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SENATE BILL 942

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Kent L. Cravens

AN ACT

RELATING TO FLOOD CONTROL DISTRICTS; CREATING THE EASTERN SANDOVAL COUNTY ARROYO FLOOD CONTROL AUTHORITY; PROVIDING POWERS AND DUTIES; PROVIDING FOR A FLOOD CONTROL SYSTEM; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE. -- This act may be cited as the "Eastern Sandoval County Arroyo Flood Control Act".

Section 2. LEGISLATIVE DECLARATION. -- It is declared as a matter of legislative determination that:

A. the organization of the authority hereby created having the purposes, powers, duties, privileges, immunities, rights, liabilities and disabilities provided in the Eastern Sandoval County Arroyo Flood Control Act will serve a public use and will promote the health, safety,

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1 prosperity, security and general welfare of the inhabitants
2 thereof and of the state;

3 B. the acquisition, improvement, maintenance and
4 operation of any project authorized in the Eastern Sandoval
5 County Arroyo Flood Control Act is in the public interest and
6 constitutes a part of the established and permanent policy of
7 the state;

8 C. the authority hereby organized shall be a body
9 corporate and politic, a quasi-municipal corporation and a
10 political subdivision of the state;

11 D. the flood control system hereby authorized and
12 directed to be acquired will be of special benefit to the
13 property within the boundaries of the authority organized and
14 created in the Eastern Sandoval County Arroyo Flood Control
15 Act;

16 E. the notice provided for in the Eastern Sandoval
17 County Arroyo Flood Control Act for each hearing and action to
18 be taken is reasonably calculated to inform any person of
19 interest in any proceedings under that act that may directly
20 and adversely affect that person's legally protected
21 interests;

22 F. a general law cannot be made applicable to the
23 designated flood control system and the provisions
24 appertaining thereto in the Eastern Sandoval County Arroyo
25 Flood Control Act because of a number of atypical and special

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1 conditions concerning them; and

2 G. for the accomplishment of these purposes, the
3 provisions of the Eastern Sandoval County Arroyo Flood Control
4 Act shall be broadly construed.

5 Section 3. DECISION OF BOARD OR GOVERNING BODY FINAL. --
6 The action and decision of the board as to all matters passed
7 upon by it in relation to any action, matter or thing provided
8 in the Eastern Sandoval County Arroyo Flood Control Act shall
9 be final and conclusive unless arbitrary, capricious or
10 fraudulent.

11 Section 4. DEFINITIONS. -- Except where the context
12 otherwise requires, as used in the Eastern Sandoval County
13 Arroyo Flood Control Act:

14 A. "acquisition" or "acquire" means the opening,
15 laying out, establishment, purchase, construction, securing,
16 installation, reconstruction, lease, gift, grant from the
17 federal government, any public body or person, endowment,
18 bequest, devise, condemnation, transfer, assignment, option to
19 purchase, other contract or other acquirement, or any
20 combination thereof, of facilities, other property, any
21 project or an interest therein authorized by the Eastern
22 Sandoval County Arroyo Flood Control Act;

23 B. "authority" means the eastern Sandoval county
24 arroyo flood control authority;

25 C. "board" means the board of directors of the

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1 authority;

2 D. "chair" means the chair of the board and
3 president of the authority;

4 E. "condemnation" or "condemn" means the
5 acquisition by the exercise of the power of eminent domain of
6 property for any facilities, other property, project or an
7 interest therein authorized by the Eastern Sandoval County
8 Arroyo Flood Control Act. The authority may exercise in the
9 state the power of eminent domain, either within or without
10 the authority and, in the manner provided by law for the
11 condemnation of private property for public use, may take any
12 property necessary to carry out any of the objects or purposes
13 of the Eastern Sandoval County Arroyo Flood Control Act. In
14 the event the construction of any facility or project
15 authorized by the Eastern Sandoval County Arroyo Flood Control
16 Act, or any part thereof, makes necessary the removal and
17 relocation of any public utilities, whether on private or
18 public right of way, the authority shall reimburse the owner
19 of the public utility facility for the expense of removal and
20 relocation, including the cost of any necessary land or rights
21 in land;

22 F. "cost" or "cost of the project", or words of
23 similar import, means all, or any part designated by the
24 board, of the cost of any facilities, project or interest
25 therein being acquired and of all or any property, rights,

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1 easements, privileges, agreements and franchises deemed by the
2 authority to be necessary or useful and convenient therefor or
3 in connection therewith, which cost, at the option of the
4 board, may include all or any part of the incidental costs
5 pertaining to the project, including without limiting the
6 generality of the foregoing, preliminary expenses advanced by
7 any municipality or other public body from funds available for
8 use therefor in the making of surveys, preliminary plans,
9 estimates of cost, other preliminaries, the costs of
10 appraising, printing, employing engineers, architects, fiscal
11 agents, attorneys at law, clerical help, other agents or
12 employees, the costs of capitalizing interest or any discount
13 on securities, of inspection, of any administrative, operating
14 and other expenses of the authority prior to the levy and
15 collection of taxes, and of reserves for working capital,
16 operation, maintenance or replacement expenses or for payment
17 or security of principal of or interest on any securities, the
18 costs of making, publishing, posting, mailing and otherwise
19 giving any notice in connection with the project, the taking
20 of options, the issuance of securities, the filing or
21 recordation of instruments, the levy and collection of taxes
22 and installments thereof, the costs of reimbursements by the
23 authority to any public body, the federal government or any
24 person of any money theretofore expended for or in connection
25 with any facility or project and all other expenses necessary

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1 or desirable and appertaining to any project, as estimated or
2 otherwise ascertained by the board;

3 G. "director" means a member of the board;

4 H. "disposal" or "dispose" means the sale,
5 destruction, razing, loan, lease, gift, grant, transfer,
6 assignment, mortgage, option to sell, other contract or other
7 disposition, or any combination thereof, of facilities, other
8 property, any project or an interest therein authorized by the
9 Eastern Sandoval County Arroyo Flood Control Act;

10 I. "engineer" means any engineer in the permanent
11 employ of the authority or any independent competent engineer
12 or firm of such engineers employed by the authority in
13 connection with any facility, property, project or power
14 authorized by the Eastern Sandoval County Arroyo Flood Control
15 Act;

16 J. "equipment" or "equip" means the furnishing of
17 all necessary or desirable, related or appurtenant,
18 facilities, or any combination thereof, appertaining to any
19 facilities, property, project or interest therein authorized
20 by the Eastern Sandoval County Arroyo Flood Control Act;

21 K. "facility" means any of the water facilities,
22 sewer facilities or other property appertaining to the flood
23 control system of the authority;

24 L. "federal government" means the United States or
25 any agency, instrumentality or corporation thereof;

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1 M "federal securities" means the bills,
2 certificates of indebtedness, notes or bonds that are direct
3 obligations of, or the principal and interest of which
4 obligations are unconditionally guaranteed by, the United
5 States;

6 N. "governing body" means the city council, city
7 commission, board of commissioners, board of trustees, board
8 of directors or other legislative body of the public body
9 proceeding under the Eastern Sandoval County Arroyo Flood
10 Control Act, in which body the legislative powers of the
11 public body are vested;

12 O. "improvement" or "improve" means the extension,
13 widening, lengthening, betterment, alteration, reconstruction,
14 repair or other improvement, or any combination thereof of
15 facilities, other property, project or any interest therein
16 authorized by the Eastern Sandoval County Arroyo Flood Control
17 Act;

18 P. "mailed notice" or notice by "mail" means the
19 giving by the engineer, secretary or any deputy thereof, as
20 determined by the board, of any designated written or printed
21 notice addressed to the last known owner of each tract of real
22 property in question or other designated person at the last
23 known address, by deposit, at least ten days prior to the
24 designated hearing or other time or event, in the United
25 States mail, postage prepaid, as first-class mail. In the

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1 absence of fraud, the failure to mail any such notice shall
2 not invalidate any proceedings under the Eastern Sandoval
3 County Arroyo Flood Control Act. The names and addresses of
4 those property owners shall be obtained from the records of
5 the county assessor or from such other source as the secretary
6 or the engineer deems reliable. Any list of such names and
7 addresses may be revised from time to time, but such a list
8 need not be revised more frequently than at twelve-month
9 intervals. Any mailing of any notice required shall be
10 verified by the affidavit or certificate of the engineer,
11 secretary, deputy or other person mailing the notice, which
12 verification shall be retained in the records of the authority
13 at least until all taxes and securities appertaining thereto
14 have been paid in full or any claim is barred by a statute of
15 limitations;

16 Q. "municipality" means any incorporated city,
17 town or village in the state, whether incorporated or governed
18 under a general act, special legislative act or special
19 charter of any type. "Municipal" pertains to municipality;

20 R. "person" means any human being, association,
21 partnership, firm or corporation, excluding a public body and
22 excluding the federal government;

23 S. "president" means the president of the
24 authority and the chair of the board;

25 T. "project" means any structure, facility,

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1 undertaking or system that the authority is authorized to
2 acquire, improve, equip, maintain or operate. A project may
3 consist of all kinds of personal and real property. A project
4 shall appertain to the flood control system that the authority
5 is authorized and directed to provide within and without the
6 authority's boundaries;

7 U. "property" means real property and personal
8 property;

9 V. "publication" or "publish" means publication in
10 at least the one newspaper designated as the authority's
11 official newspaper and published in the authority in the
12 English language at least once a week and of general
13 circulation in the authority. Except as otherwise
14 specifically provided or necessarily implied, "publication" or
15 "publish" also means publication for at least once a week for
16 three consecutive weeks by three weekly insertions, the first
17 publication being at least fifteen days prior to the
18 designated time or event, unless otherwise so stated. It is
19 not necessary that publication be made on the same day of the
20 week in each of the three calendar weeks, but not less than
21 fourteen days shall intervene between the first publication
22 and the last publication, and publication shall be complete on
23 the day of the last publication. Any publication required
24 shall be verified by the affidavit of the publisher and filed
25 with the secretary;

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1 W. "public body" means the state or any agency,
2 instrumentality or corporation thereof or any municipality,
3 school district, other type of district or any other political
4 subdivision of the state, excluding the authority and
5 excluding the federal government;

6 X. "qualified elector" means a person qualified to
7 vote in general elections in the state, who is a resident of
8 the authority at the time of any election held under the
9 provisions of the Eastern Sandoval County Arroyo Flood Control
10 Act or at any other time in reference to which the term
11 "qualified elector" is used;

12 Y. "real property" means:

- 13 (1) land, including land under water;
14 (2) buildings, structures, fixtures and
15 improvements on land;
16 (3) any property appurtenant to or used in
17 connection with land; and
18 (4) every estate, interest, privilege,
19 easement, franchise and right in land, legal or equitable,
20 including without limiting the generality of the foregoing,
21 rights of way, terms for years and liens, charges or
22 encumbrances by way of judgment, mortgage or otherwise and the
23 indebtedness secured by such liens;

24 Z. "secretary" means the secretary of the
25 authority;

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1 AA. "secretary of state" means the secretary of
2 state of New Mexico;

3 BB. "securities" means any notes, warrants, bonds,
4 temporary bonds or interim debentures or other obligations of
5 the authority or any public body appertaining to any project
6 or interest therein authorized by the Eastern Sandoval County
7 Arroyo Flood Control Act;

8 CC. "sewer facilities" means any one or more of
9 the various devices used in the collection, channeling,
10 impounding or disposition of storm, flood or surface drainage
11 waters, including all inlets, collection, drainage or disposal
12 lines, canals, intercepting sewers, outfall sewers, all
13 pumping, power and other equipment and appurtenances, all
14 extensions, improvements, remodeling, additions and
15 alterations thereof and any rights or interest in such sewer
16 facilities;

17 DD. "sewer improvement" or "improve any sewer"
18 means the acquisition, reacquisition, improvement,
19 reinvestment or repair of any storm sewer or combination
20 storm and sanitary sewer, including but not limited to
21 collecting and intercepting sewer lines or mains, submains,
22 trunks, laterals, outlets, ditches, ventilation stations,
23 pumping facilities, ejector stations and all other
24 appurtenances and machinery necessary, useful or convenient
25 for the collection, transportation and disposal of storm

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1 water;

2 EE. "state" means the state of New Mexico or any
3 agency, instrumentality or corporation thereof;

4 FF. "street" means any street, avenue, boulevard,
5 alley, highway or other public right of way used for any
6 vehicular traffic;

7 GG. "taxes" means general (ad valorem) taxes
8 pertaining to any project authorized by the Eastern Sandoval
9 County Arroyo Flood Control Act; and

10 HH. "treasurer" means the treasurer of the
11 authority.

12 Section 5. CREATION OF AUTHORITY. -- There is created a
13 flood control authority to be known and designated as the
14 "eastern Sandoval county arroyo flood control authority".

