



## Irrigation Works Construction Fund: Recommendations for Acequia Infrastructure

Presentation to the Water and Natural Resources Legislative Interim Committee  
August 12, 2021, Taos, NM

1

**The New Mexico Acequia Association** is a grassroots, membership based organization of acequias and community ditches in New Mexico. Since 1989, we have been working to protect acequias and agricultural water rights through community education, organizing, and advocacy.



*Our vision is for acequias to flow with clean water, to work together to grow food, and to celebrate our cultural heritage.*

2

## NMAA's Acequia Governance Project

- Infrastructure Planning
- Water rights and water management
- Acequia Bylaws
- Financial Compliance
- Easements
- Permitting Issues
- And other governance matters



3

## Overview of IWCF and ACDIF: Background and Definitions

**Irrigation Works Construction Fund (IWCF):** A Trust Fund created in 1953 pursuant to Section 72-14-23 NMSA 1978. The purpose is to fund "costs of investigations and construction...and all expenses directly chargeable to such project" as authorized in NMSA 1978 Section 72-14-11.

**72-14-23. New Mexico irrigation works construction fund created; limitation of liability under act; reparation of damages caused in carrying out powers granted; authority of commission to receive contributions.**

There is (hereby) created a fund to be known as the "New Mexico irrigation works construction fund," which shall consist of the income creditable to the permanent reservoirs for irrigation purposes income fund not otherwise pledged under Section 72-14-19 NMSA 1978 (being Laws 1955, Chapter 266, Section 11) and all other moneys which may be appropriated by the state legislature to said construction fund. Such fund shall be a continuing fund and shall not revert to the general fund of the state or to any other fund of the state at the end of any biennium.

**Acequia and Community Ditch Infrastructure Fund (ACDIF):** A new fund created in the state treasury administered by the Interstate Stream Commission. The ACDIF Act mandates that \$2.5 million from the IWCF be appropriated to the ACDIF each year. Unexpended balances revert to the IWCF.

4

## What is Acequia Infrastructure?

### Presa – Diversion Dam

In a typical, earthen acequia, the diversion dam (presa) is the most complicated and expensive element of the infrastructure.

Acequia del Alto del Norte, Mora County.

Price: \$160,000 (pre-Covid)

Design: NRCS

- EQIP 50%
- ISC 45%
- Local cost share 5%



5

## Acequia Martinez Medio

### BEFORE

- No diversion
- No governance documents
- No financial compliance

### AFTER – NMAA GOVERNANCE Tech. Asst.

- Adopted bylaws, elected officers
- Bank account and EIN
- Financial compliance (OSA)

### Then... ready for infrastructure project.

1. Planning: NMAA Pre-assessment and ICIP
2. Engineering Design: RCPP
3. Construction:
  - RCPP \$100,000
  - ISC 90-10 Approx. \$90,000
  - Local Share Approx. \$10,000
  - Capital Outlay \$20,000



6

## Acequia infrastructure also includes other structures:

**Dividers:** Within an acequia, a divider will split an acequia into two acequias or will divide water into a lateral ditch.

**Desagües:** These are structures to remove/drain water from the acequia - from the tail end back to the river or at certain points along the length of the acequia to control flow volume.

**Arroyo Crossings:** Acequias traverse lands that have arroyos and structures are needed to move high flows across the ditch to avoid flooding and breaking the embankment.

*Photo credit: Taos Soil and Water Conservation District*



7

## Acequia Infrastructure Challenges

### The GOOD NEWS:

- Hundreds of acequias are dedicating countless volunteer hours to make improvements. In general, there is more interest in growing food and irrigating than there has been in decades.
- There are some programs offering resources for acequia infrastructure and governance with state and federal agencies and their partners: NMAA, NMACD, local SWCDs.

### HOWEVER.... there are challenges:

- The number of acequias requesting funding and assistance exceeds the current capacity of funding programs (ISC, RCPP, Capital Outlay)
- Acequias vary greatly in capacity and project readiness. Most need assistance with governance, pre-planning, and project management.
- There is a bottleneck in the process for engineering design. This limits the number of acequias ready to receive construction funding.

8

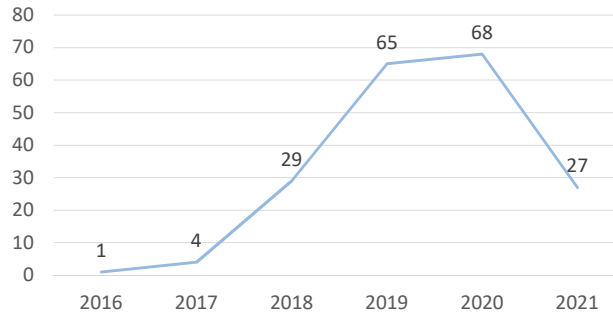
Requests for Capital Outlay funding have been increasing.

Prior to COVID, the number of projects was on a steep rise.

Some acequias who receive Capital Outlay are not ready in terms of governance and planning/design.

This causes unfinished projects and delays in spending Capital Outlay.

