

**MIDDLE RIO GRANDE FLOOD PROTECTION,
BERNALILLO TO BELEN, NM PROJECT**

**BERNALILLO AND VALENCIA COUNTIES, NEW
MEXICO**

**Appendix J
Real Estate Plan**

December 2019

**LOS ANGELES DISTRICT
REAL ESTATE DIVISION**



**US Army Corps
of Engineers ®**
Albuquerque District

**RIO GRANDE FLOODWAY FLOOD RISK MANAGEMENT PLAN
BERNALILLO TO BELEN
REAL ESTATE PLAN**

CONTENTS

1. STATEMENT of PURPOSE	3
2. PROJECT AUTHORITY	4
3. INTERESTED PARTIES and STAKEHOLDERS	5
4. BACKGROUND.....	5
5. CURRENT LAND USES	6
5. PROJECT DESCRIPTION and LOCATION.....	6
6. REAL ESTATE REQUIREMENTS - DESCRIPTION of LANDS, EASEMENTS, and RIGHTS-OF-WAY REQUIRED for the PROJECT	9
7. LERRDS and CREDITING	9
8. STANDARD ESTATES	10
9. NON-STANDARD ESTATES	11
10. DESCRIPTION of ANY EXISTING FEDERAL PROJECTS in or PARTIALLY in the PROPOSED PROJECT	11
11. DESCRIPTION of ANY FEDERALLY OWNED LAND NEEDED for the PROJECT	12
12. APPLICATION OF NAVIGATION SERVITUDE TO THE LERRDS REQUIREMENT	12
13. PROJECT MAP	13
14. ANTICIPATED INCREASED FLOODING and IMPACTS	13
15. COST ESTIMATE	13
16. PUBLIC LAW 91-646, RELOCATION ASSISTANCE BENEFITS	14
17. MINERAL/TIMBER ACTIVITY.....	14
18. HAZARDOUS, TOXIC, and RADIOLOGICAL WASTE IMPACTS	14
19. NON-FEDERAL SPONSOR'S ABILITY to ACQUIRE	16
20. ZONING ANTICIPATED in LIEU of ACQUISITION.....	16
21. ACQUISITION SCHEDULE	16
22. DESCRIPTION of FACILITY and UTILITY RELOCATIONS	17
23. ATTITUDE of LANDOWNERS	18
24. PROJECT SPONSOR RESPONSIBILITIES and CAPABILITIES	18
Exhibit "A" – Bernalillo to Belen Proposed Levee Sections	21
Exhibit "B" – Bernalillo to Belen Proposed Levee Footprints	22
Exhibit "C" – Template for Authorization for Entry for Construction.....	30
Exhibit "D" – Assessment of the Non-Federal Sponsor's Capability to Acquire Real Estate	31
Exhibit "E" – Risk Notice.....	34

RIO GRANDE FLOODWAY FLOOD RISK MANAGEMENT PLAN BERNALILLO TO BELEN REAL ESTATE PLAN

1. STATEMENT of PURPOSE

This Real Estate Plan (REP) was prepared under the general guidelines of ER 405-1-12, Chapter 2 and Chapter 12, and is for planning purposes in support of the Integrated General Reevaluation Report and Supplemental Environmental Impact Statement (GRR/SEIS) for the Middle Rio Grande Flood Protection Bernalillo to Belen, New Mexico: Mountain View, Isleta and Belen Units Project (Project). The REP is intended to identify the real estate requirements in support of the Project, estimate associated costs using baseline cost estimates, and provide a schedule for accomplishment of real estate activities by the Non-Federal Sponsor. The final real estate property lines and estimates of value are subject to change after approval of this document.

The purpose of the REP is to provide data on lands, easements, rights-of-way, relocations, and disposal site (LERRDs) requirements necessary to support the solution to the existing flooding problems along the Rio Grande River in south-central New Mexico. The Report discusses the Recommended Plan which addresses damages and complies with local, state, and federal environmental laws and regulations.

This REP discusses the Government's need for Project lands for construction of levees which replace existing spoil banks along the west bank of the Rio Grande, from the Albuquerque's South Diversion Channel on the East Bank and the U.S. Interstate 25 (I-25) bridge on the West Bank to immediately South of the railroad bridge South of Belen. Cities, towns and American Indian Tribes have a long history of flooding and flood damages located along the Rio Grande, from its headwaters in Colorado to where it enters the Gulf of Mexico in Texas. For many years, municipalities and various agencies acknowledged and studied these flood events. More recently, the listing of threatened and endangered aquatic and terrestrial species has a need for increased focus on development of flood risk management alternatives that minimize impacts and incorporate environmental features to mitigate any adverse impacts to fish and wildlife communities and habitats. The Report discusses the methods and findings of studies aimed to address the flooding problems and the interrelated environmental considerations. A 1979 feasibility report entitled "Middle Rio Grande Flood Protection, Bernalillo to Belen, New Mexico, Interim Feasibility Report" (Feasibility Report) documented the flooding problems along the middle Rio Grande between Bernalillo and Belen.

The 1979 Feasibility Report included seven study units (Bernalillo, Corrales, Mountain View, Isleta East and West, and Belen East and West). While the General Design Memorandum (GDM) was being completed for the Project in 1986, the Mountain View and Isleta Units were dropped from further consideration because changes in cost rendered them economically infeasible. The benefit/cost ratios dropped to 0.9:1 for Mountain View and 0.8:1 for Isleta. With the completion of the construction of the Corrales Unit in 1997, and after analyzing the actual costs of the Corrales Unit, the Non-

Federal Sponsor believes that the Mountain View and Isleta Units would be economically justified. Preliminary reanalysis by U.S. Army Corps of Engineers (USACE) indicates that both the Mountain View and Isleta Units would be economically justified. The Middle Rio Grande Conservancy District (MRGCD), the Non-Federal Sponsor, requested by letter, dated December 3, 1997, that the Albuquerque District (SPA) undertake studies to include the Mountain View and Isleta Units as originally authorized.

The Recommended Plan is the National Economic Development (NED) Plan. This REP focuses on the Recommended Plan which consists of rehabilitating approximately 26 miles of spoil bank along the west bank of the Rio Grande from the I-25 bridge to south Belen, NM, near Jarales, and approximately 22 miles of spoil bank along the east bank of the Rio Grande from the South Diversion Dam to I-25 and from Highway 147 to just north of Reinkein Boulevard in Belen, NM.

This REP is tentative in nature and is to be used for planning purposes only. Modifications to the design plans may occur during the Preconstruction, Engineering and Design (PED) Phase, and may change the final acquisition area(s) and/or administrative and land cost. This REP is written to the same level of detail as the GRR/SEIS it supports.

2. PROJECT AUTHORITY

The Middle Rio Grande Flood Protection Bernalillo to Belen, New Mexico, Mountain View, Isleta and Belen Units General Reevaluation Report (GRR) was prepared as a response to the following authorities provided by Congress:

Flood Control Act 18 Aug 1941, Section 4 (Public Law (P.L.) 228, 77th Congress, 1st Session, H.R. 4911) which reads in part:

"The Secretary of War is hereby authorized and directed to cause preliminary examinations and surveys for flood control, to be made under the direction of the Chief of Engineers, in drainage areas of the United States and its Territorial possessions, which include the following named localities...Rio Grande and tributaries, New Mexico."

Water Resources Development Act of 1986, Section 401 (P.L. 662, 99th Congress, November 17, 1986) which reads in part:

"Authorization of Construction.--The following works of improvement for the control of destructive floodwaters are adopted and authorized to be prosecuted by the Secretary (of the Army) substantially in accordance with the plans and subject to the conditions recommended in the respective reports designated in this subsection, except as otherwise provided in this subsection: Middle Rio Grande, New Mexico.

"The Project for flood control, Middle Rio Grande Flood Protection, Bernalillo to Belen, New Mexico: Report of the Chief of Engineers, dated

June 23, 1981, at a total cost of \$44,900.00, with an estimated first Federal cost of \$33,700.00 and an estimated first non-Federal cost of \$11,200.00. The Secretary is authorized also to increase flood protection through the dredging of the bed of the Rio Grande in the vicinity of Albuquerque, New Mexico, to an elevation lower than existed on the date of enactment of this Act. The Project shall include the establishment of 75 acres of wetlands for fish and wildlife habitat and the acquisition of 200 acres of land for mitigation of fish and wildlife losses, as recommended by the District Engineer, Albuquerque District, in his report date June 13, 1979.”

3. INTERESTED PARTIES and STAKEHOLDERS

The principal land and facility managers in the Middle Rio Grande Valley include the Middle Rio Grande Conservancy District (MRGCD), Bureau of Reclamation (BOR), and the Isleta Pueblo. This Project is being prepared with MRGCD, who is the interested Non-Federal Sponsor and cost sharing partner and would be the signatory to a Project Partnership Agreement. MRGCD supports the Recommended Plan. Additional partnership interests follow:

MRGCD: The Non-Federal Sponsor is responsible for obtaining the LERRDs for all phases of levee construction which fall under their jurisdiction, consisting of approximately 554.90 acres in Project Segments 1 through 4 and a portion of Segment 5, provides input to USACE and non-federal cost share. MRGCD will assume operation and maintenance of levees which fall under their jurisdiction after construction and have done so historically using their cooperative agreement with BOR.