15 Section 6. BOUNDARIES OF AUTHORITY. -- The boundaries of
16 the authority are as follows: a portion of southern Sandoval
17 county bounded on the east by a line following the eastern
18 boundary of range 5 east of the New Mexico principal meridian,
19 on the south by the Pueblo of Sandia and the Cibola national
20 forest, on the west by the Rio Grande and on the north by a
21 line following the northern boundary of township 13 north of
22 the New Mexico principal meridian. The boundary of the
23 district is more particularly described as follows: beginning
24 at the southeast corner of projected section 1, township 12
25 north, range 5 east of the New Mexico principal meridian, that

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1 point also being the southeast corner of herein described
2 boundary; thence proceeding in a westerly direction along a
3 line coincident with the northern boundary of the Cibola
4 national forest and of the Pueblo of Sandia to a point along
5 the west bank of the Rio Grande within projected section 1,
6 township 12 north, range 3 east of the New Mexico principal
7 meridian; thence in a northeasterly direction along the west
8 bank of the Rio Grande to a point in the northwest corner of
9 section 1, township 13 north, range 4 east of the New Mexico
10 principal meridian; thence east along a line following the
11 northern boundary of township 13 north of the New Mexico
12 principal meridian for approximately seven miles to a point in
13 the northeast corner of section 1, township 13 north, range 5
14 east of the New Mexico principal meridian; thence in a
15 southerly direction approximately seven miles to the southeast
16 corner of projected section 1, township 12 north, range 5 east
17 of the New Mexico principal meridian, which point is the
18 southeast corner and point of beginning of the district. All
19 lands held in trust or ownership by the federal government or
20 an Indian pueblo located within the boundaries identified in
21 this section shall be excluded from the authority of the
22 authority.

23 Section 7. PETITION FOR EXCLUSION. -- Within one hundred
24 eighty days from the effective date of the Eastern Sandoval
25 County Arroyo Flood Control Act, a written, signed and

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1 acknowledged petition against the acquiring of the flood
2 control system provided for in Section 19 of that act may be
3 filed with the board by the owners of property of at least
4 thirty percent of the value of the property provided to be
5 taxed in that act, based upon the assessed valuation of that
6 property for general taxes for the year preceding the year of
7 making the petition. If there is real estate in the authority
8 that has not been separately assessed by the taxing
9 authorities, the board shall value such real estate for the
10 purpose of such petition on the same basis of valuation as
11 other real estate similarly situated that has been separately
12 assessed. The board shall, as soon as possible, examine such
13 petition, if made, and canvass and pass upon and determine its
14 sufficiency, and its action shall be final. If the petition
15 is found to contain the names of the owners of property of
16 thirty percent of the total valuation of the property to be
17 taxed under the Eastern Sandoval County Arroyo Flood Control
18 Act and is found to be sufficient, then the flood control
19 system shall not be acquired; provided that no action under
20 the terms of that act shall be delayed during the period of
21 one hundred eighty days, except that no bonds shall be issued
22 during that time.

23 Section 8. BOARD OF DIRECTORS. --The governing body of
24 the authority is a board of directors consisting of five
25 qualified electors of the authority. All powers, rights,

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1 privileges and duties vested in or imposed upon the authority
2 are exercised and performed by and through the board of
3 directors; provided that the exercise of any executive,
4 administrative and ministerial powers may be, by the board,
5 delegated and redelegated to officers and employees of the
6 authority or to any officer or employee contracted by
7 agreement to manage and administer the operations of the
8 authority. Except for the first directors appointed as
9 provided for in Section 9 of the Eastern Sandoval County
10 Arroyo Flood Control Act or elected as provided in Section 10
11 of that act and except for any director chosen to fill an
12 unexpired term, the term of each director commences on the
13 first day of January next following a general election in the
14 state and runs for six years. Each director, subject to such
15 exceptions, shall serve a six-year term ending on the first
16 day of January next following a general election, and each
17 director shall serve until a successor has been duly chosen
18 and qualified.

19 Section 9. APPOINTMENT OF FIRST BOARD--INITIAL
20 MANAGEMENT. --

21 A. When the Eastern Sandoval County Arroyo Flood
22 Control Act goes into effect, the governor shall forthwith
23 appoint five qualified electors of the authority as the
24 directors comprising the first board. They shall serve until
25 their successors have been elected and qualified. Immediately

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1 upon their appointment, the five directors shall meet, qualify
2 and choose officers, as provided for organizational meetings
3 in Section 13 of the Eastern Sandoval County Arroyo Flood
4 Control Act.

5 B. Immediately following the appointment of the
6 first board of directors, the management and administration of
7 the authority may be performed by the southern Sandoval county
8 arroyo flood control authority, for a reasonable fee, until
9 the first board election for the authority is held.

10 Subsequent to the election of the first board of the
11 authority, the authority may enter into an agreement with the
12 southern Sandoval county arroyo flood control authority for
13 the continued management and administration of the authority.

14 Section 10. ELECTION OF OFFICERS. --At the time that a
15 proposal to incur debt is first submitted to the qualified
16 electors or at the first general election next following the
17 effective date of the Eastern Sandoval County Arroyo Flood
18 Control Act, whichever occurs first, the qualified electors of
19 the authority shall elect five qualified directors, two to
20 serve a term ending January 1, 2011, two to serve a term
21 ending January 1, 2013 and one to serve a term ending January
22 1, 2015. At the first election, the five candidates receiving
23 the highest number of votes shall be elected as directors.
24 The terms of the directors shall be determined by lot at their
25 organizational meeting. At each general election thereafter,

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1 the qualified electors of the authority shall elect similarly
2 one or two qualified electors as directors to serve six-year
3 terms as directors and as successors to the directors whose
4 terms end on the first day of January next following each such
5 election. Nothing in the Eastern Sandoval County Arroyo Flood
6 Control Act shall be construed as preventing a qualified
7 elector of the authority from being elected or reelected as a
8 director to succeed himself. If there is only one vacancy on
9 the board, the candidate receiving the highest number of votes
10 shall be elected as director. If there are two vacancies on
11 the board, the candidate receiving the highest number of votes
12 and the candidate receiving the next highest number of votes
13 shall be elected as directors.

14 Section 11. NOMINATION OF DIRECTORS. --Not later than
15 forty-five days before a proposal to incur debt is first
16 submitted to the qualified electors or at the first general
17 election next following the effective date of the Eastern
18 Sandoval County Arroyo Flood Control Act, whichever occurs
19 first, written nominations of any candidate as director may be
20 filed with the secretary of the board. Each nomination of any
21 candidate shall be signed by not less than fifty qualified
22 electors, regardless of whether or not nominated therein,
23 shall designate therein the name of the candidates thereby
24 nominated and shall recite that the subscribers thereto are
25 qualified electors and that the candidate or candidates

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1 designated therein are qualified electors of the authority.
2 No written nomination may designate more qualified electors as
3 candidates than there are vacancies. No qualified elector may
4 nominate more than one candidate for any vacancy. If a
5 candidate does not withdraw the candidate's name before the
6 first publication of the notice of election, the candidate's
7 name shall be placed on the ballot. For any election held
8 after November 2008, nominations shall be made by qualified
9 electors in accordance with the procedures and limitations of
10 this section, except that such nominations shall be filed with
11 the secretary of the board not later than the fourth Tuesday
12 in June preceding the general election.

13 Section 12. FILLING VACANCIES ON THE BOARD. -- Upon a
14 vacancy occurring in the board by reason of death, change of
15 residence, resignation or for any other reason, the governor
16 shall appoint a qualified elector of the authority as
17 successor to serve the unexpired term.

18 Section 13. ORGANIZATIONAL MEETINGS. -- Except for the
19 first board, each board shall meet on the first business day
20 next following the first day of January in each odd-numbered
21 year, at the office of the board within the authority. Each
22 member of the board, before entering upon the member's
23 official duties, shall take and subscribe on oath that the
24 member will support the constitution of the United States and
25 the constitution and laws of New Mexico and that the member

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1 will faithfully and impartially discharge the duties of the
2 office to the best of the member's ability, which oath shall
3 be filed in the office of the secretary of state. Each
4 director shall, before entering upon the director's official
5 duties, give a bond to the authority in the sum of ten
6 thousand dollars (\$10,000) with good and sufficient surety,
7 conditioned for the faithful performance of all of the duties
8 of the director's office, without fraud, deceit or oppression,
9 and the accounting for all money and property coming into the
10 director's hands and the prompt and faithful payment of all
11 money and the delivering of all property coming into the
12 director's custody or control belonging to the authority to
13 the director's successors in office. Premiums on all bonds
14 provided for in this section shall be paid by the authority
15 and all such bonds shall be kept on file in the office of the
16 secretary of state.

17 Section 14. BOARD'S ADMINISTRATIVE POWERS. -- The board
18 may exercise the following powers:

19 A. fix the time and place at which its regular
20 meetings will be held within the authority and provide for the
21 calling and holding of special meetings;

22 B. adopt and amend or otherwise modify bylaws and
23 rules for procedure;

24 C. select one director as chair of the board and
25 president of the authority, and another director as chair pro

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1 tem of the board and president pro tem of the authority, and
2 choose a secretary and a treasurer of the board and authority,
3 each of which two positions may be filled by a person who is,
4 or is not, a director, and both of which positions may, or may
5 not, be filled by one person;

6 D. prescribe by resolution a system of business
7 administration and create all necessary offices and establish
8 and re-establish the powers, duties and compensation of all
9 officers and employees;

10 E. require and fix the amount of all official
11 bonds necessary or desirable and convenient in the opinion of
12 the board for the protection of the funds and property of the
13 authority, subject to the provisions of Section 13 of the
14 Eastern Sandoval County Arroyo Flood Control Act;

15 F. prescribe a method of auditing and allowing or
16 rejecting claims and demands;

17 G. provide a method for the letting of contracts
18 on a fair and competitive basis for the construction of works,
19 any facility or any project or any interest therein or the
20 performance or furnishing of labor, materials or supplies as
21 required in the Eastern Sandoval County Arroyo Flood Control
22 Act;

23 H. designate an official newspaper published in
24 the authority in the English language and direct additional
25 publication in any newspaper where it deems that the public

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1 necessity may so require; and

2 I. make and pass resolutions and orders on behalf
3 of the authority not repugnant to the provisions of the
4 Eastern Sandoval County Arroyo Flood Control Act, necessary or
5 proper for the government and management of the affairs of the
6 authority, for the execution of the powers vested in the
7 authority and for carrying into effect the provisions of that
8 act.

