



**Albuquerque Metropolitan
Arroyo Flood Control Authority
Special Meeting Minutes
October 3, 2012**

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1. Call to Order and Roll Call

Chairman Eichenberg called the Special Board Meeting to order at 2:01 p.m. Wednesday, October 3, 2012. Roll was noted as follows:

Directors present:	Chairman Tim Eichenberg Director Danny Hernandez (arrived at 2:05 p.m.) Director Bruce M. Thomson Director Ronald D. Brown Director Daniel F. Lyon
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Directors excused:	None
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Others present:	Jerry M. Lovato, P.E., Executive Engineer Attorney Marcus Rael, Jr. Staff Other attendees on file at AMAFCA
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A quorum was present.

2. Approval of Agenda

Director Brown made a motion to approve the agenda. Director Lyon seconded the motion, which passed (4-0).

3. Meetings Scheduled

- a. **Thursday, October 25, 2012, 10:00 a.m. – Regular Meeting**
- b. **Thursday, November 15, 2012, 10:00 a.m. – Regular Meeting**
- c. **Thursday, December 13, 2012, 10:00 a.m. – Regular Meeting**

There were no changes to the meeting schedule.

4. Items from the Floor/Public Comment

None.



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5. Legal

a. Status Report

Chairman Eichenberg stated that the next item was status update reports from the City of Albuquerque and EXPO New Mexico (EXPO NM) regarding their progress addressing the Administrative Orders (AO) from EPA.

Mr. Lovato introduced Dan Mourning, General Manager of EXPO NM. Mr. Mourning introduced Larry Kennedy, Chairman of the EXPO NM Board, John Jaramillo, the Deputy General Manager/Project Manager for EXPO NM, and Ron Hensley, of THE Group, the engineer who drafted the plan that EXPO NM sent to EPA.

Mr. Mourning gave the history of their AO and CAFO designation, and described the actions they had taken to address each. They had coordinated their efforts with the City of Albuquerque due to a City pond in the racetrack infield on the east side of the site.

Director Hernandez arrived at 2:05 p.m.

Mr. Mourning stated that EXPO NM had put in a temporary dam to retain waters coming from the CAFO area, forming a pond covering a parking lot in the northwest corner of the fairgrounds when it rains. They had also sealed off inlets to the MS4 storm drain system in this area, so that waters from the CAFO area cannot enter the MS4 system. Manure piles in the barn areas are now removed daily. 18 inches of muck between the barns was removed and replaced with fresh dirt.

He noted that two storm events, one before all of these BMPs were in place and the other after, shows that no CAFO water is entering the MS4 system at this time. With limited funding, this solution works, although it is not very visually pleasing.

He stated that the pond in the northwest parking area is only a temporary solution. It will not be a permanent evaporative pond.

Mr. Mourning explained that the ultimate plan will gutter all the barns, as the roof water is not contaminated. This water can go to the MS4 system. Water from the wash racks will go to the sanitary sewer system.

John Jaramillo stated that the roof water currently is absorbed by the dirt between the barns and infiltrates the ground. By replacing the dirt with clean dirt rather than muck, this source of contamination was eliminated. Water that does not come into contact with animals should be able to be returned to the MS4 system. The intent was to “cease and desist” as quickly and effectively and economically as possible.



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Director Hernandez suggested that the roof water could be captured in a cistern and used to water landscaping. Mr. Mourning stated that they may do that in the future, but their funding is limited. They are doing what they can with limited funds in order to realize a temporary fix.

Using a map of the fairgrounds area, Mr. Mourning showed where they would like to route a new storm drain pipe through the fairgrounds area to address the AO. This would take the water from the existing City pond in the racetrack infield area, and bring it west to the San Pedro Storm Drain, bypassing the cutoff sections of storm drain that go through the CAFO area. This would avoid mixing the City's MS4 water with the EXPO NM CAFO water.

