flow is not as significant. The flows go out quite a bit farther with the dam in place.

Mr. Stone stated that the State Engineer's office primary concern is the dam - that it structurally stands for this type of event. However, SSCAFCA also needs to worry about the impact on the land of the probable maximum flood and where it lies on the land. In some dams, they include in the dam itself the PMF elevation. If SSCAFCA were to do that in this situation, the dam gets much bigger to contain the PMF inside the dam in terms of right-of-way. The State Engineer's office indicated that SSCAFCA can justify and request a waiver of that such that the PMF event would be outside of the dam pool.

Mr. Stoliker stated that the State Engineer's new rules require that SSCAFCA prevent development encroachment into the reservoir area defined by normal operation and the spillway design flood on every facility. He stated that SSCAFCA does not currently

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have any development restrictions for anything other than the 100 year event. The SSCAFCA Board has said that its policy is to protect to the 100 year event. SSCAFCA has \$20 million worth of deficiencies today and we are only addressing the 100 year event. If SSCAFCA chooses to protect development against larger events, SSCAFCA will need to spend more.

Mr. Stone stated that there are federal agencies which have different criteria. FEMA uses the 100 year event as its criteria. The 500 year event is analyzed, but is not part of their regulations in terms of insurance. The Corps uses the PMF to look at the most critical kind of condition that could occur, but they concentrate on the dam situation, not on trying to reserve the corridor. Mr. Rudy stated that the PMF is very similar with or without the dam. He can see SSCAFCA being responsible for the difference between what would be there if the dam was there or not. He is not as concerned about the PMF where the after construction is no worse than the before construction. In SSCAFCA's Master Plan, there are some upstream projects and he asked in what way they mitigate this issue.

Mr. Stone stated that the upstream projects will really have no effect on the PMF. The PMF is such a large event with such a huge volume that everything will be overwhelmed. Mr. Stoliker stated that a PMF would be equivalent to Noah's Flood. This would be the equivalent of two hurricane events coming in from the Gulf and from the Pacific Ocean sitting over New Mexico for a 24 hour period. This would be about 18 inches of rain in 24 hours. Mike Castillo, of AMREP, stated that the worst scene so far was in Vista Hills where they had 2.1 inches in 45 minutes. This is the heaviest rainfall in this vicinity in recent history. Mr. Stoliker wants to ask for a variance from the State Engineer's requirements, but he needs input from the Board with regard to the PMF. Mr. Yarbrough stated that if SSCAFCA is going to worry about the PMF, there's no reason to put the dam in. Mr. Stone stated that the real reason for studying this is the stability of the berm they construct so that a worse condition is not created. General consensus from the Board was to bring this back the Board for further discussion with the intent of seeking a variance.

Mr. Stone stated that the second report required by the State Engineer is an operation and maintenance plan. In this report, SSCAFCA must identify the normal operation of the dam, the evacuation procedure, and how maintenance is conducted on the dam with respect to procedure, schedule and inspection. Eventually, these will be needed for every dam in SSCAFCA's jurisdiction.

Mr. Stoliker stated that there are two more parts on this item. Dain Rauscher is going to ask permission to issue the bonds. The second part is the LEE policy. SSCAFCA is concerned that development is encroaching into the LEE. Mr. Stoliker reviewed that "Encroachment into the LEE memorandum contained in the Board's packet.

Mr. Rudy asked whether SSCAFCA could require that they give SSCAFCA a release that if they build in the LEE area, SSCAFCA will not be responsible for any flood

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damage to them. Mr. Metzgar stated that he is not sure a release would be needed. Mr. Chaney stated that SSCAFCA should treat the individual home owner as any other developer, which means that if they develop in the LEE, they have to put in the improvements that would protect the property. Mr. Stoliker stated that what happens is because there are so many lots in there, for one guy to protect his lot, generally it will reflect across and may actually hurt another homeowner.

Mr. Ken Curtis, of the City, stated that the City will ultimately have to help with this issue as the permitting agent for home building. The City struggles with this day to day. It has done two things to help with this situation, and one of them will need SSCAFCA's help to enforce it. As technical persons, the City and SSCAFCA recognize the LEE limits but the City can't enforce them yet, until SSCAFCA decides that they are important. The City has, in its older platted areas, is a disclosure that is recorded with every single family home permitted today. The City sees a lot of spec homes or builders pulling permits, and by the City recording the disclosure, it shows up later where the City shows its warnings to the land owner.