BOR: The Bureau is a federal stakeholder for the Project and is the managing federal agency of the lands of the Rio Grande channel for a large portion of the Project consisting of approximately 554.90 acres in Segments 1 through 5 and a portion of Segment 6. The lands’ ownership is currently in dispute with the Non-Federal Sponsor, MRGCD, further explained in Section 5, paragraph 6 of this REP. As the ownership dispute is not resolved, the Bureau’s approval for the Project is necessary. Additionally, the Bureau accounts for all of the federal benefits on the Project.

Isleta Pueblo: Stakeholder for the Project is managing the tribal lands of the Rio Grande Channel within the Isleta East and West reaches. The Non-Federal Sponsor has a permanent easement over the existing levee system for maintenance.

USACE is responsible for all engineering design, analysis, permitting and compliance, NEPA and ESA compliance, and construction and oversight.

4. BACKGROUND

The study area has a long history of flood damage, dating back to the 1820s. Most flooding resulted from heavy spring runoff caused by either especially heavy winter snows or snowpack melting quickly after warm spring rains. Other flood events were the results of large storms within the Rio Grande and tributary watersheds during the summer and fall. Recorded major floods, which would have exceeded the methods for accomplishing flood risk management in the study area have been evaluated for

compliance with USACE planning policy and the National Environmental Policy Act (NEPA), both of which were established after 1948.

MRGCD was formed in 1925, primarily because of concerns over a decrease in irrigated areas in the Middle Rio Grande Valley resulting from water shortages, poor drainage, inadequate irrigation facilities, and periodic flooding. From 1925 to 1935, the MRGCD constructed El Vado Dam, a storage reservoir on the Rio Chama, four major irrigation diversion dams on the Rio Grande, two canal headings, 345 miles of main irrigation canals, and rehabilitated old irrigation ditches. MRGCD operates and maintains irrigation and flood control management facilities in the Middle Rio Grande Valley.

Endangered or Threatened Species of the Project area are the Rio Grande Silvery Minnow, the Southwestern Willow Flycatcher.

5. CURRENT LAND USES

The Rio Grande corridor in Bernalillo and Valencia County contains a combination of undeveloped and developed tracts of farmland and urban structures in the Middle Rio Grande valley. The river and adjacent farmland function as a linked hydrologic and ecologic system, providing habitat to the endangered silvery minnow and southwestern willow flycatcher and some of the most significant remaining cottonwood–willow forest or “bosque” in the Rio Grande basin (in fact, in the entire southwestern U.S.). The land in the Middle Rio Grande valley is farmland, managed as small (less than 50 acres), medium (50 to 500 acres), and large (500 to 1,000 or more acres) farms. Bernalillo and Valencia County operates more small and medium. The productive bottom lands of the Rio Grande produce some of New Mexico’s most delicious green chile and corn, and most nutritious alfalfa hay. The Bernalillo to Belen reach stretches from the Albuquerque South Diversion Channel to the southern end of the railroad bridge south of Belen and is contiguous with the Bernalillo and Belen Division of the Middle Rio Grande Conservancy District.

5. PROJECT DESCRIPTION and LOCATION

The Middle Rio Grande Bernalillo to Belen Project is a single-purpose flood risk management Project that includes mitigation of adverse effects. This Recommended Plan consists of rehabilitating approximately 26 miles of spoil bank within the four reaches (for funding and manageable construction purposes) identified below. The Recommended Plan levee alignment will follow the existing spoil bank alignment and will reduce damages from flooding to inhabitants of the floodplain (see Exhibit C).

The Project area is comprised of four separate reaches, beginning just south of the Albuquerque city limit, at the South Diversion Channel. It extends downstream for 35 river miles. The Downstream limit of the Project is immediately south of the railroad bridge south of Belen.

Mountain View Reach: This reach, on the east side of the Rio Grande, extends southerly from a point 1.26 miles south of the Rio Bravo Boulevard Bridge to 1.08 miles south of the I-25 Bridge across the Rio Grande, a distance of 5.4 miles, and contains a

total area of 48 acres. The levee height is planned to be equivalent to 4 feet above the water surface elevation corresponding to the mean 1% chance exceedance flow at the base year. The new levee, replacing the existing spoil bank, would be 4.3 miles long with a trapezoidal cross-section with a 12-foot wide crest. Side slopes would be 1 vertical to 3 horizontal. The riverside drain bank, closest to the new levee, will be built up to have a side slope of 1 vertical to 2 horizontal and provide a 20-foot wide maintenance road and a 10-foot wide bicycle path between the drain and the new levee landside toe. The levee requires approximately 33,933 cubic yards of random fill for construction. Material making up the existing spoil bank will also be used to construct the new levee. At the upstream end, the Mountain View Unit would terminate (tie back) to high ground near the South Diversion Channel. At the downstream end, the levee would end at the I-25 north embankment.

Isleta West Reach: This reach, on the west side of the Rio Grande, extends South from a point 0.29 miles North of the I-25 Bridge south to the Isleta Pueblo Bridge, a distance of 4.7 miles, and contains a total area of 43 acres. Referred to as Alternative Alignment A, the levee height will be equivalent to 4 feet above the water surface elevation corresponding to the mean 1% chance exceedance flow at the base year. The new levee replacing the existing spoil bank would be 2.75 miles long with a trapezoidal cross-section with a 12-foot wide crest. Side slopes would be 1 vertical to 3 horizontal. The riverside drain bank, closest to the new levee, will be built up to have a side slope of 1 vertical to 2 horizontal and provide a 20-foot wide maintenance road between the drain and the new levee landside toe. The levee would require approximately 86,638 cubic yards of random fill for construction. Material making up the existing spoil bank will also be used to construct the new levee. At the upstream end, the Isleta West Unit would terminate (tie back) to high ground at the I-25 south embankment. At the downstream end, the levee would end at the Isleta marsh. Analysis reveals that the extent of backwater flooding that might be expected without the levee tie back to high ground is minimal.

Belen West Reach: This reach, on the west side of the Rio Grande, extends southerly from a point 4.17 miles north of the Village of Los Lunas Bridge to 2.45 miles south of the Santa Fe Railroad Bridge south of the town of Belen, a distance of 19.4 miles, and contains a total area of 187 acres. Referred to as Alternative Alignment B, the levee height will be equivalent to 5 feet above the water surface elevation corresponding to the mean 1% chance exceedance flow at the base year. The new levee replacing the existing spoil bank would be 23.3 miles long with a trapezoidal cross-section and a 12-foot wide crest. Side slopes would be 1 vertical to 3 horizontal. The riverside drain bank, closest to the new levee, will be built up to have a side slope of 1 vertical to 2 horizontal and provide a 20-foot wide maintenance road between the drain and the new levee landside toe. The levee would require approximately 2,070,764 cubic yards of random fill for construction. Material making up the existing spoil bank will also be used to construct the new levee. At the upstream end, the Belen West Unit would terminate (tie back) to high ground at the Isleta Marsh. At the downstream end, the levee would end south of Belen, NM near Jarales. Analysis reveals that the extent of backwater flooding that might be expected without the levee tie back to high ground is minimal.

Belen East Reach: This reach, on the east side of the Rio Grande, extends southerly from a point 0.22 miles north of the Isleta Pueblo Bridge to 0.36 miles south of the Santa Fe Railroad Bridge south of Belen, a distance of 20 miles, and contains a total area of 207 acres. Referred to as Alternative Alignment A, the levee height will be equivalent to 5 feet above the water surface elevation corresponding to the mean 1% chance exceedance flow at the base year. The new levee replacing the existing spoil bank would be 17.6 miles long with a trapezoidal cross-section and a 12-foot wide crest. Side slopes would be 1 vertical to 3 horizontal. The riverside drain bank, closest to the new levee, will be built up to have a side slope of 1 vertical to 2 horizontal and provide a 20-foot wide maintenance road between the drain and the new levee landside toe. The levee would require approximately 2,359,323 cubic yards of random fill for construction. Material making up the existing spoil bank will also be used to construct the new levee. At the upstream end, the Belen East Unit would terminate (tie back) to high ground at the Highway 147 south embankment. At the downstream end, the levee would end just north of Reinkein Boulevard in Belen, NM. Analysis reveals that the extent of backwater flooding that might be expected without the levee tie back to high ground is minimal.

The study area encompasses approximately 110 square miles of drainage area and includes several small rural communities on both sides of the Rio Grande between Albuquerque and Belen. Isleta Pueblo, Los Lentos, Los Lunas, Los Chavez, Belen, Bacaville, Jarales and Pueblitos are located on the west bank of the Rio Grande. The unincorporated communities of Mountain View, Bosque Farms, Peralta, Valencia, Tome, Adelino, La Constancia and Madrone are located on the east bank of the Rio Grande.



Riverside Drain near Los Lunas NM

6. REAL ESTATE REQUIREMENTS - DESCRIPTION of LANDS, EASEMENTS, and RIGHTS-OF-WAY REQUIRED for the PROJECT

The requirements for lands, easements, rights-of-way, relocations, and disposal sites (LERRDs) include:

- permanent easements for construction of the engineered levee, an existing levee maintenance road, the levee footprint including a riverside 15 foot wide vegetation-free zone, and ancillary features including a floodwall;
- temporary easements for access, staging areas, construction areas, and disposal areas; and
- fee interests for environmental mitigation

Totaling 555.31 acres as outlined in the table below.