9 Section 15. RECORDS OF BOARD. -- On all resolutions and
10 orders, the roll shall be called, and the ayes and nays shall
11 be recorded. All resolutions and orders, as soon as may be
12 after their passage, shall be recorded in a book kept for that
13 purpose and be authenticated by the signature of the presiding
14 officer of the board and the secretary. Every legislative act
15 of the board of a general or permanent nature shall be by
16 resolution. The book of resolutions and orders is a public
17 record. A record shall also be made of all other proceedings
18 of the board, minutes of all meetings, certificates,
19 contracts, bonds given by officers, employees and any other
20 agents of the authority, and all corporate acts, which record
21 is also a public record. The treasurer shall keep strict and
22 accurate accounts of all money received by and disbursed for
23 and on behalf of the authority in a permanent record, which is
24 also a public record. Any permanent record of the authority
25 shall be open for inspection by any qualified elector thereof,

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1 by any other interested person or by any representative of the
2 federal government or any public body. All records are
3 subject to audit as provided by law for political
4 subdivisions.

5 Section 16. MEETINGS OF THE BOARD. --All meetings of the
6 board shall be held within the authority and shall be open to
7 the public. No business of the board shall be transacted
8 except at a regular or special meeting at which a quorum
9 consisting of at least three-fifths of the total membership of
10 the board is present. Any action of the board requires the
11 affirmative vote of a majority of the directors present and
12 voting. A smaller number of directors than a quorum may
13 adjourn from time to time and may compel the attendance of
14 absent members in the manner and under such penalties as the
15 board may provide.

16 Section 17. COMPENSATION OF DIRECTORS. --Directors shall
17 receive no compensation for their services as a director,
18 officer, engineer, attorney, employee or other agent of the
19 authority. Directors may be reimbursed for expenses incurred
20 by them on authority business with approval of the board.

21 Section 18. INTEREST IN CONTRACTS AND PROPERTY
22 DISQUALIFICATIONS. --No director or officer, employee or agent
23 of the authority may be interested in any contract or
24 transaction with the authority except in the director's or
25 officer's official representative capacity or as provided,

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1 except for any contract of employment with the authority.
2 Neither the holding of any office nor employment in the
3 government of any public body or the federal government nor
4 the owning of any property within the state, within or without
5 the authority, may be deemed a disqualification for membership
6 on the board or employment by the authority, or a
7 disqualification for compensation for services as an officer,
8 employee or agent of the authority, except as provided in
9 Section 17 of the Eastern Sandoval County Arroyo Flood Control
10 Act.

11 Section 19. FLOOD CONTROL SYSTEM - HEARINGS. -- The
12 authority is authorized, empowered and directed, subject to
13 the provisions of Section 7 of the Eastern Sandoval County
14 Arroyo Flood Control Act, to acquire, equip, maintain and
15 operate a flood control system for the benefit of the
16 authority and the inhabitants thereof, after the board has
17 made such preliminary studies and otherwise taken such action
18 as it determines to be necessary or desirable as
19 preliminaries. The flood control system consists of such
20 facilities as the board may determine. When a comprehensive
21 program for the acquisition of the flood control system
22 satisfactory to the board is available, it shall be
23 tentatively adopted. The program need only describe the
24 proposed flood control system in general terms and not in
25 detail. A public hearing on the proposed program shall be

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1 scheduled, and notice of the hearing shall be given by
2 publication. After the hearing and any adjournments of that
3 hearing that may be ordered, the board may either require
4 changes to be made in the program as the board may consider
5 desirable or the board may approve the program as prepared. If
6 any substantial changes to the program are ordered at any
7 time, a further hearing shall be held pursuant to notice that
8 shall be given by publication.

9 Section 20. IMPLEMENTING POWERS. --The board may:

- 10 A. acquire, improve, equip, maintain and operate
11 any project or facility for the control of flood and storm
12 waters of the authority and the flood and storm waters of
13 streams that have their sources outside of the authority but
14 which streams and the flood waters thereof flow into the
15 authority;
- 16 B. protect from such floods or storm waters the
17 water courses, watersheds, public highways, life and property
18 in the authority; and
- 19 C. exercise the right of eminent domain, either
20 within or without the authority, in the manner provided by law
21 for the condemnation of private property for public use.

22 Section 21. PROTECTION OF PROPERTY RIGHTS. --It is
23 declared that the use of the property, lands, rights of way,
24 easements or materials that may be condemned, taken or
25 appropriated under the provisions of the Eastern Sandoval

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1 County Arroyo Flood Control Act is a public use subject to the
2 regulation and control of the state in the manner prescribed
3 by law; but nothing in that act shall be deemed to authorize
4 the authority or public body or person to divert the waters of
5 any river, creek, stream, arroyo, irrigation system, canal or
6 ditch from its channel to the detriment of any person, any
7 public body or the federal government having any interest in
8 such river, creek, stream, arroyo, irrigation system, canal or
9 ditch, or the waters thereof or therein, unless compensation
10 is ascertained and paid therefor under the laws authorizing
11 the taking of private property for public use.

12 Section 22. ADDITIONAL POWERS OF THE AUTHORITY. --The
13 authority may exercise the following duties, privileges,
14 immunities, rights, liabilities and disabilities appertaining
15 to a public body politic and corporate and constituting a
16 quasi-municipal corporation and political subdivision of the
17 state established as an instrumentality exercising public and
18 essential governmental and proprietary functions to provide
19 for the public health, safety and general welfare:

- 20 A. perpetual existence and succession;
- 21 B. adopt, have and use a corporate seal and alter
22 the same at pleasure;
- 23 C. sue and be sued and be a party to suits,
24 actions and proceedings;
- 25 D. commence, maintain, intervene in, defend,

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1 compromise, terminate by settlement or otherwise and otherwise
2 participate in and assume the cost and expense of any and all
3 actions and proceedings now or hereafter begun and
4 appertaining to the authority, its board, its officers, agents
5 or employees, or any of the authority's duties, privileges,
6 immunities, rights, liabilities and disabilities, or the
7 authority's flood control system, other property of the
8 authority or any project;

9 E. enter into contracts and agreements, including
10 but not limited to contracts with the federal government, the
11 state and any other public body;

12 F. borrow money and issue securities evidencing
13 any loan to or amount due by the authority, provide for and
14 secure the payment of any securities and the rights of the
15 holders of those securities and purchase, hold and dispose of
16 securities as provided in the Eastern Sandoval County Arroyo
17 Flood Control Act;

18 G. refund any loan or obligation of the authority
19 and issue refunding securities to evidence such loan or
20 obligation without any election;

21 H. purchase, trade, exchange, encumber and
22 otherwise acquire, maintain and dispose of property and
23 interests in that property;

24 I. levy and cause to be collected general ad
25 valorem taxes on all property subject to property taxation

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1 within the authority; provided that the total tax levy,
2 excluding any levy for the payment of any debt of the
3 authority authorized pursuant to the Eastern Sandoval County
4 Arroyo Flood Control Act, for any fiscal year shall not exceed
5 an aggregate total of two dollars (\$2.00), or any lower amount
6 required by operation of the rate limitation provisions of
7 Section 7-37-7.1 NMSA 1978 upon this tax levy, for each one
8 thousand dollars (\$1,000) of net taxable value, as that term
9 is defined in the Property Tax Code, by certifying, on or
10 before the fifteenth day of July in each year in which the
11 board determines to levy a tax, to the board of county
12 commissioners of Sandoval county, or by such other date as the
13 laws of the state may prescribe to such other body having
14 authority to levy taxes within each county wherein the
15 authority has any territory, the rate so fixed, with
16 directions that, at the time and in the manner required by law
17 for levying taxes for other purposes, such body having
18 authority to levy taxes shall levy the tax upon the net
19 taxable value of all property subject to property taxation
20 within the authority, in addition to such other taxes as may
21 be levied by such body, as provided in Sections 23 through 27
22 of the Eastern Sandoval County Arroyo Flood Control Act. No
23 taxes may be levied and collected for any purpose, or any
24 contract made, until a bond issue has been submitted to and
25 approved by the qualified electors as provided in the Eastern

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1 Sandoval County Arroyo Flood Control Act;

2 J. hire and retain officers, agents, employees,
3 engineers, attorneys and any other persons, permanent or
4 temporary, necessary or desirable to effect the purposes of
5 the Eastern Sandoval County Arroyo Flood Control Act, defray
6 any expenses incurred thereby in connection with the authority
7 and acquire office space, equipment, services, supplies, fire
8 and extended coverage insurance, use and occupancy insurance,
9 workers' compensation insurance, property damage insurance,
10 public liability insurance for the authority and its officers,
11 agents and employees and other types of insurance, as the
12 board may determine; provided, however, that no provision in
13 that act authorizing the acquisition of insurance shall be
14 construed as waiving any immunity of the authority or any
15 director, officer or agent thereof and otherwise existing
16 under the laws of the state;

17 K. condemn property for public use;

18 L. acquire, improve, equip, hold, operate,
19 maintain and dispose of a flood control system, storm sewer
20 facilities, project and appurtenant works, or any interest
21 therein, wholly within the authority, or partially within and
22 partially without the authority, and wholly within, wholly
23 without or partially within and partially without any public
24 body all or any part of the area of which is situated within
25 the authority;

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1 M pay or otherwise defray the cost of any
2 project;

3 N. pay or otherwise defray and contract so to pay
4 or defray, for any term not exceeding fifty years, without an
5 election, except as otherwise provided in the Eastern Sandoval
6 County Arroyo Flood Control Act, the principal of, any
7 interest on and any other charges appertaining to, any
8 securities or other obligations of the federal government, any
9 public body or person incurred in connection with any such
10 property so acquired by the authority;

11 O. establish and maintain facilities within or
12 without the authority, across or along any public street,
13 highway, bridge, viaduct or other public right of way or in,
14 upon, under or over any vacant public lands, which public
15 lands are now or may become the property of the state, or
16 across any stream of water or water course, without first
17 obtaining a franchise from the municipality, county or other
18 public body having jurisdiction over the same; provided that
19 the authority shall cooperate with any public body having such
20 jurisdiction, shall promptly restore any such street, highway,
21 bridge, viaduct or other public right of way to its former
22 state of usefulness as nearly as may be and shall not use the
23 same in such manner as to impair completely or unnecessarily
24 the usefulness thereof;

25 P. deposit any money of the authority, subject to

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1 the limitations in Article 8, Section 4 of the constitution of
2 New Mexico, in any banking institution within or without the
3 state and secured in such manner and subject to such terms and
4 conditions as the board may determine, with or without the
5 payment of any interest on any such deposit;

