

# APPENDIX A

## General Information



AGREEMENT NO. US-CF-40-2101

AGREEMENT

between

UNITED STATES OF AMERICA

and

EL PASO COUNTY WATER IMPROVEMENT DISTRICT NUMBER 1

for

PRELIMINARY COORDINATION AND CONSULTATION BY THE UNITED STATES FOR FEDERAL COMPLIANCE ISSUES AND FOR REVIEW OF PROJECT PLAN AND PROJECT REPORT

This AGREEMENT is made pursuant to the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 (P.L. 106-576), hereinafter referred to as "the Act", and is between the UNITED STATES OF AMERICA, acting through the Bureau of Reclamation, Department of Interior, hereinafter referred to as "Reclamation" and, EL PASO COUNTY WATER IMPROVEMENT DISTRICT NUMBER 1, hereinafter referred to as the "District", a Water Improvement District organized and existing under and by virtue of Article XVI, Section 59, of the Texas Constitution, and governed in part by Chapters 49 and 55 of the Texas Water Code.

RECITALS

WHEREAS, as the District has identified an opportunity to improve the District's supply of water within the program area by project for canal lining and water conservation project for the Riverside Canal, El Paso County, Texas;

WHEREAS, the District desires that Reclamation review a document to be prepared by the District and entitled "El Paso County Water Improvement District No. 1 Draft of its Project Plan" for determination that the project could qualify for funding under the "Guidelines for Preparing and Reviewing Proposals for Water Conservation and Improvements Projects under Public Law 106-576" (June 2001), hereinafter referred to as "Guidelines" and prepare a Preliminary Review of the Project Plan. In addition the District desires that Reclamation begin coordination

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with the District as regards the National Environmental Protection Act (NEPA) and other federal requirements for compliance and consultation;

WHEREAS, after Reclamation has determined that the Project Plan is sufficient to qualify under the Act, the District shall prepare a report (the "Project Report"), containing detailed descriptions, assessments, cost estimates, feasibility level engineering designs, and documentation of environmental and cultural resource compliance must be prepared and submitted by the District to Reclamation for review. District desires that Reclamation meet with and advise the District as to requirements and course of action during the preparation of this report. District desires that Reclamation review the Project Report, and complete all other requirements in the process, including the final step of prioritizing under the Act; and

WHEREAS, the District has entered into a contract with the Texas Water Development Board dated July 16, 2003 and labeled TWDB CONTRACT NO. G18500 (attached to this AGREEMENT as Exhibit B and made a part herein) for a grant for engineering services which includes conditions under which the Texas Water Development Board will reimburse the District for all cost considered under this AGREEMENT due from the District to Reclamation.

NOW, THEREFORE, the parties agree as follows:

A. Reclamation agrees that this AGREEMENT is subject to the conditions and provisions of the TWDB CONTRACT NO. G18500, and that any payment by the District to Reclamation under this AGREEMENT is subject to approval by the Texas Water Development Board.

B. Activities to be performed under this AGREEMENT by Reclamation shall include, but are not limited to:

1. Designation of a Reclamation representative responsible for coordinating with District as regards the project. The designated representative will be the principal contact for this AGREEMENT and any modifications.

2. Review of the Project Plan, as required under the Act. On or before sixty days after the date of the last signature on this AGREEMENT, and receipt by Reclamation of advance funds provided for herein, Reclamation will complete a review of the Project Plan. If the Project Plan can be qualified for federal funding, a letter so stating will be forwarded to the District and the project will be accepted

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into the program under the Guidelines. If there are changes, additions or corrections required in the Project Plan, Reclamation will notify District and make arrangements for further discussions and delivery of written suggestions as to such changes, additions or corrections. Within thirty (30) days of the re-submittal of the amended Project Plan, Reclamation will complete a review of the amended Project Plan. If the Project Plan, as amended, can be qualified, a letter accepting the document as the Final Project Plan will then be forwarded to the District.

3. Preliminary coordination with District for the purpose of discussion of anticipated environmental and cultural resource compliance requirements under all applicable federal and state laws, and necessary documentation required in the Project Report. Such compliance activities shall be commensurate with the requirements of the National Environmental Policy Act (NEPA) and the National Historic Preservation Act (NHPA). Work items and costs necessary in order to achieve environmental and cultural compliance for the project will be negotiated.

4. Conducting any site visits and attending any meetings as necessary and appropriate with District and/or other agencies and interested groups regarding the development of the proposed Project Report.