Most of the land needed for the construction, operation and maintenance of the proposed 48-mile engineered levee is currently owned in fee by the Federal Government, Pueblo, and the Non-Federal Sponsor. To the extent that neither the Federal Government nor the Non-Federal Sponsor owns the required LERRDs, the Non-Federal Sponsor will be responsible to provide the required LERRDs as noted in the table below. Staging areas will be needed for each reach and phase of the Project. The precise location for Temporary Work Area Easement will be determined at a later date in coordination with the construction contractor. Where the Federal Government owns the lands in fee, the Corps will work with the cognizant Federal agency to obtain, on behalf of the Non-Federal Sponsor, all necessary rights to use such land for the purposes of the Project. The following acreage requirements were provided by Albuquerque District Engineering Division. Maps are attached as exhibits.

Project Area	Project Feature	Acreage	Current Interest held by USA/NFS	Standard Estate	Owner
Mountain View Reach	Levee	50.50	Fee	Flood Protection Levee Easement (FPLE)	USA (BOR/BLM) ¹
Isleta North Reach	Levee	15.10	Fee	FPLE	USA (BOR/BLM)
Isleta South Reach	Levee	16.60	Fee	FPLE	USA (BOR/BLM)
Belen East Reach	Levee	215.00	Fee	FPLE	USA (BOR/BLM)
Belen West Reach	Levee	257.70	Fee	FPLE	USA (BOR/BLM)
	Levee	0.41	None	FPLE	ATSF/BNSF Railroad
Total		555.31 acres			

Table 1

¹The BOR and the MRGCD have an ongoing dispute regarding title to certain land in reaches 1 through 4 of the Project, discussed below.

Lands required for mitigation are not noted separately. Mitigation consists of revegetation of areas disturbed during construction and will be completely within the Project footprint. The lands required for mitigation are presently owned in fee by either the Federal government or the Non-Federal Sponsor.

7. LERRDS and CREDITING

The Middle Rio Grande Conservancy District (MRGCD), organized with private capital in 1925 as a political subdivision of the State, was floundering by the late 1940s.

Besides improving and stabilizing the economy of the Middle Rio Grande Valley, the Flood Control Acts of 1948 and 1950 sought to rescue and rehabilitate MRGCD, and purchased lands in connection with the Middle Rio Grande Project. To that end, the United States agreed to acquire the MRGCD's obligations and cancel all indebtedness in exchange for MRGCD's conveying and assigning "all of its property rights, including reservoirs, canals, dams, and flood-control works, together with its water rights, and including title and ownership thereto ... such property so conveyed to the United States shall be so held until Congress otherwise directs."

Further, in September, 1951 United States and the MRGCD, entered into a contract pursuant to the Reclamation Acts of 1902, 1948, and 1950 (1951 Repayment Contract). Central to its terms was the transfer of title to all MRGCD works, defined as:

"those structures, reservoirs, ditches and canals now constructed and operated by the District and those to be constructed or rehabilitated under the terms of this contract for the storage, diversion and distribution of water for use in the District, and the drainage of lands, together with rights of way therefor and for operation thereof."

The 1951 Repayment Contract provided that "title to all works constructed by the United States under this contract is vested in...the United States until otherwise provided for by Congress, notwithstanding the transfer hereafter of any such works to the District for operation and maintenance."

The Federal position is disputed by the MRGCD, however, MRGCD acknowledges that no credit will be provided for any disputed lands as part of its local cost share. BOR does not object to the use of its lands for this project. USACE will obtain a Special Use Permit for use of the disputed lands comprising 554.90 acres.

8. STANDARD ESTATES

Estates that may be required for this Project are as follows:

Fee Simple Title: The fee simple title to (the land described in Schedule A) (Tracts Nos. _____, _____, and _____), subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

Flood Protection Levee Easement: A perpetual and assignable right and easement in (the land described in Schedule A) (Tracts Nos. _____, _____, and _____) to construct, maintain, repair, operate, patrol and replace a flood protection (levee) (floodwall)(gate closure) (sandbag closure), including all appurtenances thereto; reserving, however, to the owners, their heirs and assigns, all such rights and privileges in the land as may be used without interfering with or abridging the rights and easement hereby acquired; subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

Temporary Work Area Easement: A temporary easement and right of way in, on, over and across (the land described in Schedule A) (Tracts Nos. _____, _____, and _____).

_____), for a period not to exceed _____, beginning with date possession of the land is granted to the Middle Rio Grande Conservancy (MRGCD), for use by the United States, its representatives, agents, and contractors as a (borrow area) (work area), including the right to (borrow and/or deposit fill, spoil and waste material thereon) (move, store and remove equipment and supplies, and erect and remove temporary structures on the land and to perform any other work necessary and incident to the construction of the _____ Project, together with the right to trim, cut, fell and remove therefrom all trees, underbrush, obstructions, and any other vegetation, structures, or obstacles within the limits of the right of way; reserving, however, to the landowners, their heirs and assigns, all such rights and privileges as may be used without interfering with or abridging the rights and easement hereby acquired; subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

Borrow Easement: A perpetual and assignable right and easement to clear, borrow, excavate and remove soil, dirt, and other materials from (the land described in Schedule A) (Tracts Nos. _____, _____, and _____); subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to the landowners, their heirs and assigns, all such rights and privileges in said land as may be used without interfering with or abridging the rights and easement hereby acquired.

9. NON-STANDARD ESTATES

Whether non-standard estates will be necessary is not known at this time. An approval package will be submitted if it is determined that a non-standard estate will be required.

10. DESCRIPTION OF ANY EXISTING FEDERAL PROJECTS IN OR PARTIALLY IN THE PROPOSED PROJECT

Middle Rio Grande Project: The Bureau of Reclamation was authorized by the Flood Control Acts of 1948 and 1950 to make improvements to irrigation and drainage works, channel rectification, rehabilitation of irrigated areas, and to make studies and carry on work designed to reduce nonbeneficial consumptive use of water by native vegetation in the flood plains of the Rio Grande and its tributaries above Caballo Dam. In addition, improvement of irrigation works on Indian Pueblo lands was authorized.

With this Authorization, BOR built drainage ditches along the Rio Grande and with the material from the construction of the spoil banks. This Project was 100% Federally-funded and all LERRDS were acquired and obtained during that period.

Albuquerque North and South Diversion Channels: The Albuquerque Diversion Channels Project was authorized for construction by the Flood Control Act of 1954. The purpose of the Project is to provide flood risk management for the lowlands of the City of Albuquerque and vicinity by intercepting the runoff from the arroyos, which drain the mesa and western slopes of the Sandia and Manzano Mountains lying east of the Project.

The North Diversion Channel is a concrete-lined channel throughout its entire length except for a short reach of leveed channel at the downstream end where it enters the Rio Grande. The design capacity of the channel varies from 5,100 cfs at the upstream end to 44,000 cfs at the downstream end. The Project was of such large scope that it was divided into three phases for contractual and right-of-way purposes. The North Diversion Dam was turned over to the Non-Federal Sponsor, the Albuquerque Metropolitan Arroyo Flood Control Authority (AMAFCA), on 14 February 1969.

The South Diversion Channel is approximately 6.5 miles in length and is concrete lined towards the end of the Project near its outlet to the Rio Grande; the remainder of the Project is composed of riprap.

Middle Rio Grande Flood Protection, Corrales Unit: The designation of the Corrales Unit as a separable element assisted in the orderly construction of the overall Middle Rio Grande Flood Protection Project. This also met the Non-Federal Sponsor's budgetary constraints and preferences regarding construction.

At the time that the LRR was written, the existing spoil banks were providing a 19-year frequency level of protection in Corrales. The levees had no positive seepage control features and tended to experience piping and severe backside sloughing at flows of less than their rated capacity. During controlled releases from upstream reservoirs, the levees were physically patrolled and repaired due to these occurrences. Therefore, the levees were subject to failure from flood events much lower than their formerly rated capacities. Construction on the Corrales Levee was completed in 1997 and the Project was transferred to the sponsor.

Albuquerque West Levee: Similar to the Corrales Unit, the construction of the Albuquerque West Levee as a separable unit was determined to be in Albuquerque's South Valley area property owners and the MRGCD's best interest. The Albuquerque West Levee is 3.1 miles in length and is located along the west side of the Rio Grande from Louise SW (downstream of the South Diversion Channel) to the northern boundary of the Isleta local sponsor. The purpose of this Project was to provide storm water protection and to prevent loss of water delivery according to the Rio Grande Compact. A spoil bank was constructed by MRGCD in the 1960's as part of channelization work conducted by BOR. Under the Central New Mexico, Section 593 Program, engineering, designing, and construction of three miles of engineered levee as a reimbursable project replaced the spoil bank; construction was completed in 2009.

11. DESCRIPTION OF ANY FEDERALLY OWNED LAND NEEDED FOR THE PROJECT

Lands within the project footprint identified in Exhibit B are Federally-owned lands under the administrative jurisdiction of BOR. Accordingly, the Project must be approved by the BOR through the Special Use Permit process. MRGCD has a cooperative agreement in place with BOR for operation and maintenance of the levees.

12. APPLICATION OF NAVIGATION SERVITUDE TO THE LERRDS REQUIREMENT

Exercise of navigation servitude is not required for this Project.

13. PROJECT MAP

The Project area is shown in Exhibit A.

14. ANTICIPATED INCREASED FLOODING AND IMPACTS

Hydraulic analyses performed by the Albuquerque District indicate that implementation of the Recommended Plan, the engineered levee plan upstream of the San Marcial Railroad Bridge, will not increase the likelihood of flooding of private and public lands.