Mr. Stone stated that the City's actions address Mr. Chaney's concerns about building inside the LEE line. The lot owners are put on notice that they are inside the LEE line and must protect themselves against the possibility of scour and lateral erosion. In addition, they must have an engineer to respond to what is in the drainage report and also to prove that they don't affect other properties by their actions.

Mr. Chaney stated that it would be unreasonable for this Board to tell a person building a home within the LEE line that it will not protect them or take any responsibility for their safety. Mr. Rudy stated that if the public is warned that their house may wash away and they decide to do it anyway, it can't be SSCAFCA's responsibility. It becomes the homeowner's responsibility. SSCAFCA cannot protect somebody when SSCAFCA has set up the criteria for what will protect the public and they decide to ignore those criteria. At some point, SSCAFCA has to limit its liability. Mr. Chaney stated that by that reasoning, people could build in the arroyos.

Mr. Rudy stated that on Meadowlark Lane, just below the Tree Farm Dam, within feet of the bottom of the dam, a house is being built. That house has got to be sitting within the SSCAFCA easement for the bottom of that dam. If that dam gives way, that house goes. This is an example of a situation in which SSCAFCA has criteria and the homeowner has decided to do what they want to do. Should SSCAFCA be liable for such decisions? Mr. Stoliker stated that house is being built in the spillway design flood area. Mr. Metzgar stated that if SSCAFCA has an easement on that portion of the property, they would not be allowed to build on the easement. Mr. Stoliker stated that the house is outside of SSCAFCA's easement.

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Eddie Paulsgrove, of the Corps of Engineers, stated that they like to see LEE lines act as buffers. A LEE line can act to not require bank stabilization and extra expenditures. For example, on the Loma Colorado Project, as a special condition of permitting that project, the Corps can require that the LEE line be respected and no homes be constructed within the designated LEE line. The Corps doesn't like to see grade control structures and likes to see things kept as natural as possible. As a condition of a permit and as mitigation, the Corps can require certain parcels of land to be donated to SSCAFCA rather than having to purchase them. The Corps would be happy to help SSCAFCA enforce issues that it doesn't feel comfortable with regarding LEE lines. The Corps also likes to see alternatives with regard to dam construction. For example, if the flow from Loma Colorado was not directed to the dam, what would be the alternatives to minimize impacts.

Mr. Chaney stated that he would like to get some information as to SSCAFCA's ongoing discussions with Pulte regarding the financial contributions that it would take to develop this enhanced project, which is an entirely different project than what was anticipated at the bond election. He stated that Loma Colorado could design its subdivision so that there was little impact on the dam by doing onsite ponding with lower density; they could respect the LEE line and they could contain their run-off and not allow it to go into the Montoyas. What has happened is that they want high density development, they want to encroach on the LEE line, they want to put a road across the dam, and they want to put their water into the dam and also discharge into the Montoyas. In order to accomplish those things, it has caused the project to balloon from \$4 million to a \$7.5 million. It is not SSCAFCA's goal to impede development, but the public should not foot any of the bills to accomplish Pulte's project.

Mr. Yarbrough stated that there are several ways Loma Colorado could keep from putting water into the facility, which would cut back on the development. SSCAFCA has \$4 million to construct the facility as originally discussed. Anything over and above that should be borne by Pulte.

Mr. Russ Grayson, the land development manager for Pulte Homes, stated that after they were awarded the Loma Colorado project from the City and they realized that the Sportsplex Dam was going to happen through the bond election, they felt that this was a good place to do a private/public joint venture to accomplish a lot of things. One is that they were trying to help the transportation network to bring a road from the south, which was a comment provided by the City in the original RFP. They were also trying to use regional facilities as much as they could instead of creating additional detention ponds on the site. They realize the encroachment of the LEE lines and the effect that has. Downstream of the dam, they are staying outside of the LEE line completely with their development. They want to create open space corridors and have trails. They are trying to work with SSCAFCA to build the infrastructure for the dam, but also find a way to fund the expansion of the Sportsplex facility and the landscape design to further the vision of what

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SSCAFCA wants the facility to look like, but also with input from Pulte since it is the "door" into the subdivision.