5. Review of the Project Report, as required under the Act. With the advance of the necessary funds, and the completion of the review and qualification of the Project Plan, District will begin work on the Project Report. Within 45 days of submittal by District to Reclamation, Reclamation will complete a review of the Project Report. Once the Project Report is approved by Reclamation, a determination of financial capability will be made by Reclamation, and a cost share AGREEMENT for construction will be prepared for signature by Reclamation and the District. A letter will be given to the District stating that all requirements of the Act have been met and showing the prioritization of this project under the Guidelines.

6. Provide District with regular reports of actual expenditures and services required to accomplish the terms of this AGREEMENT until such activities and expenditures are complete.

7. Accept advance funding. Provide District with timely requests for additional advance funding in order that no hiatus may occur in the tasks enumerated above. Refund to District, after completion of the tasks enumerated in this AGREEMENT, any funds not expended or obligated. Reclamation has provided District an estimate of \$20,000 for the review of the Project Plan and Report and

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completion of coordination and environmental compliance activities. Such payment of \$20,000 by the District to Reclamation shall be in accordance with all provision of the contract between the District and the Texas Water Development Board dated July 16, 2002 (Exhibit B of this AGREEMENT).

8. Review comments and requirements by the Texas Water Development Board that might require changes and amendments to this AGREEMENT between Reclamation and the District, to the Project Plan or the Project Report. Reclamation will coordinate with the District's Representative and Engineer-of-Record in its attempt to satisfy such comments and requirements.

9. Reclamation shall schedule any meetings regarding work performed under this AGREEMENT with the District's Representative and the Engineer-of-Record.

10. Reclamation shall provide to the District Representative and the Engineer-of-Record at least copy, each, of all correspondence, reports, reviews, or any other work products prepared by Reclamation under this AGREEMENT.

C. Activities to be performed under this AGREEMENT by District shall include, but are not limited to:

1. Provide a sum not to exceed \$20,000 for the tasks to be performed by Reclamation as regards the review of the Project Plan and Report and the coordination and environmental compliance activities described in this document. Exhibit A of this AGREEMENT, attached and made apart itemizes the Reclamation estimate An AGREEMENT signed by Reclamation and the District, evidence of approval by the District's Board of the signatures on the AGREEMENT, and an advance of \$20,000 will be made prior to any work by Reclamation. After this AGREEMENT has been signed and funds advanced, such funds will be used by Reclamation for its costs, expenses, obligations and services related to the tasks enumerated in this AGREEMENT or any amendment thereof. Additional funds will be advanced by District when notified by Reclamation that such additional funds are needed for continuation of the activities under the AGREEMENT, and if District desires Reclamation to continue the tasks under this AGREEMENT, District will advance the requested funds within fifteen days of such notification.

2. Provide arrangements and assistance to Reclamation personnel during any site visits or meetings.



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3. Notify Reclamation of any problems that may change the plan for the project.

### **DISTRICT'S REPRESENTATIVE**

Greg Lane, Maintenance Supervisor  
El Paso County Water Improvement District No. 1  
294 Candelaria St.  
El Paso, Texas 79907  
Office: 915-859-4186  
Fax: 915-860-1038  
E-mail: glane5698@aol.com

### **DISTRICT'S ENGINEER-OF-RECORD FOR PROJECT**

A.W. Blair, P.E.  
Axiom-Blair Engineering, L.P.  
3933 Steck Avenue Suite B-119  
Austin, Texas 78759  
Office: 512-349-0117  
Direct: 512-858-1997  
Fax: 512-349-0385  
E-mail: awblair@texas.net

### **TERMINATION**

This AGREEMENT may be modified or terminated upon written mutual AGREEMENT of the parties hereto. The AGREEMENT may be terminated or suspended, at Reclamation's option, if District elects not to advance monies within fifteen days of notification by Reclamation of the need for additional advance funds. If Reclamation elects to suspend the AGREEMENT, all work by Reclamation will cease until it is in receipt of the next required start-up funds. The AGREEMENT, unless amended, will in any event terminate upon completion and transmittal to District of the letter approving and prioritizing the Project Report. All duties and obligation of the parties under this AGREEMENT will cease at that time except as to provisions related to accounting and reimbursing and refunding of funds.

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**GENERAL PROVISIONS**

No member of or delegate to Congress, or resident Commissioner, shall be admitted to any share or shall be a part of this AGREEMENT or receive any benefit that may arise from this AGREEMENT other than as a water user or landowner in the same manner as other water users or landowners.