Acequia Capital Outlay Projects Per Year



**Interstate Stream Commission**

Acequia and Community Ditch Infrastructure Fund \$2.5 million annually

90-10 Program: state/local cost share

Acequia Loan Program: 2% Loans

- Contact: Jonathan Martinez
- 505-827-6160, JonathanC.Martinez@state.nm.us



**NM State Legislature**

Capital Outlay: Amount available varies.

- Contact: Your State Legislator, List is at [www.nmlegis.gov](http://www.nmlegis.gov)

**Water Trust Board**

- Contact: NM Finance Authority 505-984-1454, [www.nmfa.net](http://www.nmfa.net)



**NRCS Regional Conservation Partnership Program (RCPP)**

NM Association of Soil and Water Conservation Districts

- Contact: Your NRCS District Conservationist
- Contact: Norman Vigil 575-684-0042, norman.vigilsr@outlook.com
- NMAA can provide a list of names and phone numbers



**USACE Acequia Program**



**US Army Corps of Engineers**

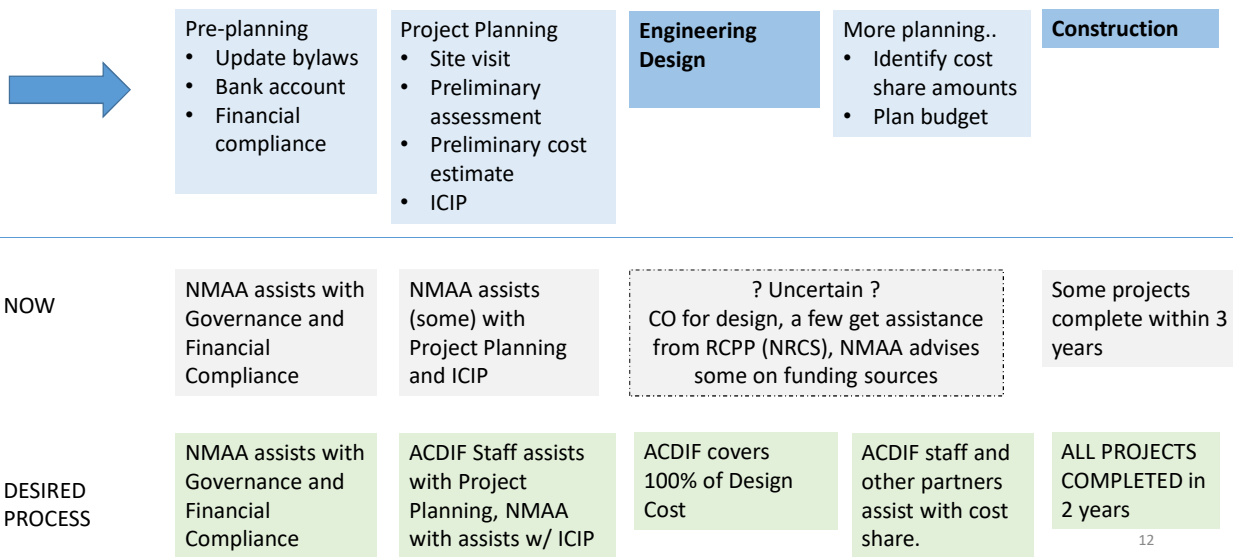
- Funding for larger projects greater than \$500k
- Contact: Jonathan Martinez from ISC

# Acequia and Community Ditch Infrastructure Fund (ACDIF)

- Created in statute with SB 428 (2019)
- Administered by the Interstate Stream Commission (ISC)
- Receives \$2.5 million annually from the Irrigation Works Construction Fund (IWCF)
- FY22 will be the first ACDIF funding cycle with applications due in September
- ACDIF will fund:
  - Planning
  - Engineering Design
  - Construction
- More staffing is needed to effectively implement the purpose of the ACDIF

11

## Acequia Funding Process – ACDIF Can Address Need for Planning and Design Assistance



12

## Protect Funding for the ACDIF by Restoring Solvency of the IWCF

The source of recurring funding of \$2.5 million per year for the ACDIF is the Irrigation Works Construction Fund (IWCF).

The IWCF is a trust fund that gets about \$8 million per year from State Trust land revenue.

The corpus of the IWCF is nearly depleted due to years of expenditures exceeding revenue into the fund. Expenditures have mainly been for OSE/ISC agency expenses.

At the current rate of spending, the corpus will be depleted and the legislature will need to replace IWCF funds with General Fund monies to fund the OSE/ISC agency budget.

**Policy Recommendation: Incrementally replace IWCF in OSE/ISC budget with General Fund monies to keep IWCF revenues and expenditures in balance.**

13

The IWCF expenditures exceed revenues and the corpus of the trust fund is nearly depleted.