Mr. Chaney stated that the Executive Committee has looked at the possibility of diverting resources from other projects to add to the amount of money for this project, but does not feel that it should. He does not know how the rest of the Board feels. Mr. Yarbrough stated that his reaction is that SSCAFCA went to the public for specific monies for different projects and they should stay allocated for the projects.

Mr. Stoliker stated that, from a budget standpoint, SSCAFCA is broke. The \$6 million bond election was split into three parts: \$4 million for this project; \$1.5 million for Black; \$.5 million for Enchanted Hills Elementary School, half of that has already been spent, and the other half will be put toward Saratoga Road. He hopes that the Board will not move money around because every dime is already allocated.

Mr. Chaney stated that, in the past, when a development was going to put their waters into a facility, the developer had been asked to contribute toward the cost of the facility, and they have done so uniformly in the past. He is unsure as to what percentage Loma Colorado is going to put into the dam, but he has heard everywhere from 1.5% to 20%. The latest figure was closer to 6.5% based on the percentage of the land area that Loma Colorado occupies in the watershed. Mr. Stone stated that the 6.5% is derived from their area of contribution into the dam versus the total area going into the dam between this dam and the next proposed dam upstream.

Mr. Chaney stated that there is a substantial savings to Loma Colorado if SSCAFCA builds this dam downstream. Mr. Rudy stated that time is an issue for this project as well. Pulte has some pretty harsh time commitments on this development and SSCAFCA doesn't. One of the reasons that SSCAFCA had been able to design the structure for \$4 million was because its programs have been phased. Mr. Stone stated that it is true that the dam would not have been constructed until 2007 based primarily on when SSCAFCA had proposed to release the bonds to be sold. Pulte has been asking to advance the development and its road across the dam in a shorter time period. This has led SSCAFCA to try to meet that expectation by moving up construction to begin the early part of next year. If a deal can be structured, SSCAFCA has the opportunity to build a better facility, both upstream and downstream of the dam that it couldn't build right now with the money available from the \$4 million. SSCAFCA must keep in mind that it has existing conditions that were there before SSCAFCA started looking at issues such as the LEE line and requiring certain things be done when development gets close to the arroyo. In the present area, the LEE line extends into existing houses in the upper section and no improvements were done next to those houses. There is one house in particular that has an issue with respect to how close the arroyo is getting to their property.

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Mr. Stone stated that if the dam wasn't be there and Pulte was coming in to do its development, they would have to build infrastructure to meet historical flows, which would mean building their own detention dams and probably have those taken over by SSCAFCA at some point and then SSCAFCA would maintain additional rather small detention dams in the watershed. Pulte can realize savings by not having to build a detention dam with this project. In addition, a road across doesn't take a lot more additional monies to change the berm from one size to another size. Pulte derives savings not only from the detention facilities, but also from both entities wanting to build a structure across the arroyo and both sharing in the costs. He stated that there is not a detailed number to present to the Board about those kinds of savings. They are working on it, but it is a negotiated effort between the two parties to try to identify them and make it fair to both parties. He is hoping to come back next month to the Board with these items identified.

Mr. Grayson stated that with the SSCAFCA project, Pulte is trying to set the berm in a proper width to build the road. Pulte is going to build the road and it is not counted in the \$4 million cost to SSCAFCA. Mr. Yarbrough stated that the footprint of the dam has to increase substantially in order to accommodate the 80 foot width of the road on the top of the berm. Mr. Grayson stated that Pulte realizes that. However, when you look at the big picture of costs and moving dirt, it is a relatively small portion in relation to the entire construction of the facility and it is better to do it now than later. Mr. Grayson stated that Pulte also supports Mr. Stoliker's recommendation to request a waiver on the PMF issue.

- 3. Discussion/Action of 19th Avenue Dam Project
 - Discussion/Approval to Purchase Right-of-Way for 19th Avenue Dam by Acquisition or, if Necessary, by Condemnation;
 - Discussion/Approval of Task Order for ASCG to Prepare Final Design.