Mr. Lovato noted that EXPO NM needs two permits – a CAFO permit and an MS4 permit. Mr. Mourning confirmed that the CAFO permit is for the animal/barn area of the fairgrounds, and the MS4 permit is for the remainder of the fairgrounds.

Chairman Eichenberg invited Michael Riordan, Director of the Municipal Development Department, to speak on behalf of the City of Albuquerque.

Mr. Riordan stated that the City was concerned with the lack of a coordinated response among the MS4 permittees, which is confusing EPA when the different partners submit differing solutions to the problem.

He described the actions taken by the City when they received their AO, which immediately included monitoring storm water above and below the fairgrounds area. Before EXPO NM had all their measures in place, there was a difference between the water entering the fairgrounds and the water exiting the fairgrounds. With EXPO NM's temporary pond and the inlet structures closed off, the water downstream of the fairgrounds was consistently cleaner. Based on this, the City, in their response to their AO, stated that they concurred with EXPO NM's immediate plans to address the AO.

Mr. Riordan stated that when AMAFCA put in its check dams, that action caught EPA's attention, so AMAFCA received an AO also.

He noted that some voices from Albuquerque are telling EPA that they want all the AOs dropped. He stated that the City has a different approach to the AOs. Rather than fighting EPA and trying to get them dropped, and as the City has some funds programmed for drainage in the area, those funds are being used to make changes that will address the "cease and desist" order in the AO. He anticipated that the City's plan as submitted to EPA will be approved. Their plans had to be developed within City-owned right of way.

Mr. Riordan stated that the pipe downstream of the fairgrounds area is undersized, so a larger pipe with a direct outlet to the Embudo Channel might need to be installed in the future. He described the City plan, which takes water from the race track infield pond to a new storm drain pipeline along Louisiana and Lomas, to the intersection of Lomas and San Pedro, where



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it can join the San Pedro Storm Drain. This way there is complete separation of the waters, the pipeline doesn't run through the CAFO area, and it is impossible for the waters to co-mingle. There is significant cost to this solution, but it keeps the waters totally separate.

He noted that the City's AO also required them to locate and test any other areas of illicit discharge to the MS4 system, but they did not find any. This report was submitted to EPA, along with the monitoring results.

Mr. Riordan also stated that the City had received a message from EPA earlier that day, requesting that they go to Dallas to meet with EPA regarding the AO and their response.

Director Hernandez noted that AMAFCA has no authority over EXPO NM, and the City has very limited authority over them. He asked if EPA had been made aware of that fact.

Mr. Riordan stated that they have explained this fact to EPA, but EPA wants the MS4 partners to "work together" to solve the issue, even if they have no enforcement authority. He stated he would like to work with AMAFCA and EXPO NM to develop a regional plan to address this issue.

In response to questions from Director Brown and Chairman Eichenberg, Mr. Riordan stated that the new pipe to the Embudo Channel to relieve the San Pedro Storm Drain would likely cost \$12-14 million. The pipe along Louisiana and Lomas would likely cost around \$1.8 million to construct. The City has most of the funding in place already, as there were funds allocated for drainage in this area which will be dedicated to this project. The City still needs to find about \$200,000 in funding.

Responding to a question from Director Hernandez, Mr. Riordan stated that the design process has begun with the submission to EPA. The plan is to begin construction right after the end of the state fair next year. The project is expected to take 5 to 6 months to construct. In response to a follow-up question from Chairman Eichenberg, he stated that bond funding for the district in the amount of \$1.5 million for storm drain improvements is already in place and they do not need to wait for a bond election. A small amount of funding still needs to be located.

In response to comments from Directors Brown and Hernandez, Mr. Riordan stated that, in order to eliminate the need for the \$14 million pipe to the Embudo Channel, additional ponding or pipe would eventually be needed somewhere. Roland Penttila stated that about 30 acre-feet of storage would be needed to avoid the \$14 million pipe. The ponding areas are outside the parking areas, along the western edge of the fairgrounds outside of the CAFO area.