6 Q. invest any surplus money in the authority
7 treasury, including such money in any sinking or reserve fund
8 established for the purpose of retiring any securities of the
9 authority, not required for the immediate necessities of the
10 authority, in its own securities or in federal securities, by
11 direct purchase of any issue of such securities, or part
12 thereof, at the original sale of the same, or by the
13 subsequent purchase of such securities;

14 R. sell any such securities thus purchased and
15 held, from time to time;

16 S. reinvest the proceeds of any such sale in other
17 securities of the authority or in federal securities, as
18 provided in Subsection Q of this section;

19 T. sell in season from time to time such
20 securities thus purchased and held, so that the proceeds may
21 be applied to the purposes for which the money with which such
22 securities were originally purchased was placed in the
23 treasury of the authority;

24 U. accept contributions or loans from the federal
25 government for the purpose of financing the planning,

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1 acquisition, improvement, equipment, maintenance and operation
2 of any enterprise in which the authority is authorized to
3 engage and enter into contracts and cooperate with and accept
4 cooperation and participation from the federal government for
5 these purposes;

6 V. enter, without any election, into joint
7 operating or service contracts and agreements, acquisition,
8 improvement, equipment or disposal contracts or other
9 arrangements, for any term not exceeding fifty years, with the
10 federal government, any public body or any person concerning
11 storm sewer facilities, or any project, whether acquired by
12 the authority or by the federal government, any public body or
13 any person, and accept grants and contributions from the
14 federal government, any public body or any person in
15 connection therewith;

16 W. enter into and perform, without any election,
17 when determined by the board to be in the public interest and
18 necessary for the protection of the public health, contracts
19 and agreements, for any term not exceeding fifty years, with
20 the federal government, any public body or any person for the
21 provision and operation by the authority of storm sewer
22 facilities;

23 X. enter into and perform, without any election,
24 contracts and agreements with the federal government, any
25 public body or any person for or concerning the planning,

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1 construction, lease or other acquisition, improvement,
2 equipment, operation, maintenance, disposal, and the financing
3 of any project, including but not necessarily limited to any
4 contract or agreement for any term not exceeding fifty years;

5 Y. enter upon any land, make surveys, borings,
6 soundings and examinations for the purposes of the authority,
7 locate the necessary works of any project and roadways and
8 other rights of way appertaining to any project authorized in
9 the Eastern Sandoval County Arroyo Flood Control Act; and
10 acquire all property necessary or convenient for the
11 acquisition, improvement or equipment of such works;

12 Z. cooperate with and act in conjunction with the
13 state, or any of its engineers, officers, boards, commissions
14 or departments, or with the federal government or any of its
15 engineers, officers, boards, commissions or departments, or
16 with any other public body or any person in the acquisition,
17 improvement or equipment of any project for the controlling of
18 flood or storm waters of the authority, or for the protection
19 of life or property therein, or for any other works, acts or
20 purposes provided for in the Eastern Sandoval County Arroyo
21 Flood Control Act, and adopt and carry out any definite plan
22 or system of work for any such purpose;

23 AA. cooperate with the federal government or any
24 public body by an agreement therewith by which the authority
25 may:

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1 (1) acquire and provide, without cost to the
2 cooperating entity, the land, easements and rights of way
3 necessary for the acquisition, improvement or equipment of the
4 flood control system or any project;

5 (2) hold and save harmless the cooperating
6 entity free from any claim for damages arising from the
7 acquisition, improvement, equipment, maintenance and operation
8 of the flood control system or any project;

9 (3) maintain and operate any project in
10 accordance with regulations prescribed by the cooperating
11 entity; and

12 (4) establish and enforce flood channel
13 limits and regulations, if any, satisfactory to the
14 cooperating entity;

15 BB. carry on technical and other investigations of
16 all kinds, make measurements, collect data and make analyses,
17 studies and inspections pertaining to control of floods, sewer
18 facilities, and any project, both within and without the
19 authority, and for this purpose the authority has the right of
20 access through its authorized representative to all lands and
21 premises within the state;

22 CC. have the right to provide from revenues or
23 other available funds an adequate fund for the improvement and
24 equipment of the authority's flood control system or of any
25 parts of the works and properties of the authority;

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1 DD. prescribe and enforce reasonable rules and
2 regulations for the prevention of further encroachment upon
3 existing defined waterways, by their enlargement or other
4 modification, for additional waterway facilities to prevent
5 flooding;

6 EE. require any person desiring to make a
7 connection to any storm water drain or flood control facility
8 of the authority or to cause storm waters to be emptied into
9 any ditch, drain, canal, floodway or other appurtenant
10 structure of the authority firstly to make application to the
11 board to make the connection and to require the connection to
12 be made in such manner as the board may direct;

13 FF. refuse, if reasonably justified by the
14 circumstances, permission to make any connection designated in
15 Subsection DD or EE of this section;

16 GG. make and keep records in connection with any
17 project or otherwise concerning the authority;

18 HH. arbitrate any differences arising in
19 connection with any project or otherwise concerning the
20 authority;

21 II. have the management, control and supervision
22 of all the business and affairs appertaining to any project
23 herein authorized, or otherwise concerning the authority, and
24 of the acquisition, improvement, equipment, operation and
25 maintenance of any such project;

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1 JJ. prescribe the duties of officers, agents,
2 employees and other persons and fix their compensation;
3 provided that the compensation of employees and officers shall
4 be established at prevailing rates of pay for equivalent work;

5 KK. enter into contracts of indemnity and
6 guaranty, in such form as may be approved by the board,
7 relating to or connected with the performance of any contract
8 or agreement that the authority is empowered to enter into
9 under the provisions of the Eastern Sandoval County Arroyo
10 Flood Control Act or of any other law of the state;

11 LL. provide, by any contract for any term not
12 exceeding fifty years, or otherwise, without an election:

13 (1) for the joint use of personnel, equipment
14 and facilities of the authority and any public body, including
15 without limitation public buildings constructed by or under
16 the supervision of the board of the authority or the governing
17 body of the public body concerned, upon such terms and
18 agreements and within such areas within the authority as may
19 be determined, for the promotion and protection of health,
20 comfort, safety, life, welfare and property of the inhabitants
21 of the authority and any such public body; and

22 (2) for the joint employment of clerks,
23 stenographers and other employees appertaining to any project,
24 now existing or hereafter established in the authority, upon
25 such terms and conditions as may be determined for the

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1 equitable apportionment of the expenses therefrom resulting;

2 MM obtain financial statements, appraisals,
3 economic feasibility reports and valuations of any type
4 appertaining to any project or any property pertaining
5 thereto;

6 NN. adopt any resolution authorizing a project or
7 the issuance of securities, or both, or otherwise appertaining
8 thereto, or otherwise concerning the authority;

9 OO. make and execute a mortgage, deed of trust,
10 indenture or other trust instrument appertaining to a project
11 or to any securities authorized in the Eastern Sandoval County
12 Arroyo Flood Control Act, or to both, except as provided in
13 Subsection PP of this section and in Section 54 of that act;

14 PP. make all contracts, execute all instruments
15 and do all things necessary or convenient in the exercise of
16 the powers granted in the Eastern Sandoval County Arroyo Flood
17 Control Act, or in the performance of the authority's
18 covenants or duties, or in order to secure the payment of its
19 securities; provided, no encumbrance, mortgage or other pledge
20 of property, excluding any money, of the authority is created
21 thereby and provided no property, excluding money, of the
22 authority is liable to be forfeited or taken in payment of
23 such securities;

24 QQ. have and exercise all rights and powers
25 necessary or incidental to or implied from the specific powers

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1 granted in the Eastern Sandoval County Arroyo Flood Control
2 Act, which specific powers shall not be considered as a
3 limitation upon any power necessary or appropriate to carry
4 out the purposes and intent of that act; and

5 RR. exercise all or any part or combination of the
6 powers granted in the Eastern Sandoval County Arroyo Flood
7 Control Act.

8 Section 23. LEVY AND COLLECTION OF TAXES. --To levy and
9 collect taxes, the board shall determine in each year the
10 amount of money necessary to be raised by taxation, taking
11 into consideration other sources of revenue of the authority,
12 and shall fix a rate of levy, without limitation as to rate or
13 amount, except for the limitation in Subsection I of Section
14 22 of the Eastern Sandoval County Arroyo Flood Control Act and
15 for any constitutional limitation, that, when levied upon the
16 net taxable value, as that term is defined in the Property Tax
17 Code, of all property subject to property taxation within the
18 authority, and together with other revenues, will raise the
19 amount required by the authority annually to supply funds for
20 paying expenses of organization and the costs of acquiring,
21 improving, equipping, operating and maintaining any project or
22 facility of the authority, and promptly to pay in full, when
23 due, all interest on and principal of bonds and other
24 securities of the authority, and in the event of accruing
25 defaults or deficiencies, an additional levy may be made as

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1 provided in Section 24 of the Eastern Sandoval County Arroyo
2 Flood Control Act.

3 Section 24. LEVIES TO COVER DEFICIENCIES. --The board, in
4 certifying annual levies, shall take into account the maturing
5 indebtedness for the ensuing year as provided in its
6 contracts, maturing securities and interest on securities, and
7 deficiencies and defaults of prior years and shall make ample
8 provision for the payment thereof. In case the money produced
9 from such levies, together with other revenues of the
10 authority, is not sufficient punctually to pay the annual
11 installments of its contracts or securities, and interest
12 thereon, and to pay defaults and deficiencies, the board shall
13 make such additional levies of taxes as may be necessary for
14 such purposes, and notwithstanding any limitations, except the
15 limitation in Subsection I of Section 22 of the Eastern
16 Sandoval County Arroyo Flood Control Act, and any
17 constitutional limitation, such taxes shall be made and
18 continue to be levied until the indebtedness of the authority
19 is fully paid.

20 Section 25. SINKING FUND. --Whenever any indebtedness has
21 been incurred by the authority, it is lawful for the board to
22 levy taxes and to collect revenue for the purpose of creating
23 a reserve fund in such amount as the board may determine,
24 which may be used to meet the obligations of the authority,
25 for maintenance and operating charges and depreciation, and to

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1 provide improvements for the authority.

2 Section 26. MANNER OF LEVYING AND COLLECTING TAXES.--It
3 is the duty of the body having authority to levy taxes within
4 each county to levy the taxes provided in Subsection I of
5 Section 22 of the Eastern Sandoval County Arroyo Flood Control
6 Act, and elsewhere in that act. It is the duty of all
7 officials charged with collecting taxes to collect such taxes
8 at the time and in the form and manner and with like interest
9 and penalties as other general (ad valorem) taxes are
10 collected, and when collected, to pay the same to the
11 authority. The payment of such collection shall be made
12 monthly to the treasurer of the authority and paid into the
13 depository thereof to the credit of the authority. All
14 general (ad valorem) taxes levied under the Eastern Sandoval
15 County Arroyo Flood Control Act, together with interest
16 thereon and penalties for default in payment thereof, and all
17 costs of collecting the same constitute until paid a perpetual
18 lien on and against the property taxed, and such lien is on a
19 parity with the tax lien of other general (ad valorem) taxes.

20 Section 27. DELINQUENT TAXES.--If the general (ad
21 valorem) taxes levied are not paid, then delinquent real
22 property shall be sold at the regular tax sale for the payment
23 of such taxes, interest and penalties, in the manner provided
24 by the statutes of the state for selling real property for the
25 nonpayment of general taxes. If there are no bids at the tax

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1 sale for the property so offered, the property shall be struck
2 off to the county, and the county shall account to the
3 authority in the same manner as provided by law for accounting
4 for school, town and city taxes. Delinquent personal property
5 shall be distrained and sold as provided by law.