Mr. Stoliker stated that there are three issues in this matter. They are the Unser Channel, the 19th Avenue Dam, and the need to purchase the right-of-way for that dam. Clint Dodge, of ASCG, stated that the Unser Channel runs from Southern south to the crossing of the west branch constructed by the City as part of Unser Boulevard. All of the drainage culminates at the west branch crossing, which is just north of 19th Avenue, the future alignment of West Side Boulevard. The Unser Channel was the first area they looked at and there is a lot of development happening in this area. There is a Wal-Mart being built and the Southern/Unser Plaza which is across the street. These two developments came in with a proposal to free discharge into the channel. They looked at the channel itself and defined the hydrology in that channel, which set the criteria that the developments had to follow. There are two crossings proposed, one at Cabezon Road which comes out of the Cabezon Development, and the other at Commercial, which is across the street. The second thing they looked at was a proposed dam site west of Unser at the crossing of the arroyo. The arroyo runs parallel to Unser for a ways and meanders through the properties and then the tributaries join it and it goes underneath the roadway.

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This is called the 19th Avenue Dam. They have prepared a sketch of a dam site which would contain the water from Unser and the West Branch, etc.

Mr. Dodge stated that they looked at the impact of those two developments with free discharge. The amount of water is about 200 cfs increase at the crossing. When they did the Black Watershed Master Plan, they found that the capacity of the box culverts is about equal to the existing run-off from this basin. SSCAFCA would either have to upgrade the box culverts eventually, or restrict the flow getting to the box culverts. In the Watershed Management Plan, SSCAFCA identified two ponds, one at the crossing and another at the confluence of the Ivory/Lisbon channel. The idea with this pond is that the dam would be moved down and only one larger facility would be built. The size of the dam is about 75 acre feet. The inflow is about 5,000 cfs and the outflow is about 2,700 cfs, which is the capacity of the existing box culverts.

Mr. Stoliker stated that it was discussed with the developments to allow them to discharge above historic rates if they contributed to the purchase of the property for the dam site. The developments agreed to contribute \$84,000.00.

Mr. Dodge stated that the bigger picture is that a dam at this site to restrict the outfall to existing capacity of about 75 acre feet and it does two things: one is that it avoids tearing up Unser Boulevard to increase the size of the box culverts; the other is that it restricts the flow downstream all the way to the Black Dam at the county line, which creates some cost savings for those downstream improvements. The total dam cost is \$3.6 million. There is a cost savings to the facilities downstream of \$1.6 million. The \$3.6 million is a detention dam of 75 acre feet with a water quality component. It was defined in the Watershed Management Plan as two facilities, but this proposal combines those two into one facility. The \$3.6 million figure does not include the right-of-way cost; it is construction only and the design costs.

Mr. Dodge stated that some of the downstream developments need or want dirt. The cost of the dam is \$1.8 million, if somebody else takes the dirt out for SSCAFCA. Mr. Stoliker stated that the developments have indicated that they will take the dirt. He stated that he would like to transmit a letter to the downstream developments telling them how SSCAFCA believes they could benefit from the project and that instead of putting their money into the infrastructure needed to upsize everything that they could provide funding for SSCAFCA to build the dam. Mr. Stoliker stated that the project right-of-way summary sheet shows the right-of-way costs within the Black Watershed.

Mr. Stoliker stated that the Black Watershed Budget Summary shows that the budget from the 2005 bond issue is \$1.45 million. The Sugar Dam is shown at \$185,000.00. The property has been appraised at \$109,650.00 for 5.51 acres and staff is in the process of making offers for property for that dam. Design fees are already under contract with Clint Dodge. Staff has added 10% contingency on the project to cover any

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unseen costs. He stated that Sunset will cost \$195,000.00. The Lisbon project is the biggest at about 15 acres and has been budgeted at \$660,000.00. The last is 19th Avenue Dam, which is what is being discussed right now, at \$483,000.00. This adds up to \$1.524 million. Since it fits into the Board's overall plan, staff is asking that the Board allow them to purchase the right-of-way for the 19th Avenue Dam. This will let them have the ability to go out for design at some point. Staff is not recommending going forward with the design right now because the right-of-way needs to be acquired first. Mr. Stoliker stated that, to get started, staff needs approval of the budget of \$484,000.00 and the authority to purchase the right-of-way. Mr. Metzgar stated that any time that SSCAFCA is attempting to acquire property, it could result in condemnation.