Responding to a question from Director Thomson, Mr. Riordan stated that they had two choices when issued the AO: argue it should not have been issued, or comply with it. They had funds for some improvements in this area, so they had the ability to comply. They chose that route, and are working with EXPO NM on a solution to the problem.



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In response to a question from Director Lyon about what the City was seeking from AMAFCA, Mr. Riordan stated that they were not really seeking anything from AMAFCA. If funding were offered, they would accept it, but they don't need it. He emphasized that the City wants the parties to cooperate on a solution. He requested that the parties support the City's efforts rather than taking them off in a different direction. He requested policy support rather than monetary support.

Responding to a comment from Director Brown, who noted that under the EXPO NM plan, MS4 waters and CAFO waters are co-mingled during a large storm, Ron Hensley stated that this is allowed under EPA's general permit for CAFOs. EXPO NM now retains runoff from the CAFO area up to a 25-year storm. Above that, co-mingling waters with an MS4 is allowed.

In response to a question from Director Brown, Mr. Lovato stated that AMAFCA thought the AO to AMAFCA was incorrect, because at the time it was issued, there were no discharges to the AMAFCA system from the CAFO area. AMAFCA also informed EPA that what EXPO NM has done to date has prevented non-stormwater discharges from the CAFO area, so there are no illicit discharges.

Mr. Lovato also noted that he could not come up with a way to treat the CAFO water and clean it so it could be reintroduced to the MS4 system. All the elements are easily addressed except the need to remove the nitrogen. One solution would be to discharge the CAFO water to the sanitary sewer system. If that were to happen, EXPO NM would not need a CAFO permit, but just a discharge permit from ABCWUA. However, the City and EXPO NM were already moving in a different direction.

He opined that, with what the City and EXPO NM were already doing, the AO to AMAFCA should not have been issued because there is no non-stormwater discharges to the system.

Mr. Lovato presented the AMAFCA plan which was similar to the EXPO NM plan. A pipe from the City pond in the infield to San Pedro runs south through EXPO NM. The old line only drains the CAFO area. The temporary pond would become a regional water quality pump basin and would be underground, allowing continued use as a parking lot on the surface. Accumulated waters would be pumped out overnight, into the sanitary sewer. There would be ongoing monitoring, and the pump basin would be dry most of the time. The cost would be about \$2.2 million for this plan, which he calculated at roughly the same cost as the City's plan.

He also noted that the plan proposed by EXPO NM would work fine, at slightly less cost than the AMAFCA plan.

Responding to questions from Chairman Eichenberg, Mr. Hensley stated that EXPO NM's temporary pond and dam fall below the Office of the State Engineer's guidelines for a jurisdictional dam. Mr. Mourning stated that EXPO NM also already sprays for mosquitoes



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and flies, and will continue this process with the temporary pond. If the processed water is moved to the sanitary sewer, there will be minimal water located in the temporary pond. Minimal water would be in the pond, unless there is a rain event.

In response to a question from Chairman Eichenberg regarding the timing of the construction of the plans, Mr. Riordan stated that construction of the new pipe from the City's infield pond to Lomas and San Pedro would begin in about a year. The temporary measures currently in place should work until then. He noted that EXPO NM is awaiting EPA approval before beginning their construction. The City will hold off on bidding their construction project until it has been approved by EPA. Construction will take 5-6 months, with a lane closure.

Mr. Riordan noted that EPA has been receiving conflicting information from the parties, and opined that EPA is apparently holding off on approval until they get a unified plan. He stated he hoped the parties could have a unified plan to present to EPA.

Responding to a followup question from Chairman Eichenberg, Mr. Riordan stated that the existing surge pond on the western side of the fairgrounds could be smaller since it would be taking less water. Water from the infield pond would be routed around the fairgrounds rather than through it.

Chairman Eichenberg stated that manhole covers along San Pedro currently pop during storm events, so apparently the San Pedro Storm Drain is undersized for current storm events, yet the City will be adding more water to it. In response to a question about the size of the City's pipe in Louisiana and Lomas, Mr. Riordan stated that they were currently in design and he did not have an answer to that question.