This AGREEMENT shall become effective on the date of the last signature hereto.

IN WITNESS WHEREOF, THE PARTIES HAVE EXECUTED THIS AGREEMENT in duplicate.

THE UNITED STATES OF AMERICA

By: *Stephenson* Date: 6/19/03

EL PASO COUNTY WATER IMPROVEMENT DISTRICT NUMBER 1

By: *John [Signature]* Date: 6/11/03



Attn: Robt. Maxwell

## NOTICE OF PUBLIC MEETING

to be held at

**El Paso County Water Improvement District No. 1  
294 Candelaria  
El Paso, Texas 79907**

A public meeting will be conducted to present the proposed *El Paso County Water Improvement District No. 1 - 2003 Water Conservation Project*. The El Paso County Water Improvement District No. 1 (the District) is proposing a project consisting of canal rehabilitation and the possible modification of the Socorro Effluent Holding Ponds for use as a regulating reservoir, which will temporarily store irrigation water.

The proposed project includes the renovation of selected sections of the District's Riverside Canal with an impervious lining. A significant reduction of seepage and loss of water can be accomplished by the lining of the canals.

A copy of the Project Plan is available for review at the El Paso County Water Improvement District No. 1 between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday or on the Internet at [www.axiomblairengineering.com](http://www.axiomblairengineering.com).

**Public Meeting  
Wednesday, September 10, 2003 at 5:30 p.m.**

The public meeting on the proposed project will include a briefing of the various aspects of the project and a hearing of public comments.

All those interested in the District are invited to attend this meeting and express their views. Oral and written comments may be presented at this Public Meeting. For further information, contact Deborah Schaefer at 512/394-1011.

APPENDIX 2

PUBLIC LAW 102-575

TITLE XXIII-ELEPHANT BUTTE  
IRRIGATION DISTRICT, NEW MEXICO

SEC. 3301. TRANSFER.

The Secretary is authorized to transfer to the Elephant Butte Irrigation District, New Mexico, and El Paso County Water Improvement District No. 1, Texas, without cost to the respective district, title to such easements, ditches, laterals, canals, drains, and other rights-of-way, which the United States has acquired on behalf of the project, that are used solely for the purposes of serving the respective district's lands and which the Secretary determines are necessary to enable the respective district to carry out operation and maintenance with respect to that portion of the Rio Grande project to be transferred. The transfer of the title to such easements, ditches, laterals, canals, drains, and other rights-of-way located in New Mexico, which the Secretary has that are used for the purpose of jointly serving Elephant Butte Irrigation District and El Paso County Water Improvement District No. 1, may be transferred to Elephant Butte Irrigation District and El Paso County Water Improvement District No. 1 jointly, upon agreement by the Secretary and both districts. Any transfer under this section shall be subject to the condition that the respective district assume responsibility for operating and maintaining their portion of the project.

SEC. 3302. LIMITATION.

Title to and responsibility for operation and maintenance of Elephant Butte and Caballo dams, and Percha, Leasburg, and Mesilla diversion dams and the works necessary for their protection and operation shall be unaffected by this title.

SEC. 3303. EFFECT OF ACT ON OTHER LAWS.

Nothing in this title shall effect any right, title, interest or claim land or water, if any, of the Ysleta del Sur Pueblo, a federally recognized Indian Tribe.



TEXAS  
HISTORICAL  
COMMISSION

*The State Agency for Historic Preservation*

RICK PERRY, GOVERNOR

JOHN L. NAU, III, CHAIRMAN

F. LAWRENCE OAKS, EXECUTIVE DIRECTOR

July 7, 2003

Mr. Allen Rhames  
Axiom-Blair Engineering, L.P.  
2711 W. Anderson Lane, Suite 210  
Austin, Texas 78757

Re: *Project review under Section 106 of the National Historic Preservation Act of 1966  
Proposed Changes to Riverside Canal, El Paso County. (Bureau of Reclamation)*

Dear Mr. Rhames:

Thank you for your correspondence describing the above referenced project. This letter serves as comment on the proposed undertaking from the State Historic Preservation Officer, the Executive Director of the Texas Historical Commission.