Mr. Stoliker stated that the people who are west of Unser Boulevard comprise 1% to 2% of the watershed. Wal-Mart and AMREP have offered \$13,000.00 toward this project because they believe that is their fair share. Between the two of them, they have been asked to contribute \$84,000.00 to the project. To do this project, SSCAFCA must also get a piece of roadway from the City. They have asked the City if it would be willing to donate that property for the project. Mr. Curtis has indicated that the City has agreed to do this. Mr. Stoliker stated that the school system is also included in this project because of a school site. He stated that when the school is built, they have agreed to take some dirt from Sugar, Sunset or Lisbon Dams.

Mr. Metzgar stated that right now, Mr. Stoliker is asking for approval of the acquisition of the properties for each one of the dams, including the 19th Avenue Dam and to go forward with acquisition and, if necessary, condemnation of the properties needed for those dams. The total costs of the dam itself are matters that will be negotiated with the developers and staff is not looking for approval of the figures today. The only money that has been bonded at this time for this project is for the acquisition.

Mr. Metzgar stated that he recalls that the Board has previously approved property acquisition on Sugar and Sunset Dams. However, all of the acquisitions necessary for the entire Black watershed, even if prior approval has been given, has been included in this one issue. Mr. Yarbrough stated that the motion should make it clear that the Board is approving land acquisition for all of the dams in the Black Arroyo system. Mr. Stoliker stated that staff did not include the words "including condemnation" in the original acquisition language; however, Mr. Metzgar believes that it needs to be included.

Mr. Stoliker stated that the developments being affected by this site have agreed that they will still meet the water quality requirements and that they want to do a pro-rata based upon acreage for their share of the \$84,000.00.

A motion was made by John Chaney to table this matter to send it to the Executive Committee for more information.

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Mr. Rudy asked why Mr. Chaney wanted to table the matter; Mr. Chaney stated that he did not believe there was enough information. Mr. Stoliker stated that the developers want to move quickly on their projects and he believes it is a good deal. Mr. Rudy asked that Mr. Chaney modify his motion to send it to the Executive Committee, but give the Executive Committee the ability to approve it if they agree. Mr. Chaney stated that modification was fine.

Mr. Rudy moved that this matter regarding the contribution by Wal-Mart and the other developer be sent to the Executive Committee for action and the Executive Committee be authorized to approve it. The motion was seconded by John Chaney and passed unanimously.

Mr. Metzgar stated that the motion for the right-of-way would be to allow staff to go forward and acquire all the necessary land for all of the dams in the Black Arroyo, including the authority to condemn where necessary. Mr. Rudy stated that he would like staff to come back to the Board if condemnation proceedings are required. Mr. Metzgar stated that if SSCAFCA is going into the acquisition process, it is going into the condemnation process. Staff could bring back the number of lots that will have to be condemned as a discussion item, but when the acquisition process is started, it is in accordance with the statute for condemnation. Mr. House stated that acquisition of all of the property is part of the original plan. Mr. Metzgar stated that the Board had approved the Sugar and Sunset Dam acquisition already. This item includes the 19th Avenue, Unser and Lisbon. Mr. Stoliker stated that he would like the wording to include a shift in the budget to allow for the acquisition. The Master Drainage Plan was approved in 2002 and this is simply implementing that plan.

A motion was made by Donald Rudy to authorize the acquisition as requested and that the distribution of funds be allocated as needed. It was seconded by John Chaney and passed unanimously.

Mr. Stoliker stated that the Agenda also included approval of a task order to start the design on 19th Avenue. At the meeting on this issue, it was determined that it was premature to start the design until some of these contribution issues were resolved. Mr. Metzgar stated that if the Executive Committee goes through the negotiations concerning the dam site and the design doesn't start until after that, there will still be plenty of time to bring this matter back to the Board. Mr. Stoliker stated that this was the intent. The Hart Porsch property developers were not at that meeting, so he is not sure what their schedule is, so the negotiations on the \$1.6 million is not clear at this time, as this is a component of this matter. There was general consensus to hold off on doing the design at this time.

4. Discussion/Action of Unser Blvd Improvements, City of Rio Rancho request for dedication of Right-of-Way at Montoyas Arroyo in exchange for non right-of-way takes adjacent to the Montoyas Arroyo.

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Mr. Ken Curtis, of the City of Rio Rancho, stated that they did not have a formal presentation on this issue. It has been an ongoing transportation road project and they are crossing the Montoyas Arroyo just north of Cherry near North Hills. The City has been working with SSCAFCA staff and they are now down to the technical details of crossing the arroyo and they are making some major shifts.