Pre- and post-Project floodplains on the East bank were evaluated to determine the change in equivalent annual damages (EAD) attributable to the proposed Project. The start of damages was assumed to be the 10% chance exceedance event. The proposed levee Projects do not have a measurable impact to the damageable property in the present condition, but a minor impact in the future. There is little potential for induced flooding.

15. COST ESTIMATE

A public access road to the construction site is limited to a certain point, and a road easement will be required to get complete access to the Project location. Excess material will be removed to an appropriate commercial dump site by the construction contractor for disposal. The values depicted below are based upon an informal value estimates derived from local Municipal Tax Assessment Office, and other publicly obtained information. The values in Table 2 below are estimates only. Pre-acquisition appraisal services are not required if total real estate costs constitute less than 10% of the total Project costs.

LERRDS	ACRES	COST
Lands and Easements (Includes Borrow Sites) (01 Account)	555.31	\$0.00
Incremental RE Costs (30% contingency) (01 Account)		\$0.00
Facility/Utility Relocations Costs (Includes 23% contingency) (02 Account)		\$412,000.00
Relocation Assistance Program P.L. 91-646 (Includes 23% contingency) (01 Account)		\$0.00
Subtotal LERRDs		\$0.00
*Non Federal Administrative Costs (including crediting) (01 Account)		\$175,000
Total Non-Federal LERRDs		\$175,000
**Federal Administrative Costs (01 Account)		\$125,000
Total Real Estate Costs		\$712,000

Table 2 – LERRDs and Cost

*Provided by Sponsor(s)

**Provided by Albuquerque District

A contingency for price changes through negotiations, undervaluation due to unknown conditions, court valuation differences, and unknown ownerships. No contingency is included for the Federally Owned Lands.

Using before and after valuation, it is assumed that the direct (special) benefits of the project accruing to the remaining BNSF property exceed any diminution of value of the property resulting from the Flood Protection Levee Easement. Accordingly, due to offsetting benefits, the Flood Protection Levee Easement proposed to encumber 0.41 acres of BNSF right of way is expected to have a \$0 value.

Typical Federal Real Estate costs include preparation of all Real Estate Reports, acquisition and review of all ownerships materials, review, coordination and planning meetings, review of documents, costs of legal reviews, mapping costs, and general administrative costs associated with the Project, including monitoring activities. Here, the Federal Real Estate costs also include negotiation of use permits with BOR, as necessary for each phase of construction.

16. PUBLIC LAW 91-646, RELOCATION ASSISTANCE BENEFITS

Public Law 91-646, Uniform Relocation Assistance provides entitlement for various payments associated with federal participation in acquisition of real property. Title II makes provision for relocation expenses for displaced persons, and Title III provides for reimbursement of certain expenses incidental to transfer of property. There are no residential, tenant, business, or farm operations impacted by this Project, i.e., no relocations are required.

17. MINERAL/TIMBER ACTIVITY

Primary mineral resources that are present in the vicinity consist of sand and gravel. Commercial excavation and developed borrow pits exist in the region, but not within the Project area. Other mineral resources occurring in the area include barite, fluorite, calcite, uranium, silver, iron, perlite, and coal. The existing spoil-bank contains an appreciable quantity of excavated sand and gravel. There are no Oil and Gas activities/ownership within the Project area. There are other mineral resources in the area, but not within the footprint of the Project.

18. HAZARDOUS, TOXIC, and RADIOLOGICAL WASTE IMPACTS

According to the Hazardous, Toxic, and Radioactive Waste (HTRW) portion of Chapter 2, Section 2.3, of the Draft Existing Conditions Report, a Phase 1 Environmental Site Assessment concluded the following:

“No RECs were identified anywhere along the site. Interviews with Middle Rio Grande Conservancy personnel suggest that prior to 1990, when the gates were installed to limit unauthorized access to the river, solid residential waste was regularly dumped along the river. Although the keyed gate system initially deterred such dumping, the dissemination of unauthorized keys for the gates and vandalism to the locks over the years has resulted in an increase in the dumping of residential trash along the river. A very minor amount of windblown trash (e.g., bottles, aluminum cans, paper) is currently present along the levee. There have been no documented spills or sources of contamination along the levees, and none were observed during the reconnaissance. As there were no contamination sources documented or observed, there appears to be no threat of contamination being transported and impacting any potential receptors during a potential extreme flood event.

“Several sites with potential RECs that may indicate the presence of HTRW were identified on properties immediately adjacent to the investigation areas. Sites with potential RECs observed along the western

levee include the Isleta Wastewater Treatment Plant, the Los Lunas Wastewater Treatment Plant, a lumber yard, the Mid-Valley Aviation aircraft runway and hangar and associated aboveground fuel tanks, several dairy farms, and an electrical transformer station. One such site, a vehicle maintenance shop, was observed adjacent to the eastern levee on the Mountain View Section; however, the surrounding area is primarily agricultural usage. These sites with potential RECs may be of concern should an extreme flood event occur in the future.

“Large volumes of concrete and old metal drainage culverts were observed at several locations along both levees; however, they do not appear to be contaminated. Several propane tanks and ASTs were observed in the residential yards adjacent to the levees. A fair amount of residential debris (e.g., tires, old cars and trucks, demolition materials of unknown disposition, trash, scrap lumber, and dead vegetation) was observed during the site reconnaissance in residential yards adjacent to both levees, across the riverside drains. This debris and the culverts would likely be swept away by flood waters in the event of an extreme flood event. An old railroad bridge with old, possibly creosote-treated railroad ties crosses over both levees near the southern end of the study area. These wooden ties should be investigated to determine whether they are indeed creosote-bearing.

“Twenty-two sites with known RECs (six on the Mountain View Section, zero on the Isleta Section, and sixteen on the Belen Section), were identified on properties located within the ASTM-required search radii, as part of the regulatory review process. These sites are all over ¼-mile from at least one levee. Further investigation of these is necessary to determine the hazard they might present to local receptors if an extreme flood event were to occur.

“Numerous residences located several hundred feet from both levees, across the riverside drains, have septic systems. The degree to which these septic systems may have impacted local groundwater quality could not be ascertained. Further investigation of these sites is necessary to determine the hazard they might present to local receptors if an extreme flood event were to occur in the future.

“Various agricultural fields that produce primarily corn, alfalfa, and hay, are located several hundred feet to the east of the levee, across the riverside drain. The degree to which fertilizer, pesticide, and herbicide applications in these fields may have impacted the local groundwater system could not be ascertained. Further investigation of these sites is necessary to determine the hazard they might present to local receptors if an extreme flood event were to occur.”

19. NON-FEDERAL SPONSOR'S ABILITY to ACQUIRE

The Non-Federal Sponsor's experience and capability to acquire real estate has been evaluated and rated as fully capable. The Non-Federal Sponsor has been advised of the requirements of the Uniform Act (P.L. 91-646) and the requirements to document expenses for LERRD crediting purposes. An assessment of the Non-Federal Sponsor's experience and capability to acquire real interest for the Project is attached as Exhibit "D."

20. ZONING ANTICIPATED IN LIEU OF ACQUISITION

Application or enactment of zoning ordinances is not proposed in connection with this Project.

21. ACQUISITION SCHEDULE

The following table is shown with Real Estate activities which are expected to continue through the year 2026 to support the eighteen (18) phases of construction that are planned. Schedules for future phases will be developed as funding is made available for this Project. The detailed acquisition schedules will be developed for each Phase when the PPA has been executed and the final plans and specs developed for each Phase; and that Sponsors, PM and Real Estate Technical manager will formulate a milestone schedule to meet dates for advertisement and award of construction contracts for each Phase.

The Non-Federal Sponsor will be expected to acquire the required real estate interests to support the construction of the Project, one phase at a time, and prior to advertisement of each phase of construction.

Acquisition Tasks for Phase 1, Segment 3	Responsible Party	Due
Real Estate Cost Estimate Prepared	USACE	2016 (re-verified 2019)
PPA Execution	USACE/NFS	9 months from Report completion
Real Estate Personnel kickoff meeting	USACE/NFS	Within 30 days of PPA Execution
Obtain Rights-of-Entry	USACE	30 days from PPA Execution
Notice to Proceed with Acquisition (ACQ NTP) from USACE to NFS	USACE	30 days after PPA Execution
Obtain Preliminary Title Report	NFS	Within 90 days of ACQ NTP
Obtain Surveys	NFS	Within 90 days of ACQ NTP
Order Appraisals	NFS	Within 90 days after acquisition surveys/maps are prepared
Authorization for Entry for Construction	NFS	15 months from ACQ NTP
Certification of Real Estate	USACE/NFS	30 days after Authorization for Entry
Ready to Advertise for Construction	NFS	30 days after Certification of Real Estate
Prepare and Submit Credit Requests	NFS	Within 90 days after Project is complete
Review/Approve or Deny Credit Requests	USACE	60 days after request is received

The Non-Federal Sponsor is aware that prior to advertisement of the construction contract, it will provide USACE with a certification package that includes authorization for entry for construction, in the format provided in ER 405-1-12, Chapter 12.