The review staff, led by Pam Opiela, has completed its review of the project documentation provided. The proposed improvements to the Riverside Canal will have no adverse effect on this section of the National Register Listed El Paso County Water Improvement District #1 under the following conditions:

1. The section of the canal that you propose to line with concrete will be of the same width (or as close to the same width as possible) as the current historic canal.
2. Proposed new ponds will be located outside the listed boundaries of the Riverside Canal and any other sections of the listed district.
3. As any future improvements to the Riverside Canal are made, a representative section shall be maintained in its original appearance and condition.

We look forward to further consultation with your office and hope to maintain a partnership that will foster effective historic preservation. Thank you for your cooperation in this federal review process, and for your efforts to preserve the irreplaceable heritage of Texas. **If you have any questions concerning our review or if we can be of further assistance, please contact Pam Opiela at 512/463-6218.**

Yours truly,

A handwritten signature in black ink, appearing to read "F. Lawrence Oaks".

for: F. Lawrence Oaks, State Historic Preservation Officer

cc. Will DeBusk, El Paso CHC Chair

---

P.O. BOX 12276 • AUSTIN, TX 78711-2276 • 512/463-6100 • FAX 512/475-4872 • TDD 1-800/735-2989  
www.thc.state.tx.us





# United States Department of the Interior

## FISH AND WILDLIFE SERVICE

10711 Burnet Road, Suite 200  
 Austin, Texas 78758  
 (512) 490-0057

JUN 30 2003

Janis J. Smith, EIT  
 Axiom-Blair Engineering  
 2711 West Anderson Lane #210  
 Austin, Texas 78757

Consultation # 02-15-03-I-0364

Dear Ms. Smith:

The U.S. Fish and Wildlife Service (Service) has reviewed the Environmental Summary for the El Paso County Water Improvement District Number One (District), Canal, Structure, Pond, and Pumping Improvements Project. The Project is located in the city of El Paso, west of Socorro, along the Rio Grande River at the U.S./ Mexico border. The project is to be constructed using Texas Water Development Board funds under the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 (PL-106-576). The District is also seeking a federal grant to share half the cost. The purpose of the project is to decrease water loss in an existing canal system.

The existing irrigation system includes about 16,000 feet of earthen-lined canal and a check structure at the downstream outlet of the canal system. Three new canal sections totaling about 16,000 feet are proposed. The new canals will be concrete lined with side slopes of 1.5:1 and will be about 11 feet deep. Two check structures (Partidor and Franklin) are proposed to deliver water to the canals and feed the Socorro Ponds. The Socorro Ponds will be off-line, earthen storage ponds for water diverted during peak river flows. A third structure, Wasteway One, will be constructed to allow water to return to the Rio Grande River in the event of an emergency or for maintenance needs. Our comments and recommendations follow.

### Threatened and Endangered Species

The following federally listed endangered, threatened, and candidate species are known to occur in El Paso County:

|                                |       |  |
|--------------------------------|-------|--|
| Least tern                     | (E ~) | <i>Sterna antillarum</i>   |
| Northern aplomado falcon       | (E)   | <i>Falco femoralis septentrionalis</i>   |
| Southwestern willow flycatcher | (E †) | <i>Empidonax traillii extimus</i>  |
| Sneed pincushion cactus        | (E)   | <i>Coryphantha sneedii</i><br>(= <i>Escobaria</i> = <i>Mammillaria</i> ) var. <i>sneedii</i> |
| Mexican spotted owl            | (T †) | <i>Strix occidentalis lucida</i>   |
| Black-tailed prairie dog       | (C)   | <i>Cynomys ludovicianus</i>  |
| Yellow-billed cuckoo           | (C)   | <i>Coccyzus americanus</i>   |



JAMES J. SHIMM, EIT

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The Service does not believe that habitat for any of the above species occurs in the project area. Therefore, we do not anticipate impacts to the species by the proposed project.

### **Wetlands**

Wetlands and riparian zones provide valuable fish and wildlife habitat as well as contribute to flood control, water quality enhancement, and groundwater recharge. Wetland and riparian vegetation provides food and cover for wildlife, stabilizes banks, and decreases soil erosion. These areas are inherently dynamic and very sensitive to changes caused by such activities as overgrazing, logging, or major construction. Construction activities near such areas should be carefully designed to minimize impacts. The installation and maintenance of Socorro Ponds should greatly increase the availability of open water habitat which should mitigate the impacts to existing wetlands.

If vegetation clearing is needed in riparian areas, please revegetate these areas with native wetland and riparian vegetation to prevent erosion and loss of habitat. We recommend minimizing the area of soil scarification and initiating incremental reestablishment of herbaceous vegetation at the proposed work sites. Species commonly used for soil stabilization are listed in the Texas Department of Agriculture's (TDA) Native Tree and Plant Directory, available from TDA at P.O. Box 12847, Austin, Texas 78711.