Mr. Stoliker stated that the City wants the crossing, so staff is asking the Board to authorize staff to prepare a fee simple deed to the City for the property for the road crossing with SSCAFCA reserving an easement. Mr. Curtis stated that SSCAFCA actually built the crossing and the City is now looking at wider right-of-way, so the City would extend the structure. The structure will not be destroyed, merely widened. Mr. Stoliker stated that the City is going to straighten out the road and is buying a bunch of properties. SSCAFCA has asked the City to grant it an easement at the Montoyas so that SSCAFCA protects the LEE line. The City has agreed to do this.

A motion was made by Dub Yarbrough to approve the donation by SSCAFCA of property to the City of Rio Rancho for its Unser Boulevard project, with SSCAFCA retaining an easement and getting easements on other properties, as presented. It was seconded by Donald Rudy and passed unanimously.

2. Update on Sportsplex Dam Project (continued)
Presentation from RBC Dain Rauscher on Finance Plan;

Mr. Stoliker stated that Dain Rauscher is here now for the presentation on the bond issue. Mr. Kevin Powers, of Dain Rauscher, stated that he is here to talk about the sale of the remainder of the bonds approved by the voters in the 2004 election. Interest rates have been very favorable. They bottomed out in 2003 and again in 2005. In 2003, the index bottomed out at 4.21% interest rate; recently, in bottomed out at 4.18%. The last reported rate is 4.27%. It is a good time to be selling bonds right now because they have such low interest rates.

Mr. Powers stated that the recent raising of interest rates are having the most profound impact on the very shortest interest rates in the market place. These include overnight rates, one year rates, and two year rates. The yield curve analysis shows that in 2003, short term rates were extremely low at 1%. Long term rates were a little over 5%. Current rates show that short term rates are at 3% and long term rates are at 4%. When SSCAFCA borrows money, it borrows money over a longer term. The average life is out in the 7 to 10 year range and final maturity is at 12 or 13 years. The continuing interest rate increases by the federal government, combined with the price of oil right now, is helping to keep long term rates down. Inflation is what drives the long term interest rate market; the federal government drives the short term interest rate market.

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Mr. Powers stated that since SSCAFCA needs to build the Sportsplex Dam quickly, and the market is very good at this time, they have suggested a time line to sell the balance of the bonds immediately. They propose that the Board, at the next meeting, adopt a notice of sale and then follow through with selling the bonds in October at a special meeting and deliver the bond proceeds sometime in November. The regular meeting will be fine to adopt the notice of sale and set the sale date. The reason for a special meeting request for the actual sale of the bonds is that Fridays and Mondays are not good days to sell bonds. Dain Rauscher believes that the bond sale should be set on October 12, 2005, which is a Wednesday and, therefore, requires a special meeting. He stated that there is a federal open market committee meeting scheduled for September 22, 2005, which is his only real concern in that he doesn't know what they will do. They do know that rates will most likely be raised a quarter of a point. His biggest concern would be what kind of commentary they might attach to the increase.

Mr. Powers stated that the rate of growth for SSCAFCA was about 11.6%. Broken down into new value and reappraised value, the new value growth was 6.6% and the reappraisal value was 5%. New value is new construction and reappraisal is property that is already on the books that is increasing in value. The total increase in value is slightly more than \$125 million; bringing SSCAFCA's assessed valuation to \$1.3 billion. This is very good news. He stated that they will be refining the proposed sale structure between now and the next meeting. The 5% interest rate on the sale structure is very conservative. More than likely, in today's market, SSCAFCA is looking at 4.25%. The reduction in the interest rate will also have an impact on how much principal SSCAFCA will retire. They will push as much principal into the early years to retire it off as quickly as possible.

A motion was made by John Chaney to move forward on the time schedule for the sale of the bonds as outlined by Mr. Powers. It was seconded by Donald Rudy and passed unanimously.

5. Action/Acceptance of Final Adjusting Change Order for Obregon Road Drainage Project.

Mr. Stoliker stated that the original contract amount on this project was \$253,252.17; the final cost was \$253,238.30. The difference in the final cost is in the unit prices that were estimated at the beginning of the project. They are asking for approval on the final change order.

A motion was made by Steve House to approve the final adjusting change order as presented. It was seconded by Donald Rudy and passed unanimously.