6 Section 28. ELECTIONS. -- Each biennial election of
7 directors shall be conducted at the time of the general
8 election under the direction of the Sandoval county clerk and
9 in accordance with the election laws of New Mexico. Any other
10 election of the authority, including an election to seek
11 approval for the issuance of bonds, shall be conducted at any
12 time approved by the board in accordance with the election
13 laws of New Mexico. Elections for the issuance of bonds may
14 be by mail-in ballot pursuant to the procedures set forth in
15 the Mail Ballot Election Act.

16 Section 29. ELECTION RESOLUTION. -- The board shall call
17 any election by resolution adopted at least fifty days prior
18 to the election. The resolution shall recite the objects and
19 purposes of the election and the date upon which the election
20 shall be held.

21 Section 30. CONDUCT OF ELECTION. -- An election held
22 pursuant to the Eastern Sandoval County Arroyo Flood Control
23 Act shall be conducted in the manner provided by the laws of
24 the state for the conduct of general elections.

25 Section 31. NOTICE OF ELECTION. -- Notice of an election

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1 pursuant to Section 30 of the Eastern Sandoval County Arroyo
2 Flood Control Act shall be given by publication. No other
3 notice of an election held under the Eastern Sandoval County
4 Arroyo Flood Control Act need be given unless otherwise
5 provided by the board.

6 Section 32. POLLING PLACES. --All polling places shall be
7 within the area included within the authority. The authority
8 may consolidate the precincts for any election of the
9 authority not conducted at the time of the general election.
10 If precincts are consolidated, the notice of the election
11 shall state which precincts have been consolidated and the
12 designation of the polling place.

13 Section 33. ELECTION SUPPLIES. --The secretary shall
14 provide to the Sandoval county clerk such supplies and
15 assistance as necessary to conduct elections authorized by the
16 Eastern Sandoval County Arroyo Flood Control Act.

17 Section 34. ELECTION RETURNS. --For authority elections
18 held at the time of the general election, the regular general
19 election precinct board shall certify the results of the
20 authority election to the county canvassing board. The county
21 canvassing board shall certify directly to the secretary that
22 portion of the returns pertaining to the authority election.
23 Electronic voting machines shall be used in the conduct of any
24 authority election. For authority elections held at a
25 different time than the general election, the authority shall

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1 appoint an authority precinct board at the authority's expense
2 for each polling place. The authority precinct board shall
3 conduct the election as provided in the Election Code. The
4 separate authority precinct board shall certify the results of
5 the election in that precinct to the secretary within twelve
6 hours after the close of the polls. The secretary shall
7 canvass the results of the authority election as certified by
8 each of the separate authority precinct boards and shall
9 declare the results of the election at any regular or special
10 meeting held not less than five days following the date of the
11 election. Except as otherwise provided, any proposal
12 submitted at any election held pursuant to the Eastern
13 Sandoval County Arroyo Flood Control Act shall not carry
14 unless the proposal has been approved by a majority of the
15 qualified electors of the district voting on the proposal.

16 Section 35. DISSOLUTION OF AUTHORITY. -- If a petition is
17 received pursuant to Section 7 of the Eastern Sandoval County
18 Arroyo Flood Control Act denying the board the power to
19 acquire a flood control system or if the first proposal for
20 the issuance of bonds fails to receive a favorable vote by a
21 majority of the qualified electors voting on the proposal, the
22 board shall proceed to dissolve the authority.

23 Section 36. FILING OF DISSOLUTION RESOLUTION. -- Within
24 thirty days after the effective date of any resolution
25 dissolving the authority, the secretary shall file a copy of

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1 the resolution in the office of the county clerk and shall
2 file an additional copy of the resolution in the office of the
3 secretary of state, which filings shall be without fee and be
4 otherwise in the same manner as articles of incorporation are
5 required to be filed under the laws of the state.

6 Section 37. DISPOSITION OF PROPERTY, FUNDS AND TAXES OF
7 AUTHORITY. --All property and all funds remaining in the
8 treasury of the authority so dissolved shall be surrendered
9 and transferred to the county in which the authority is
10 located and shall become a part of the general fund of the
11 county.

12 Section 38. POWERS OF PUBLIC BODIES. --The governing body
13 of any municipality, federally authorized Indian nation,
14 pueblo or tribe or other public body, upon its behalf and in
15 its name, for the purpose of aiding and cooperating in the
16 determination of any authority boundary or any project
17 authorized in the Eastern Sandoval County Arroyo Flood Control
18 Act, upon the terms and with or without consideration and with
19 or without an election, as the governing body determines, may
20 exercise the following powers:

21 A. sell, lease, loan, donate, grant, convey,
22 assign, transfer and otherwise dispose to the authority, sewer
23 facilities or any other property, or any interest therein,
24 appertaining to a flood control system;

25 B. make available for temporary use or otherwise

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1 dispose to the authority of any machinery, equipment,
2 facilities and other property, and any agents, employees,
3 persons with professional training, and any other persons, to
4 effect the purposes of the Eastern Sandoval County Arroyo
5 Flood Control Act. Any such property and persons owned or in
6 the employ of any public body while engaged in performing for
7 the authority any service, activity or undertaking authorized
8 in the Eastern Sandoval County Arroyo Flood Control Act,
9 pursuant to contract or otherwise, shall have and retain all
10 of the powers, privileges, immunities, rights and duties of
11 and shall be deemed to be engaged in the service and
12 employment of such public body, notwithstanding such service,
13 activity or undertaking is being performed in or for the
14 authority;

15 C. enter into any agreement or joint agreement
16 between or among the federal government, the authority and any
17 other public body, or any combination thereof, extending over
18 any period not exceeding fifty years, which is mutually agreed
19 thereby, notwithstanding any law to the contrary, respecting
20 action or proceedings appertaining to any power granted in the
21 Eastern Sandoval County Arroyo Flood Control Act, and the use
22 or joint use of any facilities, project or other property
23 authorized in that act;

24 D. sell, lease, loan, donate, grant, convey,
25 assign, transfer or pay over to the authority any facilities

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1 or any project authorized in the Eastern Sandoval County
2 Arroyo Flood Control Act, or any part thereof, or any interest
3 in real or personal property, or any funds available for
4 acquisition, improvement or equipment purposes, including the
5 proceeds of any securities previously or hereafter issued for
6 acquisition, improvement or equipment purposes that may be
7 used by the authority in the acquisition, improvement,
8 equipment, maintenance or operation of any facilities or
9 project authorized in that act;

10 E. transfer, grant, convey or assign and set over
11 to the authority any contracts that may have been awarded by
12 the public body for the acquisition, improvement or equipment
13 of any project not begun or if begun, not completed;

14 F. budget and appropriate, and each municipality
15 or other public body is hereby required and directed to budget
16 and appropriate, from time to time, general (ad valorem) tax
17 proceeds, and other revenues legally available therefor to pay
18 all obligations arising from the exercise of any powers
19 granted in the Eastern Sandoval County Arroyo Flood Control
20 Act as such obligations shall accrue and become due;

21 G. provide for an agency, by any agreement
22 authorized in the Eastern Sandoval County Arroyo Flood Control
23 Act, to administer or execute that or any collateral
24 agreement, which agency may be one of the parties to the
25 agreement, or a commission or board constituted pursuant to

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1 the agreement;

2 H. provide that any such agency shall possess the
3 common power specified in the agreement, and may exercise it
4 in the manner or according to the method provided in the
5 agreement. Such power is subject to the restrictions upon the
6 manner of exercising the power of any one of the contracting
7 parties, which party shall be designated by the agreement; and

8 I. continue any agreement authorized in the
9 Eastern Sandoval County Arroyo Flood Control Act for a
10 definite term not exceeding fifty years, or until rescinded or
11 terminated, which agreement may provide for the method by
12 which it may be rescinded or terminated by any party.

13 Section 39. EFFECTS OF EXTRATERRITORIAL FUNCTIONS. -- All
14 of the powers, privileges, immunities and rights, exemptions
15 from laws, ordinances and rules, all pension, relief,
16 disability, workers' compensation and other benefits that
17 apply to the activity of officers, agents or employees of the
18 authority or any such public body when performing their
19 respective functions within the territorial limits of the
20 respective public agencies apply to them to the same degree
21 and extent while engaged in the performance of any of their
22 functions and duties extraterritorially under the Eastern
23 Sandoval County Arroyo Flood Control Act.

24 Section 40. FORMS OF BORROWING. -- Upon the conditions and
25 under the circumstances set forth in the Eastern Sandoval

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1 County Arroyo Flood Control Act, the authority, to carry out
2 the purposes of that act, from time to time may borrow money
3 to defray the cost of any project, or any part thereof, as the
4 board may determine and issue the following securities to
5 evidence such borrowing:

- 6 A. notes;
- 7 B. warrants;
- 8 C. bonds;
- 9 D. temporary bonds; and
- 10 E. interim debentures.

11 Section 41. ISSUANCE OF NOTES. --The authority is
12 authorized to borrow money without an election in anticipation
13 of taxes or other revenues, or both, and to issue notes to
14 evidence the amount so borrowed.

15 Section 42. ISSUANCE OF WARRANTS. --The authority is
16 authorized to defray the cost of any services, supplies,
17 equipment or other materials furnished to or for the benefit
18 of the authority by the issuance of warrants to evidence the
19 amount due therefor, without an election, in anticipation of
20 taxes or other revenues, or both.

21 Section 43. MATURITIES OF NOTES AND WARRANTS. --Notes and
22 warrants may mature at such time not exceeding one year from
23 the respective dates of their issuance as the board may
24 determine. They shall not be extended or funded except by the
25 issuance of bonds or interim debentures in compliance with

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1 Section 44 or 46 of the Eastern Sandoval County Arroyo Flood
2 Control Act.

3 Section 44. ISSUANCE OF BONDS AND INCURRENCE OF DEBT.--

4 The authority is authorized to borrow money in anticipation of
5 taxes or other revenues, or both, and to issue bonds to
6 evidence the amount so borrowed. No bonded indebtedness or
7 any other indebtedness not payable in full within one year,
8 except for interim debentures as provided in Sections 46 and
9 89 through 91 of the Eastern Sandoval County Arroyo Flood
10 Control Act, shall be created by the authority without first
11 submitting a proposition of issuing such bonds to the
12 qualified electors of the authority and being approved by a
13 majority of such electors voting thereon at an election held
14 for that purpose in accordance with Sections 28 through 34 of
15 that act and all laws amendatory thereof and supplemental
16 thereto. Bonds so authorized may be issued in one series or
17 more and may mature at such time or times not exceeding forty
18 years from their issuance as the board may determine. The
19 total of all outstanding indebtedness at any one time shall
20 not exceed fifty million dollars (\$50,000,000) without prior
21 approval of the state legislature.

22 Section 45. ISSUANCE OF TEMPORARY BONDS.--The authority
23 is authorized to issue temporary bonds, pending preparation of
24 definitive bond or bonds and exchangeable for the definitive
25 bond or bonds when prepared, as the board may determine. Each

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1 temporary bond shall set forth substantially the same
2 conditions, terms and provisions as the definitive bond for
3 which it is exchanged. Each holder of any such temporary
4 security shall have all the rights and remedies that the
5 holder would have as a holder of the definitive bond or bonds.