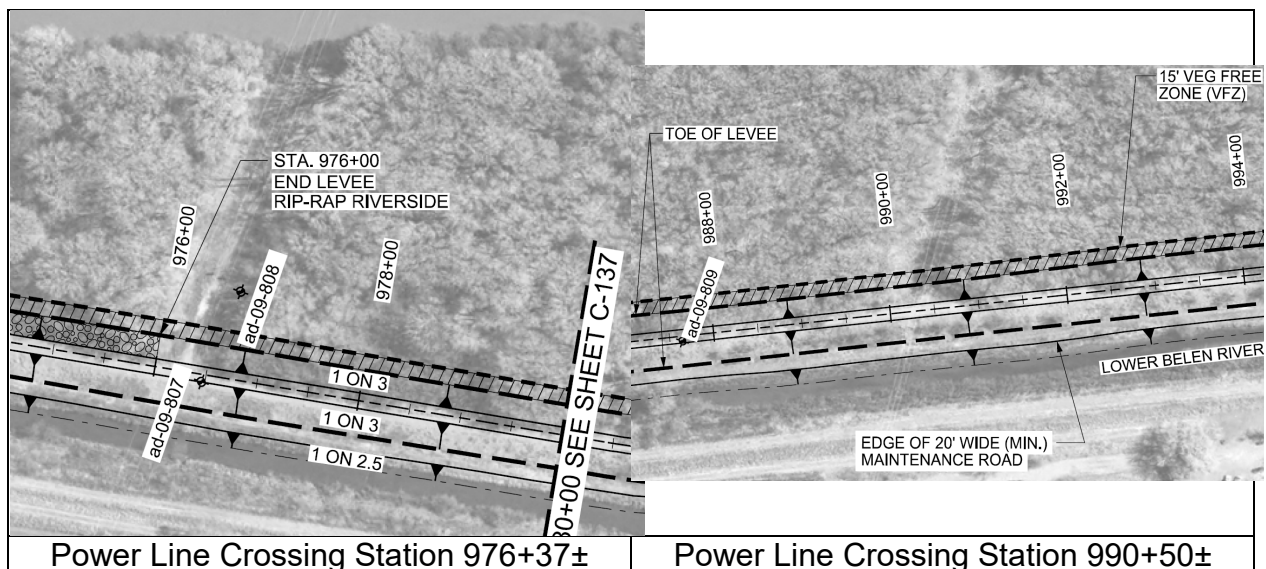
22. DESCRIPTION of FACILITY and UTILITY RELOCATIONS

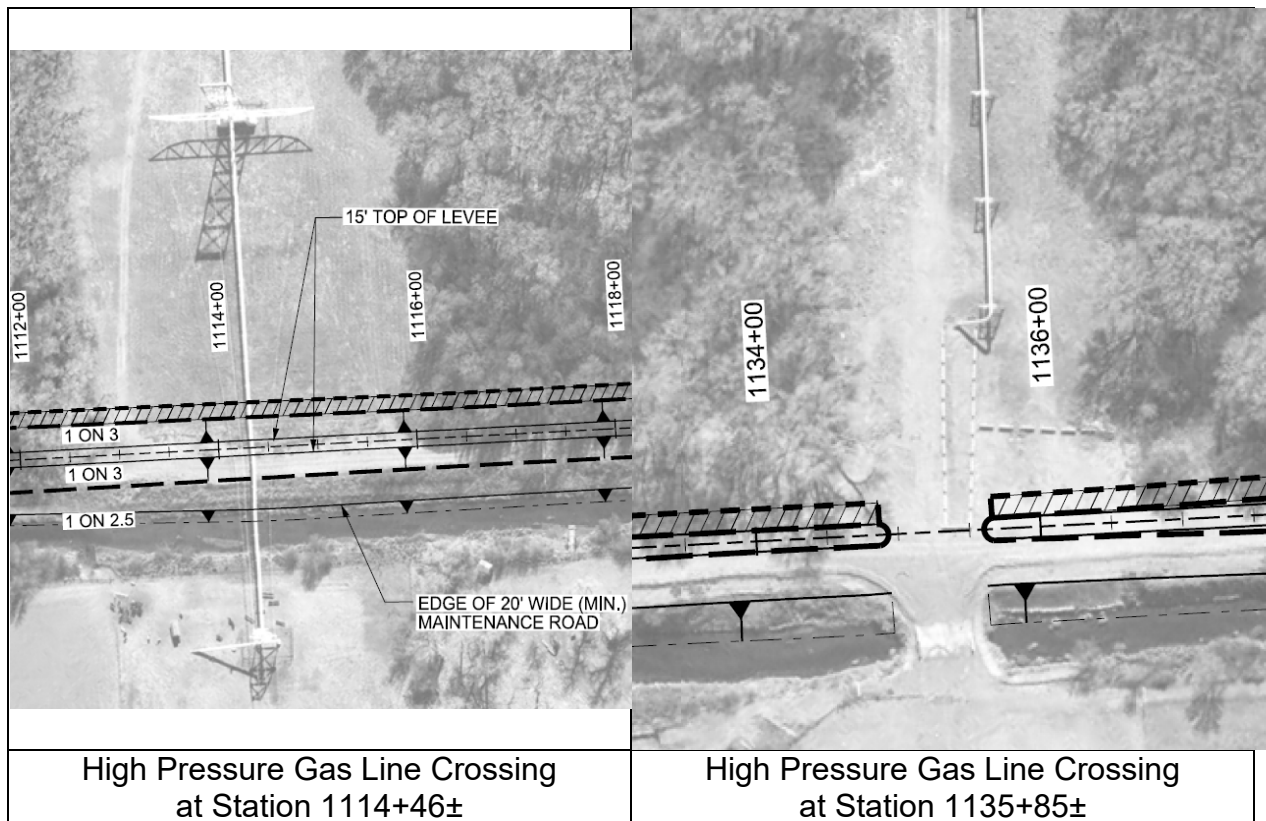
The term “relocation” shall mean providing a functionally equivalent facility to the owner of an existing utility, cemetery, highway or other public facility or town when such action is authorized according to applicable legal principles of just compensation or as otherwise provided by Federal statute or any Project report or House or Senate document referenced therein. Providing a functionally equivalent facility may take the form of adjusting, altering, lowering, raising, or replacing and attendant removal of the affected facility or part thereof. Relocation assistance under Public Law 91-646 relates specifically to displaced persons, and should be distinguished from the separate concept of facility or utility relocations. Utilities and Facilities identified by District General Engineering Section and confirmed by Real Estate and described below.

Four (4) utilities cross the Belen West Unit levee alignment have been identified:

- Two (2) power lines at station 976+37± and station 990+50±, and
- two (2) high pressure gas lines at station 1114+46± and station 1135+85±.

It is uncertain if these utilities will need to be relocated because of their height. If relocation is required, the preliminary estimate is \$412,000.





ANY CONCLUSION OR CATEGORIZATION CONTAINED IN THIS REPORT THAT AN ITEM IS A UTILITY OR FACILITY RELOCATION TO BE PERFORMED BY THE NON-FEDERAL SPONSOR AS PART OF ITS LERRDS RESPONSIBILITIES IS PRELIMINARY ONLY. THE GOVERNMENT WILL MAKE A FINAL A DETERMINATION OF THE RELOCATIONS NECESSARY FOR THE CONSTRUCTION, OPERATION, OR MAINTENANCE OF THE PROJECT AFTER FURTHER ANALYSIS AND COMPLETION AND APPROVAL OF FINAL ATTORNEY'S OPINIONS OF COMPENSABILITY FOR EACH OF THE IMPACTED UTILITIES AND FACILITIES.

23. ATTITUDE of LANDOWNERS

There is no known opposition to this Project by any landowners in the vicinity that would impact the Project.

24. PROJECT SPONSOR RESPONSIBILITIES and CAPABILITIES

The Non-Federal Sponsor has the responsibility to acquire all real required estate interests, and accomplish all alterations and relocations of facilities, structures and improvements determined by the Government to be necessary for construction of the Project. Additionally, the Non-Federal Sponsor will have operation and maintenance responsibility for the Project after construction is completed.

Prior to advertisement of any construction contract, the Non-Federal Sponsor shall furnish to the Government an Authorization for Entry for Construction (Exhibit "C") to all lands, easements and rights-of-way, as necessary. The Non-Federal Sponsor will also

furnish evidence supporting its legal authority to grant rights-of-way to such lands and shall comply with applicable provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646, approved 2 January 1971, and amended by Title IV of the Surface Transportation Uniform Relocation Assistance Act of 1987, Public Law 100-17, effective 2 April 1989, in acquiring real estate interests for the Project, and inform all affected persons of applicable benefits, policies, and procedures in connection with said Act(s). An Assessment of the Non-Federal Sponsor's Capability to Acquire Real Estate is attached as Exhibit "D" to the Real Estate Appendix.

Other than the lands subject to dispute, the Non-Federal Sponsor is entitled to receive credit against its share of Project costs for the value of lands it provides and the value of the relocations that are required for the Project. Generally, for the purpose of determining the amount of credit to be afforded, the value of the LERRDs is the fair market value of the real property interest, plus certain incidental costs of acquiring those interests, that the Non-Federal Sponsor provided for the Project as required by the Government. In addition, the specific requirements relating to valuation and crediting contained in the executed PPA for a Project must be reviewed and applied.

The Non-Federal Sponsor should not acquire lands required for the Project prior to execution of the Project Partnership Agreement (PPA). Should the NFS proceed with acquisition of lands prior such execution, it is at the risk of not receiving credit or reimbursement for any costs incurred in the connection with the acquisition process should the PPA not be signed. There is also risk in acquiring lands either not needed for the Project or not acquired in compliance with requirements for crediting purposes in accordance with 49 CFR Part 24, dated March 2, 1989. A letter advising the NFS of the risks of early acquisition is included as Exhibit "E".