6. Action/Acceptance of Resolution 2005-12 Infrastructure Capital Improvements Plan (ICIP).

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Mr. Stoliker stated that staff is asking for approval of Resolution 2005-12. This resolution is done every year as part of SSCAFCA 's submittal to the State in case there is any legislative or federal money that becomes available. You can 't get any of that money unless you have one of these at the state level. Mr. Baird stated that there is a statewide book of these five year plans in which they try to get state agencies incorporated, as well as local governments and special districts, so that they can have one reference material that legislators can have to discuss with their constituents about funding.

Mr. Stoliker stated that they have broken down SSCAFCA 's plan as follows: the first priority is land acquisition throughout its entire jurisdiction, which has been set previously at \$200,000.00, but is being added onto. This would include anything inside the LEE line. The next is to do a Master Plan of the Calabacillas, and then to build a dam. The next is the Lomitas Negras dam site. SSCAFCA is doing a Watershed Management Plan in the Barrancas right now to define where a dam is needed in the Barrancas. This dam site has been estimated at \$8 million. The Venada needs another dam site. There is also some work that needs to be done on the Corrales escarpment. The Black Watershed is mostly done, but if there is something else that needs to be done, that will be done next.

Some property needs to be bought in the Corrales escarpment and some dam sites need to be put in to protect Loma Larga. Mr. Yarbrough stated that the Village is supposed to do that. Mr. Stoliker stated that he has included it in the plan for SSCAFCA because he doesn 't believe the Village ever will do this project. Mr. Yarbrough stated that he would like Mr. Stoliker to remove this item from the list. Mr. Stoliker stated that next on the list is the Montoyas. The study is done, but now staff is going to find another dam site in this reach and start working toward building that. He stated that the unnamed arroyo improvements are next. The Joiner pipeline takes the water to the edge of Rio Rancho and SSCAFCA needs to complete that to take it all the way to the river. He stated that there was a master drainage plan that was put into Unit 17 and, as part of the next one, SSCAFCA will go down into the Los Rio area and start working on that. The idea is to start at the bottom and work their way up. This has a lot of single lot development in it and will take a lot of time, but they 're starting to plan for it. Then, staff returns to the Montoyas and Lomitas Negras for other work that needs to be done.

Mr. Stoliker stated that staff is looking at \$20 million per year in the last years of the five year plan in order to complete our mission. He doesn 't expect SSCAFCA to get there in the time frames it has, but he wants to shorten a 20 year program and put it into a 5 year program to show the Board where SSCAFCA needs to be. SSCAFCA needs to be building a dam every year and the dams will run \$8 to \$10 million each. He stated that staff is asking for approval of the Resolution to send it to the State, with the removal of the Corrales escarpment item.

A motion was made by John Chaney to adopt Resolution 2005-12 as presented, with the removal of the Corrales escarpment item. It was seconded by Steve House. Roll

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call vote: John Chaney, yes; Steve House, yes; Donald Rudy, yes and Dub Yarbrough, yes.

7. Discussion/Action of task order for ASCG/Stantec to design the Lomitas Negras Dam at the Dulcelina Curtis Channel.

Mr. Stoliker stated that Mr. Dodge has presented staff with a task order for \$80,000.00 to design the Lomitas Negras Dam at the Dulcelina Curtis Channel. The reason staff is moving forward with this is that Mr. Mares wants to proceed with his development and if he does, SSCAFCA needs to have everything together so that when he takes the dirt out, SSCAFCA has it designed enough to make the dam work.

Mr. Dodge stated that this project is in the Montoyas Arroyo and the original Watershed Management Plan did not identify a dam site at this area. When Mr. Stone did the more detailed design on the Sportsplex Dam, they found that there were some problems downstream of this site that the Sportsplex Dam was not going to address. An addendum was adopted by the Board to reduce the size of the Sportsplex Dam and put an approximately 50 acre foot dam at this site to rectify some downstream deficiencies. The task order is to take that concept and design a dam in this location using the Dulcelina Curtis Channel as the outfall.

Mr. Stoliker stated that right now, this item is in the design process. Mr. Mares has offered to take the dirt out of the site, and if SSCAFCA has it designed to that point, it is a cost savings to SSCAFCA and might save Mr. Mares some money from having to have dirt hauled in. This project is part of the 2004 addendum that the Board approved for the Montoyas Arroyo. This will be a joint venture between Mr. Dodge and Stantec. Stantec is a very large firm that is currently on call to SSCAFCA and will work under Mr. Dodge's direction.