6 Section 46. ISSUANCE OF INTERIM DEBENTURES. -- The
7 authority is authorized to borrow money and to issue interim
8 debentures evidencing "construction" or short-term loans for
9 the acquisition or improvement and equipment of the flood
10 control system or any project in supplementation of long-term
11 financing and the issuance of bonds as provided in Sections 89
12 through 91 of the Eastern Sandoval County Arroyo Flood Control
13 Act.

14 Section 47. PAYMENT OF SECURITIES. -- All securities
15 issued by the authority shall be authorized by resolution.
16 The authority may pledge its full faith and credit for the
17 payment of any securities authorized in the Eastern Sandoval
18 County Arroyo Flood Control Act, the interest thereon, any
19 prior redemption premium or premiums and any charges
20 appertaining thereto. Securities may constitute the direct
21 and general obligations of the authority. Their payment may
22 be secured by a specific pledge of tax proceeds and other
23 revenues of the authority as the board may determine.

24 Section 48. ADDITIONALLY SECURED SECURITIES. -- The board,
25 in connection with such additionally secured securities, in

1 the resolution authorizing their issuance or other instrument
2 appertaining thereto, may pledge all or a portion of such
3 revenues, subject to any prior pledges, as additional security
4 for such payment of such securities, and at its option may
5 deposit such revenues in a fund created to pay the securities
6 or created to secure additionally their payment.

7 Section 49. PLEDGE OF REVENUES. --Any such revenues
8 pledged directly or as additional security for the payment of
9 securities of any one issue or series, which revenues are not
10 exclusively pledged therefor, may subsequently be pledged
11 directly or as additional security for the payment of the
12 securities of one or more issue or series subsequently
13 authorized.

14 Section 50. RANKING AMONG DIFFERENT ISSUES. --All
15 securities of the same issue or series shall, subject to the
16 prior and superior rights of outstanding securities, claims
17 and other obligations, have a prior, paramount and superior
18 lien on the revenues pledged for the payment of the securities
19 over and ahead of any lien thereagainst subsequently incurred
20 of any other securities; provided, however, the resolution
21 authorizing, or other instrument appertaining to, the issuance
22 of any securities may provide for the subsequent authorization
23 of bonds or other securities the lien for the payment of which
24 on such revenues is on a parity with the lien thereon of the
25 subject securities upon such conditions and subject to such

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1 limitations as the resolution or other instrument may provide.

2 Section 51. RANKING AMONG SECURITIES OF SAME ISSUE. -- All
3 securities of the same issue or series shall be equally and
4 ratably secured without priority by reason of number, date of
5 maturity, date of securities, of sale, of execution or of
6 delivery, by a lien on such revenues in accordance with the
7 provisions of the Eastern Sandoval County Arroyo Flood Control
8 Act and the resolution authorizing, or other instrument
9 appertaining to, such securities, except to the extent such
10 resolution or other instrument otherwise expressly provides.

11 Section 52. PAYMENT RECITAL IN SECURITIES. -- Each
12 security issued under the Eastern Sandoval County Arroyo Flood
13 Control Act shall recite in substance that the security and
14 the interest on that security are payable solely from the
15 revenues or other money pledged to the payment of those
16 revenues. Securities specifically pledging the full faith and
17 credit of the authority for their payment shall so state.

18 Section 53. INCONTESTABLE RECITAL IN SECURITIES. -- Any
19 resolution authorizing, or other instrument appertaining to,
20 any securities under the Eastern Sandoval County Arroyo Flood
21 Control Act may provide that each security authorized by such
22 a resolution shall recite that it is issued under authority of
23 that act. Such recital shall conclusively impart full
24 compliance with all of the provisions of the Eastern Sandoval
25 County Arroyo Flood Control Act, and all securities issued

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1 containing such recital shall be incontestable for any cause
2 whatsoever after their delivery for value.

3 Section 54. LIMITATIONS UPON PAYMENT OF SECURITIES. -- The
4 payment of securities shall not be secured by an encumbrance,
5 mortgage or other pledge of property of the authority, except
6 for revenues, income, tax proceeds and other money pledged for
7 the payment of securities. No property of the authority,
8 subject to such exception, shall be liable to be forfeited or
9 taken in payment of the securities.

10 Section 55. LIMITATIONS UPON INCURRING ANY DEBT. --
11 Nothing in the Eastern Sandoval County Arroyo Flood Control
12 Act shall be construed as creating or authorizing the creation
13 of an indebtedness on the part of any municipality or other
14 public body included in the authority or elsewhere located.

15 Section 56. SECURITY DETAILS. -- Any securities authorized
16 to be issued in the Eastern Sandoval County Arroyo Flood
17 Control Act shall bear the date or dates, shall be in the
18 denomination or denominations, shall mature at the time or
19 times but in no event exceeding forty years from their date or
20 any shorter limitation provided in that act, shall bear
21 interest that may be evidenced by one or two sets of coupons,
22 payable annually or semiannually, except that the first coupon
23 or coupons, if any, appertaining to any security may represent
24 interest for any period not in excess of one year, as may be
25 prescribed by resolution or other instrument; and the

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1 securities and any coupons shall be payable in the medium of
2 payment at any banking institution or other place or places
3 within or without the state, including but not limited to the
4 office of the treasurer of the county in which the authority
5 is located wholly or in part, as determined by the board, and
6 the securities at the option of the board may be in one or
7 more series, may be made subject to prior redemption in
8 advance of maturity in the order or by lot or otherwise at the
9 time or times without or with the payment of the premium or
10 premiums not exceeding six percent of the principal amount of
11 each security so redeemed, as determined by the board.

12 Section 57. CAPITALIZATION OF COSTS. -- Any resolution
13 authorizing the issuance of securities or other instrument
14 appertaining thereto may capitalize interest on any securities
15 during any period of construction or other acquisition
16 estimated by the board and one year thereafter and any other
17 cost of any project by providing for the payment of the amount
18 capitalized from the proceeds of the securities.

19 Section 58. OTHER SECURITY DETAILS. -- Securities may be
20 issued in such manner, in such form, with such recitals,
21 terms, covenants and conditions and with such other details as
22 may be provided by the board in the resolution authorizing the
23 securities, or other instrument appertaining thereto, except
24 as otherwise provided in the Eastern Sandoval County Arroyo
25 Flood Control Act.

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1 Section 59. REISSUANCE OF SECURITIES.--Any resolution
2 authorizing the issuance of securities or any other instrument
3 appertaining thereto may provide for their reissuance in other
4 denominations in negotiable or nonnegotiable form and
5 otherwise in such manner and form as the board may determine.

6 Section 60. NEGOTIABILITY.--Subject to the payment
7 provisions specifically provided in the Eastern Sandoval
8 County Arroyo Flood Control Act, the notes, warrants, bonds,
9 any interest coupons thereto attached, temporary bonds and
10 interim debentures shall be fully negotiable within the
11 meaning of and for all the purposes of the Uniform Commercial
12 Code, except as the board may otherwise provide. Each holder
13 of such security, or of any coupon appertaining thereto, by
14 accepting such security or coupon shall be conclusively deemed
15 to have agreed that such security or coupon, except as
16 otherwise provided, is and shall be fully negotiable within
17 the meaning and for all purposes of the Uniform Commercial
18 Code.

19 Section 61. SINGLE BONDS.--Notwithstanding any other
20 provision of law, the board in any proceedings authorizing
21 securities under the Eastern Sandoval County Arroyo Flood
22 Control Act:

23 A. may provide for the initial issuance of one or
24 more securities, in this section called "bond", aggregating
25 the amount of the entire issue or a designated portion

1 thereof;

2 B. may make such provision for installment
3 payments of the principal amount of any such bond as it may
4 consider desirable;

5 C. may provide for the making of any such bond
6 payable to bearer or otherwise, registrable as to principal or
7 as to both principal and interest, and where interest accruing
8 thereon is not represented by interest coupons, for the
9 endorsing of payments of interest on such bonds; and

10 D. may further make provision in any such
11 proceedings for the manner and circumstances in and under
12 which any such bond may in the future, at the request of the
13 holder thereof, be converted into securities of smaller
14 denominations, which securities of smaller denominations may
15 in turn be either coupon bonds or bonds registrable as to
16 principal or principal and interest or both.

17 Section 62. LOST OR DESTROYED SECURITIES. -- If lost or
18 completely destroyed, any security may be reissued in the form
19 and tenor of the lost or destroyed security upon the owner
20 furnishing to the satisfaction of the board:

- 21 A. proof of ownership;
- 22 B. proof of loss or destruction;
- 23 C. a surety bond in twice the face amount of the
24 security and any coupons; and
- 25 D. payment of the cost of preparing and issuing

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1 the new security.

2 Section 63. EXECUTION OF SECURITIES. --Any security shall
3 be executed in the name of and on behalf of the authority and
4 signed by the chair, with the seal of the authority affixed
5 thereto and attested by the secretary, except for securities
6 issued in book entry or similar form without the delivery of
7 physical securities.

8 Section 64. INTEREST COUPONS. --Except for any bonds that
9 are registrable for payment of interest, interest coupons
10 payable to bearer and appertaining to the bonds shall be
11 issued and shall bear the original or facsimile signature of
12 the chair.

13 Section 65. FACSIMILE SIGNATURES. --Any of the officers,
14 after filing with the secretary of state the officer's manual
15 signature certified by the officer under oath, may execute or
16 cause to be executed with a facsimile signature in lieu of the
17 officer's manual signature any security authorized in the
18 Eastern Sandoval County Arroyo Flood Control Act; provided
19 that such a filing is not a condition of execution with a
20 facsimile signature of any interest coupon, and provided that
21 at least one signature required or permitted to be placed on
22 each such security, excluding any interest coupon, shall be
23 manually subscribed. An officer's facsimile signature has the
24 same legal effect as the officer's manual signature.

25 Section 66. FACSIMILE SEAL. --The secretary may cause the

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1 seal of the authority to be printed, engraved, stamped or
2 otherwise placed in facsimile on any security. The facsimile
3 seal has the same legal effect as the impression of the seal.

4 Section 67. SIGNATURES OF PREDECESSORS IN OFFICE. --The
5 securities and any coupons bearing the signatures of the
6 officers in office at the time of the signing shall be the
7 valid and binding obligations of the authority,
8 notwithstanding that before the delivery thereof and payment
9 therefor, any or all of the persons whose signatures appear on
10 those securities or coupons shall have ceased to fill their
11 respective offices.

12 Section 68. FACSIMILE SIGNATURES OF PREDECESSORS. --Any
13 officer authorized or permitted in the Eastern Sandoval County
14 Arroyo Flood Control Act to sign any security or interest
15 coupon, at the time of its execution and of the execution of a
16 signature certificate, may adopt as and for the officer's own
17 facsimile signature the facsimile signature of the officer's
18 predecessor in office in the event that such facsimile
19 signature appears upon the security or coupons appertaining
20 thereto, or upon both the security and such coupons.

21 Section 69. REPURCHASE OF SECURITIES. --The securities
22 may be repurchased by the authority out of any funds available
23 for such purpose from the project to which they pertain at a
24 price of not more than the principal amount thereof and
25 accrued interest, plus the amount of the premium, if any, that

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1 might, on the next redemption date of such securities, be paid
2 to the holders thereof if such securities should be called for
3 redemption on such date pursuant to their terms, and all
4 securities so repurchased shall be canceled.