SIGNATURE OF AUTHOR:

I have prepared this real estate report in compliance with ER 401-1-12:

By: MIRANDA.BENJAMIN.12740 Digitally signed by
54278 MIRANDA.BENJAMIN.1274054278
Date: 2019.11.08 07:19:12 -07'00'
Benjamin C. Miranda
Realty Specialist
New Mexico/Colorado Branch (CESPL-REN)
U.S. Army Corps of Engineers

Date

REVIEW AND SIGNATURE OF CHIEF OF REAL ESTATE, LOS ANGELES DISTRICT:

I have reviewed and approved this real estate report for compliance to ER 401-1-12:

By: CONNETT.CHER Digitally signed by
YLL.1231861358 CONNETT.CHERYLL.1231861358
Date: 2019.11.07 17:51:26 -08'00'
Cheryl L. Connett
Chief, Real Estate Division
Los Angeles District (CESPL)
U.S. Army Corps of Engineers

Date

Exhibit "A" – Bernalillo to Belen Proposed Levee Sections

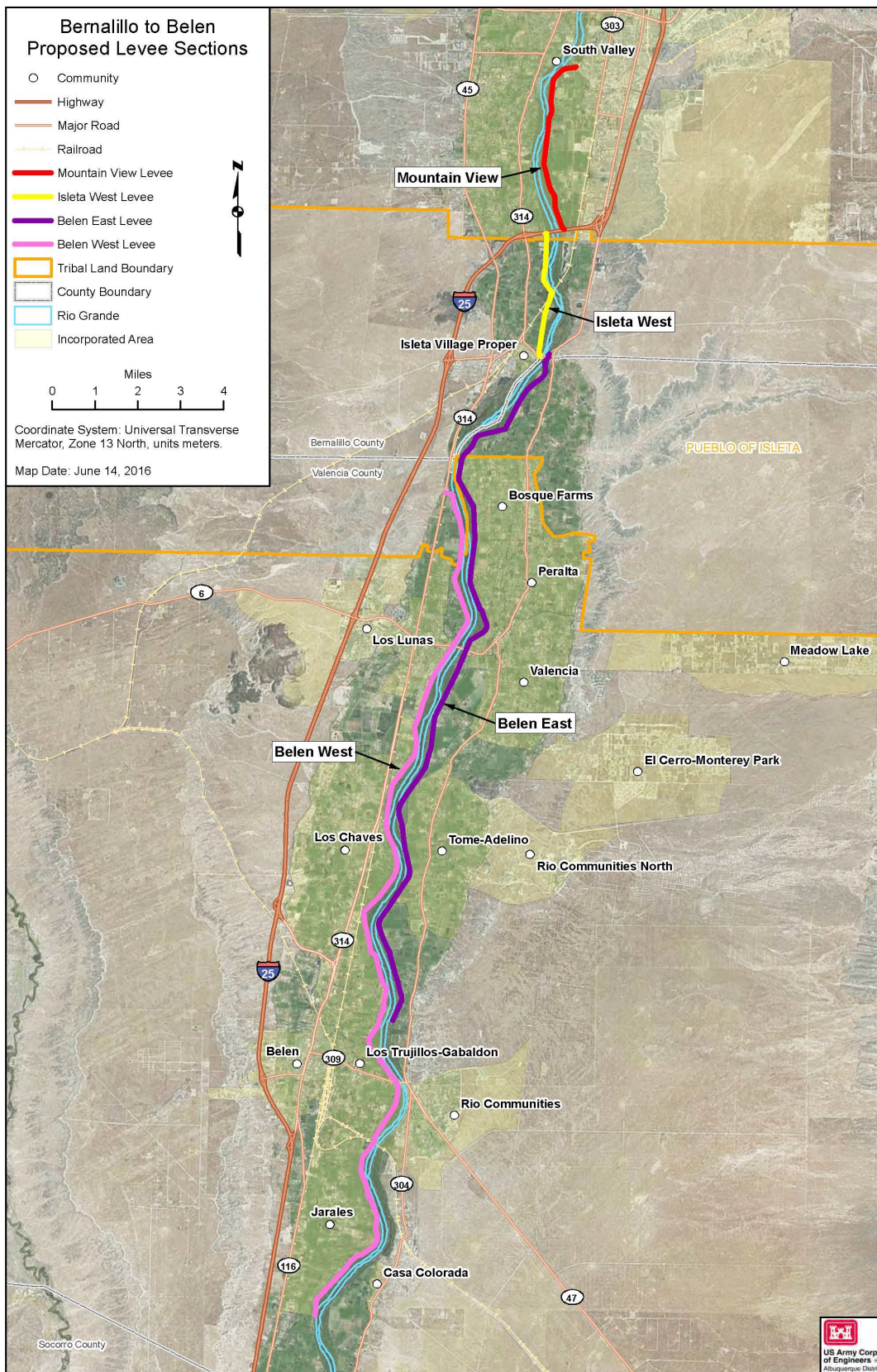
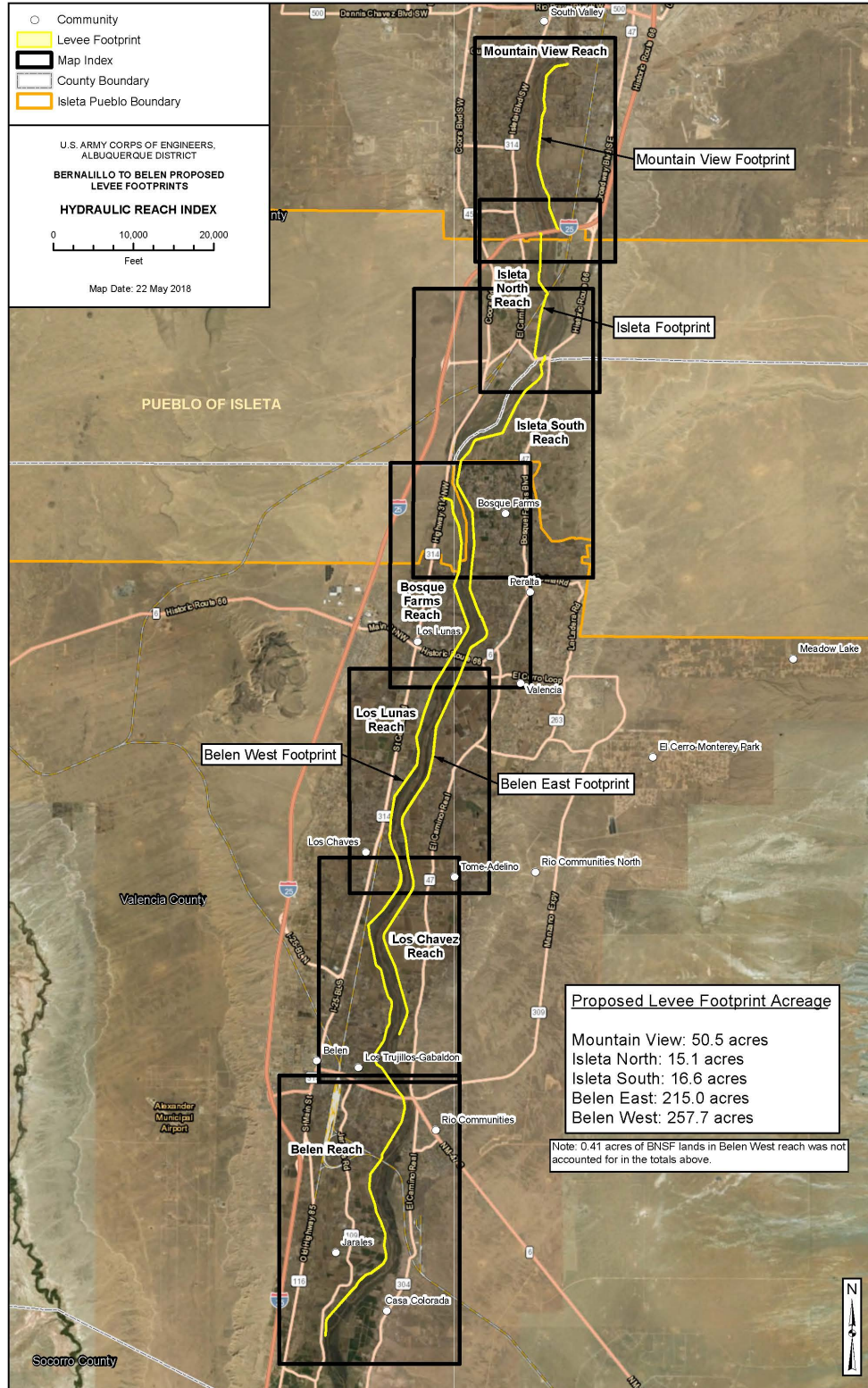
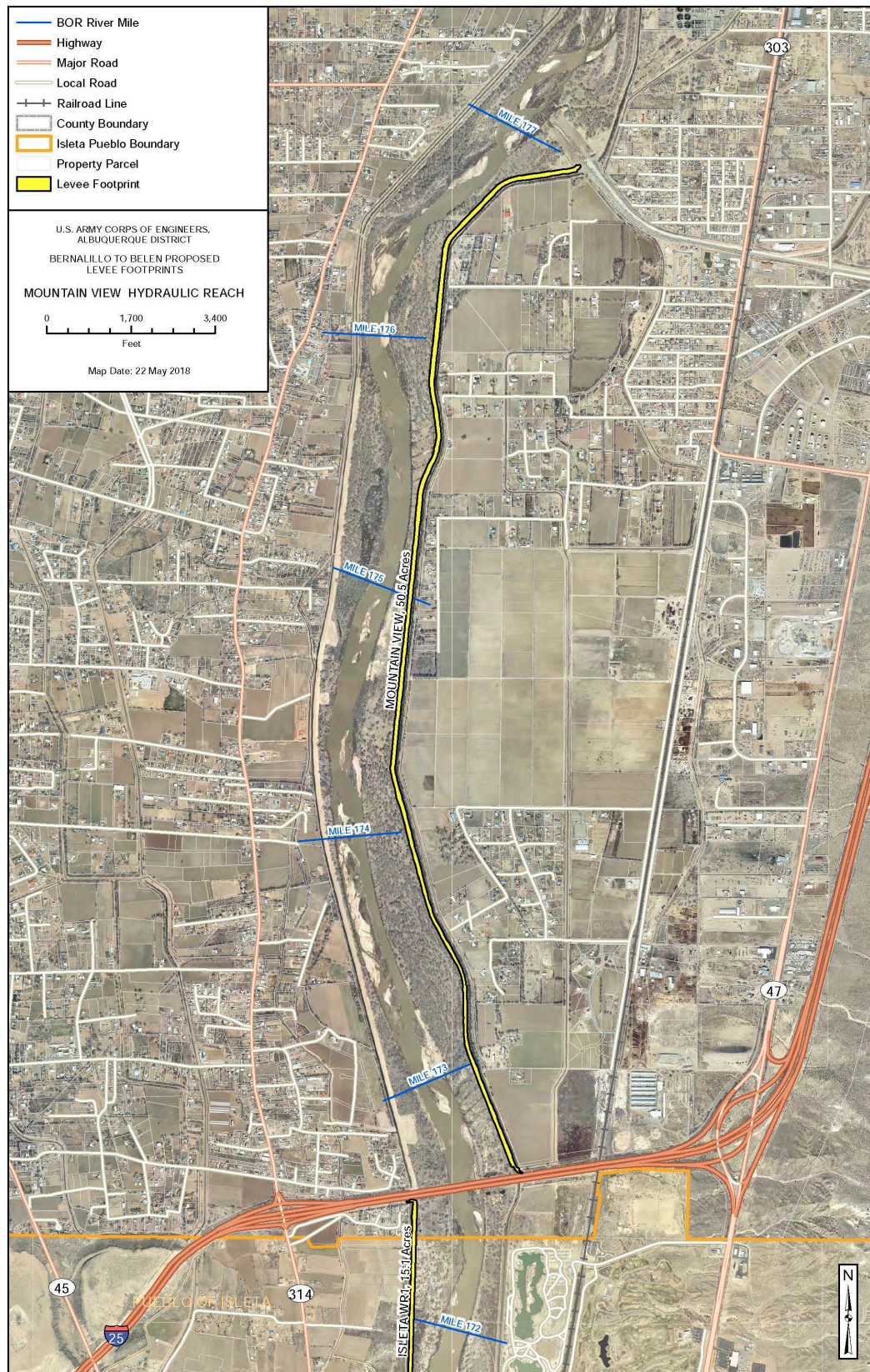