Mr. Stoliker stated that staff does not have an agreement with the developer to cost share on the dam. He anticipates meeting with Mr. Mares and his attorney right after the Board meeting to start that discussion.

Mr. Chaney moved to table this matter until an agreement to cost share on the dam with the developer is in place. It was seconded by Steve House and passed unanimously.

8. Revised GASB Procedures for Tracking Assets.

Mr. Stoliker stated that every year SSCAFCA has to account for all of its infrastructure and all of its land. Laura prepared a handout that includes the information SSCAFCA needs to support that. There was general consensus by the Board approving the new procedures.



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CONSENT AGENDA.

1. Action/Approval of the Minutes of July 15, 2005.

A motion was made by John Chaney to approve the minutes of the July 15, 2005 Regular Board Meeting as presented. It was seconded by Steve House and passed unanimously.

RECOGNITION/ACKNOWLEDGMENT OF THE TREASURER ' S REPORT FOR JULY 31, 2005.

Donald Rudy presented the Treasurer ' s Report for June 31, 2005. There were no questions on the report.

CHAIRMAN ' S REPORT.

None.

BOARD OF DIRECTORS ' COMMENTS.

None.

ATTORNEY ' S REPORT.

None.

PUBLIC FORUM.

None.

FOR BOARD INFORMATION,

Mr. Stoliker stated that the following was for Board information only and/or contained in the Board ' s packets:

1. July 19, 2005 email from Scott Armstrong Regarding the Wall Maps.
2. ' ' Rain Breaks 1863 Record ' ' Newspaper Article.
3. Janitorial Services Contract.

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4. HVAC Contract.
5. Fencing 300 in ft. at the South Side of the Inlet to the Harvey Jones Channel has been completed along with the installation of one double leaf gate.
6. Northern Meadows from King Blvd to Rainbow was cleaned; 68 43-gal. trash bags, 4 tires, 12" HDPE 5ft. long, numerous sheets of Styrofoam.
7. July 28, 2005 Correspondence to Dr. Gross Regarding Purchase Agreement.
8. Updated GASB List.
9. The Lower Venada Jack & Bore at The Orchards was Completed August 8, 2005. Backfilling, hauling and concrete to follow.
10. The Sale of the Lot to Jack Westman in Tierra de Corrales was Finalized July 10, 2005.
11. The following plats were signed by the Chairman:
 - a. Los Pinions Subdivision; the Chairman signed for acceptance of the grant of easement for operations and maintenance of drainage infrastructure on July 12, 2005;
 - b. Northern Meadows Unit 12; the Chairman signed for acceptance of the grant of easement for operations and maintenance of drainage infrastructure on July 25, 2005.

The following developments/drainage plans were received for review and comments provided to the consultant:

- a. Cielo Norte Subdivision, Units 1, 2 & 3; located within the Montoyas Watershed, south of Northern Meadows and north of North Hills. This development comprises approximately 35.5 acres, 179 dwelling units, and an approximate discharge of 133 cfs. Comments were provided to the engineer on July 14, 2005;
- b. Diamond Ridge; located within the Montoyas Watershed, at the northeast corner of Northern Boulevard & 40th Street, comprising approximately 61 acres, 136 dwelling units, with a discharge of approximately 70 cfs;
- c. Aldea @ Santiago (Price 's Dairy), comprising approximately 26 acres, 153 dwelling units, and an approximate discharge of 82 cfs. Comments were provided to the consultant on July 28, 2005;
- d. Estancias @ Santiago (Price 's Dairy); comprising approximately 52 acres, 200 dwelling units, and an approximate discharge of 158 cfs. Comments were provided to the consultant on July 28, 2005.

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12. August 10, 2005 Correspondence from Matthew Spangler Regarding Northern Meadows Drainage.

OTHER BUSINESS.

None.

ADJOURNMENT.

A motion was made by Dub Yarbrough to adjourn the meeting. It was seconded by Steven House and passed unanimously. The meeting was adjourned at 12:00 p.m.



JOHN CHANEY
Secretary



WM. C. YARBROUGH
Chairman

DATE APPROVED:

9/14

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