## Office of the State Engineer Fund Balances

IRRIGATION WORKS CONSTRUCTION FUND (326)					
	Actual	Pre-Audit	Projected		
	FY19	FY20	FY21	FY22	FY23
<b>BEGINNING BALANCE</b>	\$15,496,439	\$16,248,298	\$13,438,596	\$3,990,896	\$2,044,196
<b>REVENUE</b>					
Permanent Fund	\$6,968,489	\$6,968,762	\$6,700,000	\$6,700,000	\$6,700,000
Interest/Loans	\$19,059	\$17,469	\$15,000	\$15,000	\$15,000
Lease Income	\$988,106	\$808,139	\$750,000	\$750,000	\$750,000
Investment Income (Loss)	\$1,798,600	\$3,250	\$0	\$0	\$0
Miscellaneous	\$128,709	\$5,500	\$25,000	\$25,000	\$25,000
Adjustments					
<b>TOTAL REVENUE</b>	<b>\$9,902,963</b>	<b>\$7,803,120</b>	<b>\$7,490,000</b>	<b>\$7,490,000</b>	<b>\$7,490,000</b>
<b>EXPENDITURES</b>					
Specials & BAR Authority			\$1,850,000		
Operating Budget	\$9,151,104	\$9,612,822	\$11,587,700	\$5,936,700	\$11,587,700
Forestry Fund		\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000
Acequia Fund			\$2,500,000	\$2,500,000	\$2,500,000
<b>TOTAL EXPENDITURES</b>	<b>\$9,151,104</b>	<b>\$10,612,822</b>	<b>\$16,937,700</b>	<b>\$9,436,700</b>	<b>\$15,087,700</b>
<b>ADJUSTED BALANCE</b>	<b>\$16,248,298</b>	<b>\$13,438,596</b>	<b>\$3,990,896</b>	<b>\$2,044,196</b>	<b>(\$5,553,504)</b>

14

## Purpose of the Irrigation Works Construction Fund (IWCF)

- Created Pursuant to NMSA 1978 Section 72-14-23
- Purpose of the IWCF is to fund “costs of investigations and construction...and all expenses directly chargeable to such project” as authorized in NMSA 1978 Section 72-14-11, which in turn provides that the purpose of the IWCF is to “meet a statewide need for the conservation and use of water through projects designed or intended for such purpose.”
- The IWCF receives about \$7-8 million in revenue from State Trust Lands on an annual basis, plus allocations from the corpus of the IWCF are appropriated to the OSE and ISC
- \$2.5 million must be transferred to the ACDIF fund ANNUALLY.
- \$1 million must be transferred to the Forest Land Protection Revolving Fund

## Plan to Restore Solvency to the IWCF

- Though the IWCF receives about \$7-8 million revenue annually from the State Trust Lands, there is a high risk of the IWCF being depleted in the near future.
- The risk of depletion is primarily due to OSE/ISC’s current practice of utilizing the IWCF for “general operations” not specific to project investigations or construction, as required by Section 72-14-23.
- The General Appropriation Act of 2019 required OSE to develop a 5-Year Plan to reduce the agency’s reliance on the IWCF and improvement of the Rio Grande Fund for operating expenditures.
- OSE planned on requesting general fund replacement for a portion of budgeted funds from both the IWCF and IRGF each year for FY21-25; however, OSE did not make the request for FY22 due to general fund budget constraints, but the Legislature did implement a reduction of \$100k
- The Legislature will soon be faced with deciding how to fund the OSE/ISC when the corpus of the IWCF is depleted and the recurring IWCF are not sufficient to fund the agency.
- **NMAA supports a budget solution to properly fund OSE/ISC general operations, while protecting the successful ACDIF program and allocation.**



## Create Acequia Infrastructure Bureau at ISC and Staff the Program Properly

The current Acequia Construction Program has two part-time staff who are administering funding for nearly two hundred projects.

The same program historically had up to six staff who could assist acequias directly with project needs.

Creating a Bureau at ISC would formalize the program and would provide dedicated staffing.

The staffing pattern should include more technical staff and professional engineers who could complete designs.

**Policy Recommendation: In the next ISC budget, include an Acequia Bureau with 4 to 6 FTE including at least one professional engineer.**

17

## Continue funding assistance to acequias for governance and infrastructure planning

The Acequia and Community Ditch Education Program is housed at the DFA Local Government Division. The program funds a contract that supports NMAA's Acequia Governance Project.

The Acequia Governance Project is a vital resource for acequias in assisting local elected officials with a range of governance needs:

- Acequia Bylaws
- Infrastructure Capital Improvement Plans
- Water Management Challenges
- Easements
- State and Federal Permitting

The NMAA partners with NMAC in getting direction and recommendations for cases and projects including our Infrastructure Master List.

**Policy Recommendation: Continue current funding levels for the Acequia and Community Ditch Education Program at DFA.**

18

## Summary of Policy Recommendations

### Acequia Infrastructure Funding and Technical Support

- Incrementally replace IWCF in OSE/ISC budget with General Fund monies to keep IWCF revenues and expenditures in balance.
- In the next ISC budget, include an Acequia Bureau including at least one professional engineer. Cover positions with the ACDIF.
- Continue current funding levels for the Acequia and Community Ditch Education Program at DFA.

19

## Que Vivan las Acequias!



20