Director Brown opined that the best solution would be to treat the water and get it out of the fairgrounds area via an innovative solution rather than building a lot of extra pipe. If all the MS4 stormwater could be surged into the infield, smaller capacity pipes would be needed all around. This would save a considerable amount of taxpayers' money. He opined that the surge pond could be expanded in the infield because people do not decide to go to the fair during a 25-year or 100-year storm, thus they would not be parking there.

Mr. Mourning responded that EXPO NM is an enterprise operation – they do not receive state funding. They need the parking spaces and parking revenue the infield provides. If it begins to rain during the fair, cars are already parked there. This could be a bad situation if the parking area is also a surge pond. However, he acknowledged that he was open to suggestions.

Director Brown noted that the EXPO NM plan works well on an interim basis. He suggested that a tiered surge pond could have several levels of parking areas. People would leave when it started to rain, getting their cars out of the way, and it would be about \$18-20 million cheaper than a lot of pipe.



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Chairman Eichenberg acknowledged Larry Kennedy, Chairman of the EXPO NM Board, and asked if he had any comments.

Mr. Kennedy stated that all three plans were viable options. If the infield surge pond could be improved, then he was open to suggestions on how to do it. He noted, however, that he has observed that fair attendees tend to run for cover and wait out the storm, rather than leave the fairgrounds when it rains only to pay again to re-enter when the rain ends. He stated that he wants all parties to bring a unified message to EPA. He also noted that EXPO NM took care of the “illicit discharge” problem with their initial response to their AO, and AMAFCA probably should not have gotten an AO.

In response to a question from Chairman Eichenberg, Mr. Mourning stated that fair attendance this year was a little better than last year, for a shorter fair. Final numbers would be released the following week, but he anticipated it was a little over 400,000, up from last year’s figure of just under 400,000. The best years he was aware of had attendance levels of around 500,000 to 600,000 in the early to mid 2000s. Nearly a quarter of the population of the State of New Mexico attended during this year’s twelve-day event. He stated that state fairs have changed over the decades and now compete for the public’s entertainment dollars, so the fair has also changed over time.

Mr. Riordan commented that in regards to storm water quality, the City prefers having the new pipeline in Louisiana and Lomas rather than running through the fairgrounds, as it ensures that there is good storm water quality, it separates the two sources of water, and does not run the pipe under the CAFO. He stated that the City would entertain options of another area surge pond in order to avoid the necessity of the \$14 million pipe to the Embudo Channel. This is a capacity problem that currently exists. He noted that storm water quality and system capacity are two different issues.

Director Hernandez stated that EPA seems to like EXPO NM’s immediate solution. All the plans are viable. The ultimate solution might be the result of some extensive cooperative comprehensive long-range planning. He suggested that all three parties should meet at the engineering level and come up with an ultimate plan.

Director Thomson noted that the City and Expo plans were similar except that in the City plan, the pipe bypasses the EXPO NM property. He asked if it was worth the additional \$2 million cost to do so, as the EXPO NM plan would also need to be built. Chairman Eichenberg agreed, noting that the City’s option would disrupt traffic on Lomas for six months. Director Hernandez concurred.

Director Thomson also noted that, at some later point, the processed water from the CAFO site could be pumped to the sanitary sewer. He asked for more information about that option.



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Mr. Lovato stated that he had spoken with the Albuquerque Bernalillo County Water Utility Authority (ABCWUA), which will accept the processed water to the sanitary sewer. Costs are estimated at \$100 a month in electricity for the pump, and \$150 to \$300 a month in sanitary sewer charges. Nitrogen treatment is not an issue if the water is pumped to the sanitary sewer, as it is treated there.