5 Section 70. CUSTOMARY PROVISIONS. -- The resolution
6 authorizing the securities or other instrument appertaining
7 thereto may contain any agreement or provision customarily
8 contained in instruments securing securities, including
9 without limiting the generality of the foregoing, covenants
10 designated in Section 76 of the Eastern Sandoval County Arroyo
11 Flood Control Act.

12 Section 71. SALE OF SECURITIES. -- Any securities
13 authorized in the Eastern Sandoval County Arroyo Flood Control
14 Act, except for warrants not issued for cash and except for
15 temporary bonds issued pending preparation of definitive bond
16 or bonds, shall be sold at public or private sale at, above or
17 below par at a net effective interest rate not exceeding the
18 maximum net effective interest rate permitted by the Public
19 Securities Act, as amended and supplemented by the Eastern
20 Sandoval County Arroyo Flood Control Act.

21 Section 72. SALE DISCOUNT OR COMMISSION PROHIBITED. -- No
22 discount, except as provided by the Eastern Sandoval County
23 Arroyo Flood Control Act, or commission shall be allowed or
24 paid on or for any security sale to any purchaser or bidder,
25 directly or indirectly, but nothing contained in that act

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1 shall be construed as prohibiting the board from employing
2 legal, fiscal, engineering and other expert services in
3 connection with any project or facilities authorized in that
4 act and with the authorization, issuance and sale of
5 securities.

6 Section 73. APPLICATION OF PROCEEDS. --All money received
7 from the issuance of any securities authorized in the Eastern
8 Sandoval County Arroyo Flood Control Act shall be used solely
9 for the purpose for which issued and the cost of any project
10 thereby delineated. Any accrued interest and any premium
11 shall be applied to the payment of the interest on, or the
12 principal of, the securities, or both interest and principal,
13 or shall be deposited in a reserve therefor, as the board may
14 determine.

15 Section 74. USE OF UNEXPENDED PROCEEDS. --Any unexpended
16 balance of such security proceeds remaining after the
17 completion of the acquisition or improvement and equipment of
18 the project or the completion of the purpose for which such
19 securities were issued shall be paid immediately into the fund
20 created for the payment of the principal of such securities
21 and shall be used therefor, subject to the provisions as to
22 the times and methods for their payment as stated in the
23 securities and the proceedings authorizing or otherwise
24 appertaining to their issuance, or so paid into a reserve
25 therefor.

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1 Section 75. VALIDITY UNAFFECTED BY USE OF PROCEEDS. -- The
2 validity of such securities shall not be dependent on nor
3 affected by the validity or regularity of any proceedings
4 relating to the acquisition or improvement and equipment of
5 the project or the proper completion of any project for which
6 the securities are issued. The purchaser or purchasers of the
7 securities shall in no manner be responsible for the
8 application of the proceeds of the securities by the authority
9 or any of its officers, agents and employees.

10 Section 76. COVENANTS IN SECURITY PROCEEDINGS. -- Any
11 resolution or trust indenture authorizing the issuance of
12 securities or any other instrument appertaining thereto may
13 contain covenants and other provisions, notwithstanding such
14 covenants and provisions may limit the exercise of powers
15 conferred by the Eastern Sandoval County Arroyo Flood Control
16 Act, in order to secure the payment of such securities in
17 agreement with the holders and owners of such securities, as
18 the board may determine, including without limiting the
19 generality of the foregoing, all such acts and things as may
20 be necessary or convenient or desirable in order to secure the
21 authority's securities, or in the discretion of the board tend
22 to make the securities more marketable, notwithstanding that
23 such covenant, act or thing may not be enumerated in that act,
24 it being the intention of that act to give the authority power
25 to do all things in the issuance of securities and for their

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1 security except as specifically limited in that act.

2 Section 77. REMEDIES OF SECURITY HOLDERS. -- Subject to
3 any contractual limitations binding upon the holders of any
4 issue or series of securities, or trustee therefor, including
5 the restriction of the exercise of any remedy to a specified
6 proportion, percentage or number of such holders, and subject
7 to any prior or superior rights of others, any holder of
8 securities, or trustee therefor, shall have the right and
9 power for the equal benefit and protection of all holders of
10 securities similarly situated:

11 A. by mandamus or other suit, action or proceeding
12 at law or in equity to enforce the holder's rights against the
13 authority and the board and any of its officers, agents and
14 employees, and to require and compel the authority or the
15 board or any such officers, agents or employees to perform and
16 carry out its and their duties, obligations or other
17 commitments under the Eastern Sandoval County Arroyo Flood
18 Control Act and its and their covenants and agreements with
19 the holder of any security;

20 B. by action or suit in equity to require the
21 authority and the board to account as if they were the trustee
22 of an express trust;

23 C. by action or suit in equity to have appointed a
24 receiver, which receiver may enter and take possession of any
25 system or project or services revenues from which are pledged

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1 for the payment of the securities, prescribe sufficient fees
2 derived from the operation thereof, and collect, receive and
3 apply all revenues or other money pledged for the payment of
4 the securities in the same manner as the authority itself
5 might do in accordance with the obligations of the authority;
6 and

7 D. by action or suit in equity to enjoin any acts
8 or things that may be unlawful or in violation of the rights
9 of the holder of any security and to bring suit thereupon.

10 Section 78. LIMITATIONS UPON LIABILITIES. --Neither the
11 directors nor any person executing securities issued under the
12 Eastern Sandoval County Arroyo Flood Control Act shall be
13 liable personally on the securities by reason of the issuance
14 thereof. Securities issued pursuant to the Eastern Sandoval
15 County Arroyo Flood Control Act shall not be in any way a debt
16 or liability of the state or of any municipality or other
17 public body and shall not create or constitute any
18 indebtedness, liability or obligation of the state or of any
19 such municipality or other public body, either legal, moral or
20 otherwise, and nothing contained in that act shall be
21 construed to authorize the authority to incur any indebtedness
22 on behalf of or in any way to obligate the state or any
23 municipality or other public body, except the authority and
24 except as otherwise expressly stated or necessarily implied in
25 that act.

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1 Section 79. **CANCELLATION OF PAID SECURITIES.** -- Whenever
2 the treasurer shall redeem and pay any of the securities
3 issued under the provisions of the Eastern Sandoval County
4 Arroyo Flood Control Act, the treasurer shall cancel the same
5 by writing across the face thereof or stamping thereon the
6 word "paid", together with the date of its payment, sign the
7 treasurer's name thereto and transmit the same to the
8 secretary, taking the secretary's receipt therefor, which
9 receipt shall be filed in the records of the authority. The
10 secretary shall credit the treasurer on the secretary's books
11 for the amount so paid.

12 Section 80. **INTEREST AFTER MATURITY.** -- No interest shall
13 accrue on any security in the Eastern Sandoval County Arroyo
14 Flood Control Act authorized after it becomes due and payable;
15 provided that funds for the payment of the principal of and
16 the interest on the security and any prior redemption premium
17 due are available to the paying agent for such payment without
18 default.

19 Section 81. **REFUNDING BONDS.** -- Any bonds issued under the
20 Eastern Sandoval County Arroyo Flood Control Act may be
21 refunded, without an election, but subject to provisions
22 concerning their payment and to any other contractual
23 limitations in the proceedings authorizing their issuance or
24 otherwise appertaining thereto, pursuant to a resolution or
25 resolutions to be adopted by the board in the manner provided

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1 in that act for the issuance of other securities, to refund,
2 pay or discharge all or any part of the authority's
3 outstanding bonds, heretofore or hereafter issued, including
4 any interest thereon in arrears or about to become due, or for
5 the purpose of reducing interest costs or effecting other
6 economies or of modifying or eliminating restrictive
7 contractual limitations appertaining to the issuance of
8 additional bonds or any project, or any combination thereof.

9 Section 82. METHOD OF ISSUANCE. -- Any bonds issued for
10 refunding purposes may either be delivered in exchange for the
11 outstanding bonds authorized to be refunded or may be sold as
12 provided in the Eastern Sandoval County Arroyo Flood Control
13 Act for the sale of other bonds.

14 Section 83. LIMITATIONS UPON ISSUANCE. -- No bonds may be
15 refunded under the Eastern Sandoval County Arroyo Flood
16 Control Act unless the holders of the bonds voluntarily
17 surrender them for exchange or payment or unless they either
18 mature or are callable for prior redemption under their terms
19 within ten years from the date of issuance of the refunding
20 bonds. Provision shall be made for paying the bonds within
21 that period of time. No maturity of any bonds refunded may be
22 extended over fifteen years nor may any interest on the bonds
23 be increased to any coupon rate exceeding the maximum net
24 effective interest rate permitted by the Public Securities
25 Act. The principal amount of the refunding bonds may exceed

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1 the principal amount of the refunded bonds if the aggregate
2 principal and interest costs of the refunding bonds do not
3 exceed such unaccrued costs of the bonds refunded. The
4 principal amount of the refunding bonds may also be less than
5 or the same as the principal amount of the bonds refunded so
6 long as provision is duly and sufficiently made for their
7 payment.

8 Section 84. USE OF REFUNDING BOND PROCEEDS. -- The
9 proceeds of refunding bonds shall either be immediately
10 applied to the retirement of the bonds to be refunded or be
11 placed in escrow to be applied to the payment of the bonds
12 upon their presentation; provided, however, any accrued
13 interest and any premium appertaining to a sale of refunding
14 bonds may be applied to the payment of the interest or the
15 principal or both interest and principal or may be deposited
16 in a reserve therefor as the board may determine. The escrow
17 shall not necessarily be limited to refunding bond proceeds
18 but may include other money made available for such purpose.
19 Any escrowed proceeds pending such use may be invested or
20 reinvested in federal securities. Escrowed proceeds and
21 investments, together with any interest to be derived from any
22 such investment, shall be in an amount at all times sufficient
23 as to principal, interest, any prior redemption premium due
24 and any charges of the escrow agent payable therefrom to pay
25 the bonds refunded as they become due at their respective

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1 maturities or due at designated prior redemption date or dates
2 upon which the board shall exercise a prior redemption option.
3 Upon establishment of an escrow in accordance with this
4 section, the refunded bonds payable therefrom no longer
5 constitute outstanding indebtedness of the authority.

6 Section 85. PAYMENT OF REFUNDING BONDS. -- Refunding
7 revenue bonds may be made payable from any revenues derived
8 from the operation of the flood control system or any project,
9 notwithstanding the pledge of such revenues for the payment of
10 the outstanding bonds issued by the authority that are to be
11 refunded is thereby modified. Any refunding revenue bonds
12 shall not be made payable from taxes unless the bonds thereby
13 refunded are payable from taxes.

14 Section 86. COMBINATION OF REFUNDING AND OTHER BONDS. --
15 Bonds for refunding and bonds for any other purpose or
16 purposes authorized in the Eastern Sandoval County Arroyo
17 Flood Control Act may be issued separately or issued in
18 combination in one series or more.

19 Section 87. SUPPLEMENTAL PROVISIONS. -- Except as
20 specifically provided or necessarily implied in the Eastern
21 Sandoval County Arroyo Flood Control Act, the relevant
22 provisions of that act pertaining to bonds generally shall be
23 equally applicable in the authorization and issuance of
24 refunding bonds, including their terms and security, the bond
25 resolution, trust indenture, taxes and service charges and

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1 other aspects of the bonds.