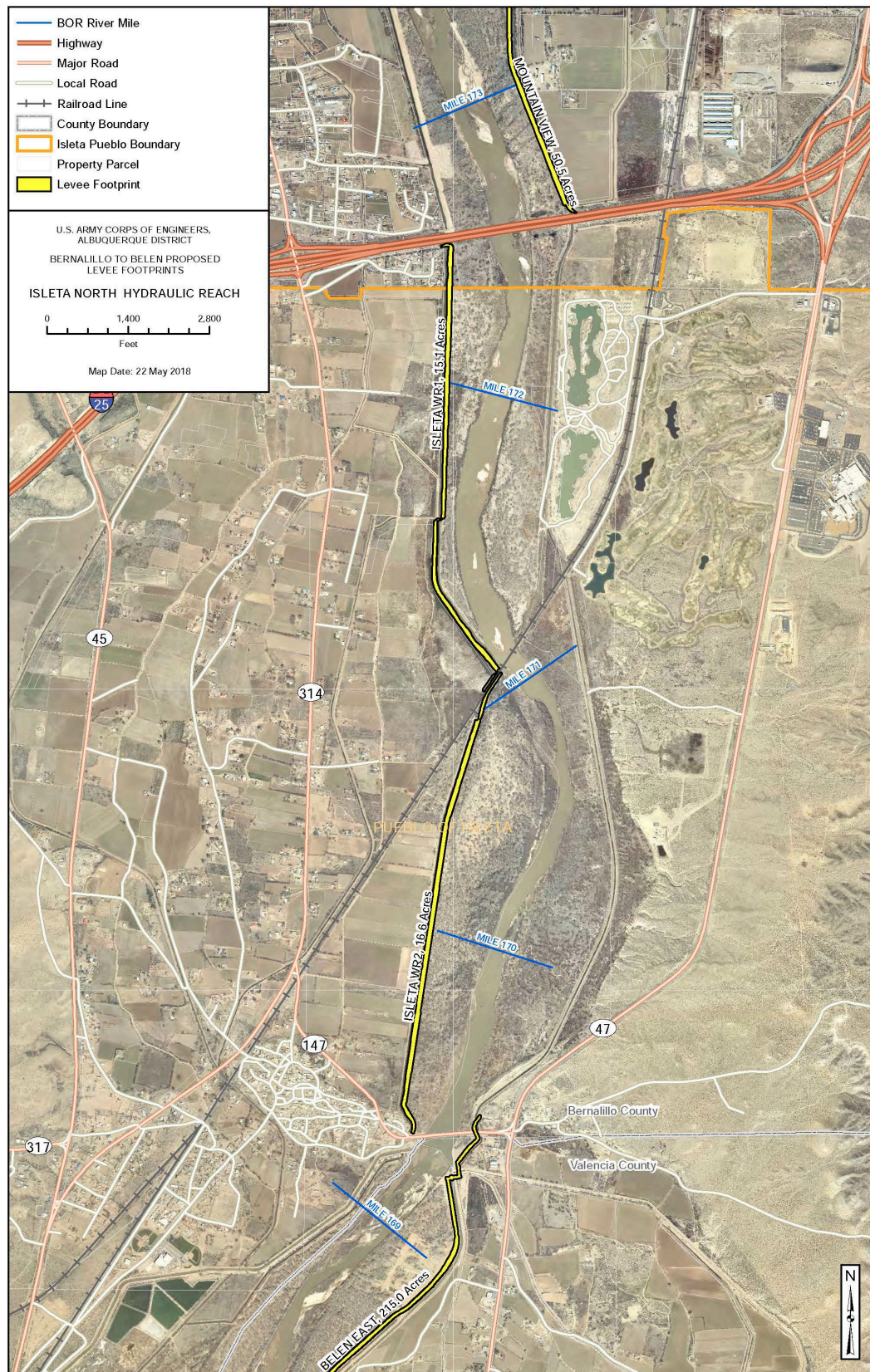
Exhibit “B” – Bernalillo to Belen Proposed Levee Footprints