Mr. Riordan stated that the City prefers the Lomas routing because it doesn't go under the CAFO. He added that the City can make provisions for future projects (stub-outs) if long range planning is done before the pipe is built. An easement would be necessary if the pipe ran through the fairgrounds, and that cost has not been factored into that easement. The City already owns the right of way along Louisiana and Lomas. The City plan ensures that there is no possibility of co-mingling of CAFO and MS4 waters.

Mr. Hensley noted that there were two issues involved: storm water quality, and pipe capacity. They should not be confused during the discussion.

Director Brown commented that EPA is requiring the parties to find solutions to both issues. If one solution handles both problems, that is even better.

Chairman Eichenberg noted that putting a pipeline across EXPO NM property, which would close one street for 60 days in EXPO NM, would cause less public disruption than closing a lane for construction on Lomas for six months.

Director Thomson noted that either the City's or EXPO NM's plan would work. He asked if AMAFCA needed to be part of the planning, if the City and EXPO NM could work out a solution. He also commented about the check dam on the Embudo Arroyo.

In response, Mr. Lovato stated that the other plans presented were viable, however there might be a better solution than the evaporative pond. He stated that a more or less permanent check dam had been installed on the Embudo Arroyo, rather than the jersey barrier and sandbag check dam which had been used over the summer. The check dam addresses water quality, and also controls water flow during the Embudo Arroyo floor replacement which is being done as a part of the Agency and Area-Wide Flood Control Maintenance project.

Responding to a followup question from Director Thomson, Mr. Lovato stated that EPA is aware of the check dam, and it is actually required under the new permit. AMAFCA is required to take care of illicit discharges any way they can. Since AMAFCA has no jurisdiction over EXPO NM, and does not have access to the City storm drains, this solution addressed the situation in a timely manner.

Director Lyon noted that all the parties had a common goal. He stated that he would like to see negotiations between three people – one from each entity. He commented that the surge pond idea in the parking area might be innovative, and asked when the plan needed to be submitted.



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Mr. Riordan and Mr. Hensley both reported that their respective plans had already been submitted to EPA, and they expected approval. They are moving forward with design while awaiting that approval.

Mr. Mourning stated that he was glad the parties were working together. The state fair had been on the current property since 1938, and the city was built around it. He stated that he was looking forward to working with the other parties to address EPA's requirements. EXPO NM is open to any ideas the other parties may have. As their funding is very limited, they are open to working with the other entities to develop a better solution.

Director Brown noted that the fairgrounds were developed decades ago without drainage being taken into account. They did not have the standards that are in place now. EPA was requiring the parties to quickly correct a situation that had been in place for nearly a century.

b. Closed Session – Pending Litigation

Chairman Eichenberg stated that the discussion of a pending litigation matter in agenda item 5b would be in a closed session.

Director Hernandez made a motion that the meeting be closed, pursuant to the Open Meetings Act, §10-15-1 NMSA 1978, Subsection H, to preserve the confidentiality of the information to be discussed, and as further described in "*The Open Meeting Act, A Compliance Guide for New Mexico Public Officials and Citizens*," seventh edition, 2010, to discuss a pending litigation matter. Director Brown seconded the motion, which passed unanimously (5-0), on a roll call vote.

Chairman Eichenberg closed the meeting at 3:13 p.m.

At 3:44 p.m., Chairman Eichenberg stated that the Board would come out of closed session. No decisions had been made during the closed session, but the Board had discussed pending litigation.

Director Brown made a motion that the meeting be re-opened. He stated that no decisions had been made, but Attorney Rael had updated the Board on the status of pending litigation. Director Hernandez seconded the motion, which passed unanimously (5-0), on a roll call vote.

Chairman Eichenberg reopened the meeting at 3:44p.m.

6. Unfinished Business

None.



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7. New Business

None.

8. Adjourn

There being no further business to come before the Board, Chairman Eichenberg adjourned the meeting at 3:44 p.m.

Bruce M. Thomson, Secretary-Treasurer, 10/25/12

Recorded by Pamela Woodruff, Executive Administrative Assistant