2 Section 88. BOARD'S DETERMINATION FINAL. --The
3 determination of the board that the limitations imposed upon
4 the issuance of refunding bonds under the Eastern Sandoval
5 County Arroyo Flood Control Act have been met shall be
6 conclusive in the absence of fraud or arbitrary and gross
7 abuse of discretion.

8 Section 89. ISSUANCE OF INTERIM DEBENTURES AND PLEDGE OF
9 BONDS AS COLLATERAL SECURITY. --Notwithstanding any limitation
10 or other provision in the Eastern Sandoval County Arroyo Flood
11 Control Act, whenever a majority of the qualified electors of
12 the authority voting on a proposal to issue bonds has
13 authorized the authority to issue bonds for any purpose
14 authorized in that act, the authority is authorized to borrow
15 money without any other election in anticipation of taxes, the
16 proceeds of the bonds or any other revenues of the authority,
17 or any combination thereof, and to issue interim debentures to
18 evidence the amount so borrowed. Interim debentures may
19 mature at such time not exceeding a period of time equal to
20 the estimated time needed to effect the purpose for which the
21 bonds are so authorized to be issued, plus two years, as the
22 board may determine. Except as otherwise provided in this
23 section and in Sections 90 and 91 of the Eastern Sandoval
24 County Arroyo Flood Control Act, interim debentures shall be
25 issued as provided in that act for securities in Sections 47

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1 through 80 of the Eastern Sandoval County Arroyo Flood Control
2 Act. Taxes, other revenues of the authority, including
3 without limiting the generality of the foregoing proceeds of
4 bonds to be thereafter issued or reissued or bonds issued for
5 the purpose of securing the payment of interim debentures may
6 be pledged for the purpose of securing the payment of the
7 interim debentures. Any bonds pledged as collateral security
8 for the payment of any interim debentures shall mature at such
9 time as the board may determine, but in no event exceeding
10 forty years from the date of either any of such bonds or any
11 of such interim debentures, whichever date is earlier. Any
12 such bonds pledged as collateral security shall not be issued
13 in an aggregate principal amount exceeding the aggregate
14 principal amount of the interim debenture secured by a pledge
15 of such bonds nor shall they bear interest at any time which
16 with any interest accruing at the same time on the interim
17 debenture so secured exceeds six percent per year.

18 Section 90. INTERIM DEBENTURES NOT TO BE EXTENDED. -- No
19 interim debenture issued pursuant to the provisions of Section
20 89 of the Eastern Sandoval County Arroyo Flood Control Act
21 shall be extended or funded except by the issuance or
22 reissuance of a bond or bonds in compliance with Section 91 of
23 that act.

24 Section 91. FUNDING. -- For the purpose of funding any
25 interim debenture or interim debentures, any bond or bonds

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1 pledged as collateral security to secure the payment of such
2 interim debenture or interim debentures may be reissued
3 without an election, and any bonds not previously issued but
4 authorized to be issued at an election for a purpose the same
5 as or encompassing the purpose for which the interim
6 debentures were issued may be issued for such a funding. Any
7 such bonds shall mature at such time as the board may
8 determine, but in no event exceeding forty years from the date
9 of either any of the interim debentures so funded or any of
10 the bonds so pledged as collateral security, whichever date is
11 earlier. Bonds for funding, including but not necessarily
12 limited to any such reissued bonds, and bonds for any other
13 purpose or purposes authorized in the Eastern Sandoval County
14 Arroyo Flood Control Act may be issued separately or issued in
15 combination in one series or more. Except as otherwise
16 provided in Sections 89 and 90 of the Eastern Sandoval County
17 Arroyo Flood Control Act and in this section, any such funding
18 bonds shall be issued as is provided for refunding bonds in
19 Sections 81, 82, 84, 85, 87 and 88 of that act and provided
20 for securities in Sections 47 through 80 of that act.

21 Section 92. PUBLICATION OF RESOLUTION OR PROCEEDINGS. --

22 In its discretion, the board may provide for the publication
23 once in full of either any resolution or other proceedings
24 adopted by the board ordering the issuance of any securities
25 or, in the alternative, of notice thereof, which resolution,

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1 other proceedings or notice so published shall state the fact
2 and date of such adoption and the place where such resolution
3 or other proceedings have been filed for public inspection and
4 also the date of the first publication of such resolution,
5 other proceedings or notice and also state that any action or
6 proceeding of any kind or nature in any court questioning the
7 validity of the creation and establishment of the authority,
8 or the validity or proper authorization of securities provided
9 for by the resolution or other proceedings, or the validity of
10 any covenants, agreements or contracts provided for by the
11 resolution or other proceedings, shall be commenced within
12 twenty days after the first publication of such resolution,
13 other proceedings or notice.

14 Section 93. FAILURE TO CONTEST LEGALITY CONSTITUTES
15 BAR. --If no such action or proceedings are commenced or
16 instituted within twenty days after the first publication of
17 such resolution, other proceedings or notice, then all
18 residents and taxpayers and owners of property in the
19 authority and all public bodies and all other persons
20 whatsoever shall be forever barred and foreclosed from
21 instituting or commencing any action or proceeding in any
22 court or from pleading any defense to any action or
23 proceedings questioning the validity of the creation and
24 establishment of the authority, the validity or proper
25 authorization of such securities or the validity of any such

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1 covenants, agreements or contracts. The securities,
2 covenants, agreements and contracts shall be conclusively
3 deemed to be valid and binding obligations in accordance with
4 their terms and tenor.

5 Section 94. CONFIRMATION OF CONTRACT PROCEEDINGS. -- In
6 its discretion, the board may file a petition at any time in
7 the district court in and for any county in which the
8 authority is located wholly or in part, praying a judicial
9 examination and determination of any power conferred or of any
10 tax or rates or charges levied or of any act, proceeding or
11 contract of the authority, whether or not the contract has
12 been executed, including proposed contracts for the
13 acquisition, improvement, equipment, maintenance, operation or
14 disposal of any project for the authority. Such petition
15 shall set forth the facts whereon the validity of such power,
16 assessment, act, proceeding or contract is founded and shall
17 be verified by the chair of the board. Such action shall be
18 in the nature of a proceeding in rem, and jurisdiction of all
19 parties interested may be had by publication and posting as
20 provided in the Eastern Sandoval County Arroyo Flood Control
21 Act. Notice of the filing of the petition shall be given by
22 the clerk of the court, under the seal thereof, stating in
23 brief outline the contents of the petition and showing where a
24 full copy of any contract therein mentioned may be examined.
25 The notice shall be served by publication in at least five

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1 consecutive issues of a weekly newspaper of general
2 circulation published in the county in which the principal
3 office of the authority is located, and by posting the same in
4 the office of the authority at least thirty days prior to the
5 date fixed in the notice for the hearing on the petition.
6 Jurisdiction shall be complete after such publication and
7 posting. Any owner of property in the authority or person
8 interested in the contract or proposed contract or in the
9 premises may appear and move to dismiss or answer the petition
10 at any time prior to the date fixed for the hearing or within
11 such further time as may be allowed by the court, and the
12 petition shall be taken as confessed by all persons who fail
13 so to appear.

14 Section 95. REVIEW AND JUDGMENT OF COURT. -- The petition
15 and notice shall be sufficient to give the court jurisdiction,
16 and upon hearing the court shall examine into and determine
17 all matters and things affecting the question submitted, shall
18 make such findings with reference thereto and render such
19 judgment and decree thereon as the case warrants. Costs may
20 be divided or apportioned among any contesting parties in the
21 discretion of the trial court. Review of the judgment of the
22 court may be had as in other similar cases, except that such
23 review shall be applied for within thirty days after the time
24 of the rendition of such judgment or within such additional
25 time as may be allowed by the court within thirty days. The

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1 rules of civil procedure shall govern in matters of pleading
2 and practice where not otherwise specified in the Eastern
3 Sandoval County Arroyo Flood Control Act. The court shall
4 disregard any error, irregularity or omission that does not
5 affect the substantial rights of the parties.

6 Section 96. PURPOSE OF TAX EXEMPTIONS. --The effectuation
7 of the powers authorized in the Eastern Sandoval County Arroyo
8 Flood Control Act shall and will be in all respects for the
9 benefit of the people of the state, including but not
10 necessarily limited to those residing in the authority
11 exercising any power under that act, for the improvement of
12 their health and living conditions and for the increase of
13 their commerce and prosperity.

14 Section 97. PROPERTY EXEMPT FROM GENERAL TAXES. --The
15 authority shall not be required to pay any general (ad
16 valorem) taxes upon any property appertaining to any project
17 authorized in the Eastern Sandoval County Arroyo Flood Control
18 Act and acquired within the state nor the authority's interest
19 therein.

20 Section 98. SECURITIES AND INCOME THEREFROM EXEMPT. --
21 Securities issued under the Eastern Sandoval County Arroyo
22 Flood Control Act and the income therefrom shall forever be
23 and remain free and exempt from taxation by the state, the
24 authority and any other public body, except transfer,
25 inheritance and estate taxes.

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1 Section 99. FREEDOM FROM JUDICIAL PROCESS. -- Execution or
2 other judicial process shall not issue against any property of
3 the authority authorized in the Eastern Sandoval County Arroyo
4 Flood Control Act, nor shall any judgment against the
5 authority be a charge or lien upon its property.

6 Section 100. RESORT TO JUDICIAL PROCESS. -- Section 99 of
7 the Eastern Sandoval County Arroyo Flood Control Act does not
8 apply to or limit the right of the holder of any security, the
9 holder's trustee or any assignee of all or part of the
10 holder's interest, the federal government when it is a party
11 to any contract with the authority, and any other obligee
12 under that act to foreclose, otherwise to enforce, and to
13 pursue any remedies for the enforcement of any pledge or lien
14 given by the authority on the proceeds of taxes, service
15 charges or other revenues.

16 Section 101. LEGAL INVESTMENTS IN SECURITIES. -- It shall
17 be legal for the state and any of its agencies, departments,
18 instrumentalities, corporations or political subdivisions or
19 any political or public corporation, any bank, trust company,
20 banker, savings bank or institution, any building and loan
21 association, savings and loan association, investment company
22 and any other person carrying on a banking or investment
23 business, any insurance company, insurance association or any
24 other person carrying on an insurance business and any
25 executor, administrator, curator, trustee or any other

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1 fiduciary to invest funds or money in their custody in any of
2 the securities authorized to be issued pursuant to the
3 provisions of the Eastern Sandoval County Arroyo Flood Control
4 Act. Such securities shall be authorized security for all
5 public deposits. Nothing contained in this section with
6 regard to legal investments shall be construed as relieving
7 any public body or other person of any duty of exercising
8 reasonable care in selecting securities.

9 Section 102. CIVIL RIGHTS.--The authority damaged by any
10 such act may also bring a civil action for damages sustained
11 by any such act, and in such proceeding the prevailing party
12 shall also be entitled to reasonable attorney fees and costs
13 of court.

14 Section 103. LIBERAL CONSTRUCTION.--The Eastern Sandoval
15 County Arroyo Flood Control Act, being necessary to secure and
16 preserve the public health, safety and general welfare, the
17 rule of strict consideration shall have no application to that
18 act, but it shall be liberally construed to effect the
19 purposes and objects for which that act is intended.

20 Section 104. EMERGENCY.--It is necessary for the public
21 peace, health and safety that this act take effect
22 immediately.