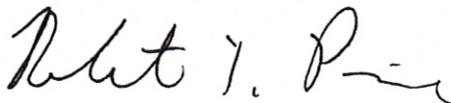
### **Other Fish and Wildlife Resources**

A total of about 340 acres of soil disturbance is anticipated for the construction activities; however, all of the land used for construction has been previously disturbed. No significant long-term impact on the distribution, diversity, and coverage of vegetation is anticipated. Vegetation is expected to be rapidly reintroduced by adjacent undisturbed areas of plants. Since the adjacent areas are described as consisting of scattered grasses and weedy annuals, the Service recommends that the area be planted in native grasses once construction is completed. These grasses may need to be irrigated to become properly established.

Overall, it is anticipated that water withdrawals from the Rio Grande will be lessened by the proposed project. The more efficient system should reduce the current amount of pumping from the river. This will benefit wildlife species along the river. Any construction impacts should be minimal and of relatively short duration.

We appreciate the opportunity to comment on the proposed project and appreciate your support of fish and wildlife habitat management. If you have any further questions or comments please contact Matthew Lechner at (512) 490-0057, extension 234.

Sincerely,



Robert T. Pine  
Supervisor



July 2, 2003

Ms. Janis Smith  
Axiom-Blair Engineering  
2711 Anderson Lane, Suite 210  
Austin, Texas 78757

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EXECUTIVE DIRECTOR

Dear Ms. Smith:

This letter is in response to your review request, dated May 7, 2003, for potential impacts to rare, threatened, and endangered species from the proposed concrete lined canals, three check structures, and Socorro ponds within the El Paso Water Improvement District No. 1 in El Paso County.

Given the small proportion of public versus private land in Texas, the TPWD Biological and Conservation Data System (BCD) does not include a representative inventory of rare resources in the state. Although it is based on the best data available to TPWD regarding rare species, the data from the BCD do not provide a definitive statement as to the presence, absence, or condition of special species, natural communities, or other significant features in your project areas. These data cannot substitute for an on-site evaluation by your qualified biologists. The BCD information is intended to assist you in avoiding harm to species that may occur on your sites.

Based on the project description, when suitable habitat is present, the following species could potentially be impacted by the proposed activities:

**State Listed Threatened**

Chihuahuan Mud Turtle (*Kinosternon hirtipes murrayi*)

**Species of Concern**

Pecos River Muskrat (*Ondatra zibethicus ripensis*)

As noted in the text the Pecos River Muskrat is known to inhabit the El Paso canal system. Concrete lining of the canal would negatively impact this species, if it is currently burrowing into the earthen sides for its dens. Conversely, allowing the muskrat access into and out of the ponds could potentially provide habitat suitable for floating dens/lodges. A printout for this occurrence record is included for your planning reference. **Please do not include this species occurrence printout in your draft or final documents. Because some species are especially sensitive to collection or harassment, this record is for your reference only.**



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elnaWID1Canals&SocorroPonds.doc



Ms. Janis Smith, Axiom-Blair Engineering  
El Paso WID No 1, Canals, Check Structures, & Socorro Ponds  
Page 2

Also, please review the entire county list, as other rare species could be present depending upon habitat availability. If during construction, the project area is found to contain rare species, natural plant communities, or special features, TPWD recommends that precautions be taken to avoid impacts to them.

Excluding bank-clearing activities during the breeding season for migratory bird species will help minimize impacts to this group. The Migratory Bird Treaty Act (MBTA) implicitly prohibits intentional and unintentional take of migratory birds, including their nests and eggs, except when authorized under a US Fish and Wildlife (FWS) permit. Additional information regarding the MBTA may be obtained through the Southwest Regional Office (Region 2) Division of Migratory Birds, FWS, at (505) 248-7882.

This letter does not constitute a review of general fish and wildlife habitat impacts for this project. Should you need such a review, contact Kathy Boydston of the Wildlife Habitat Assessment Program, Wildlife Division (512/389-4571).

Thank you for the opportunity to comment on this project. Please contact me if you have any questions or need additional assistance (512/912-7021).

Sincerely,



Celeste Brancel, Environmental Review Coordinator  
Wildlife Habitat Assessment Program, Wildlife Division  
Threatened and Endangered Species

Enclosures (3)