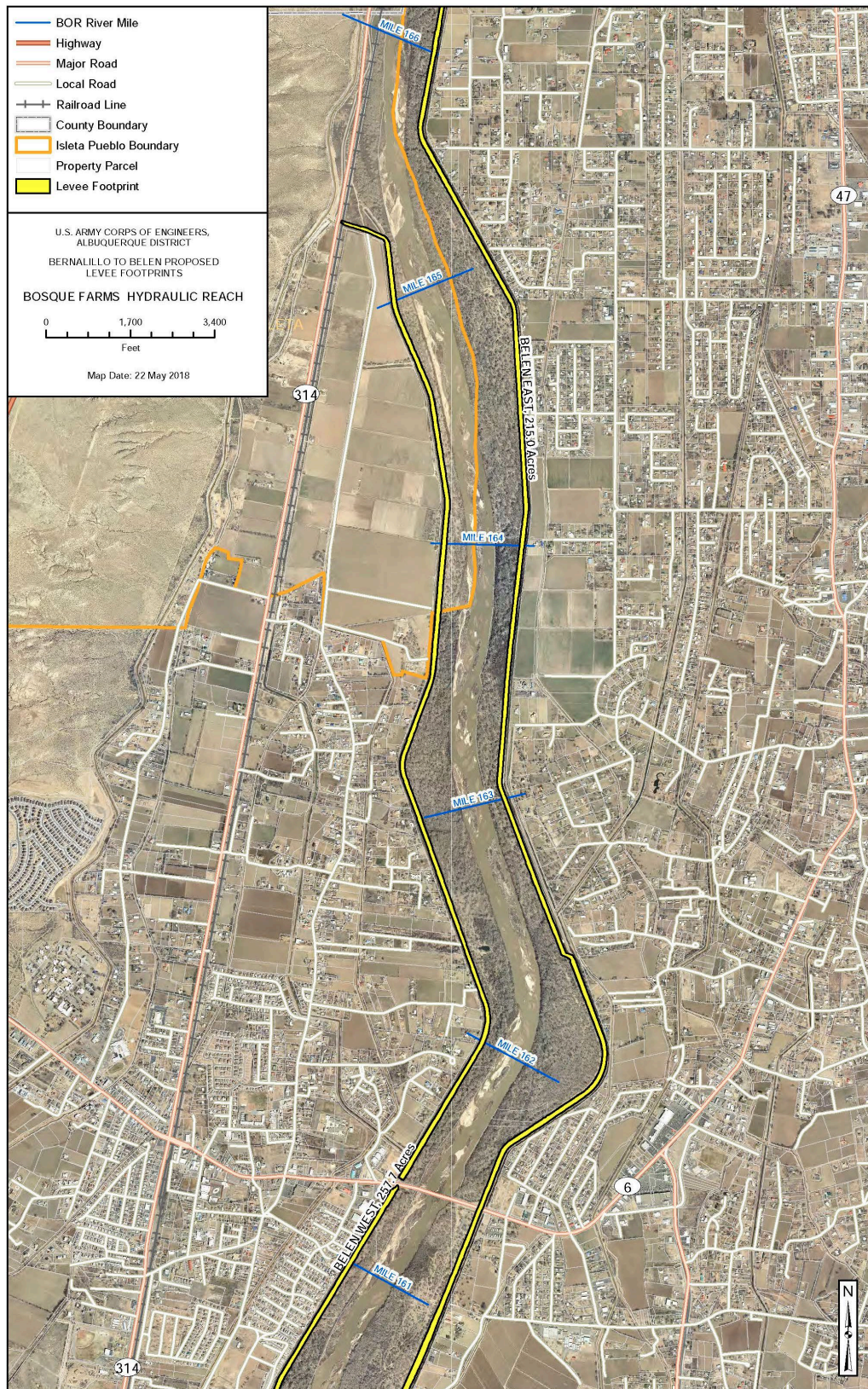
Mountain View



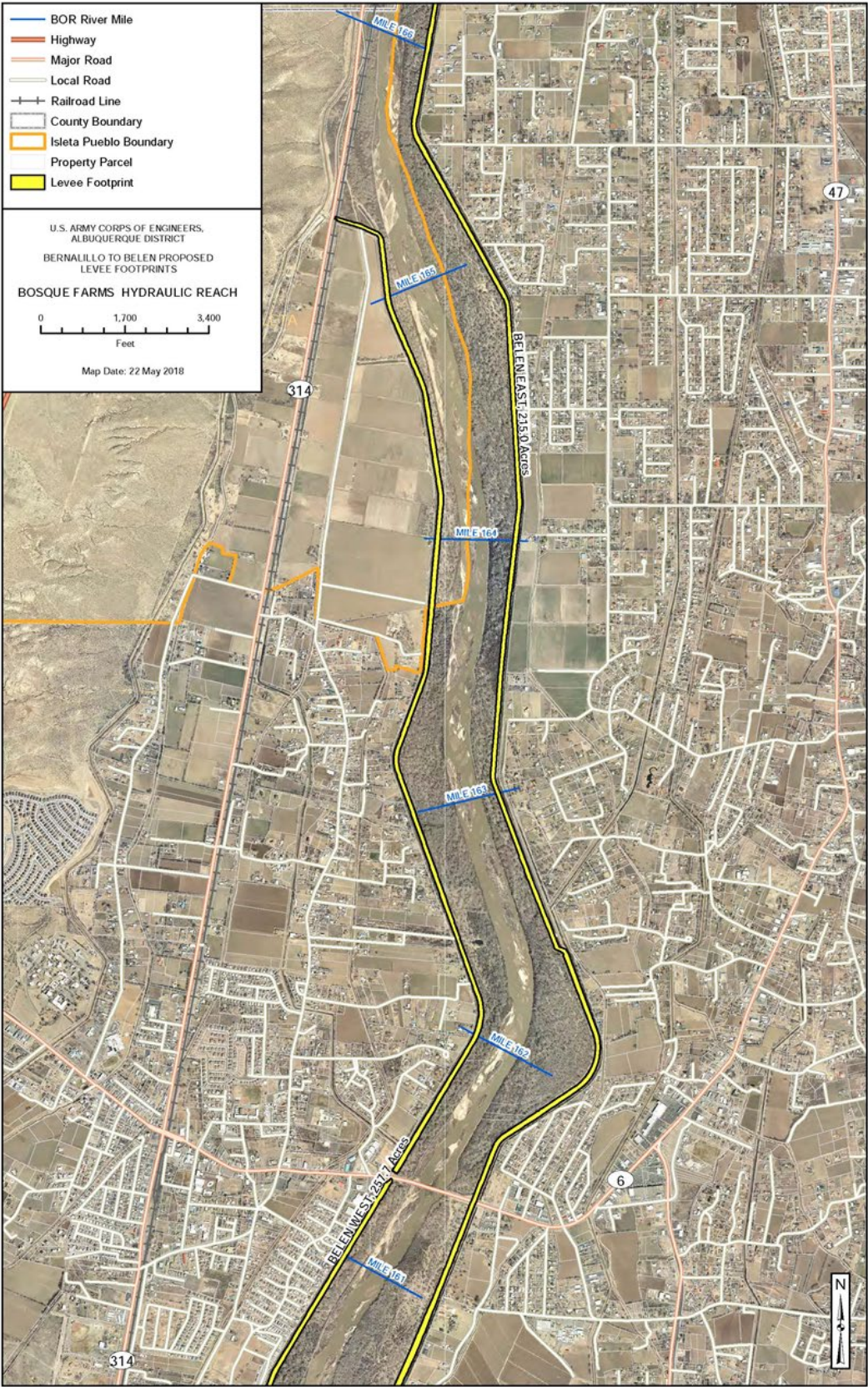
Isleta West



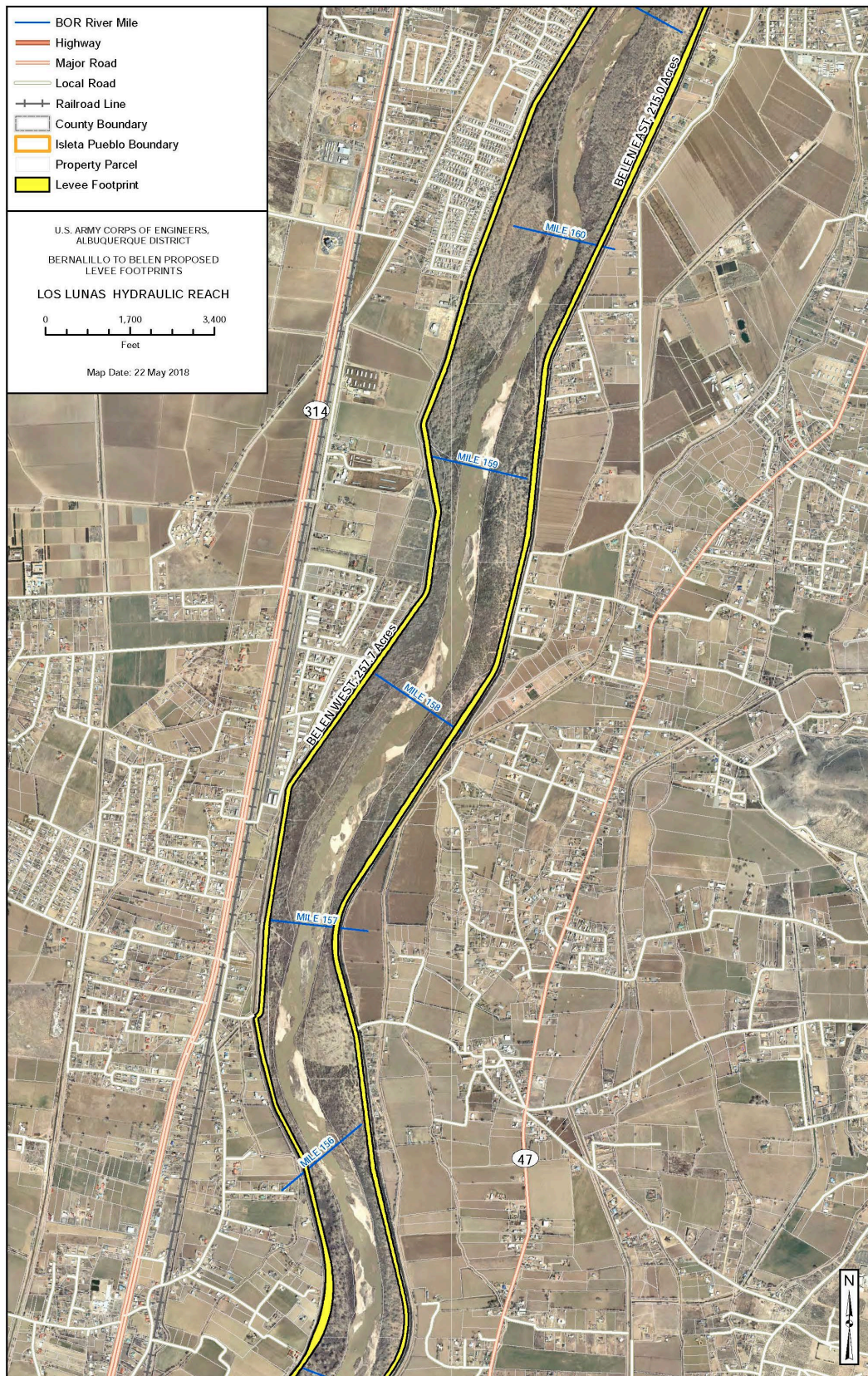
Belen East & West



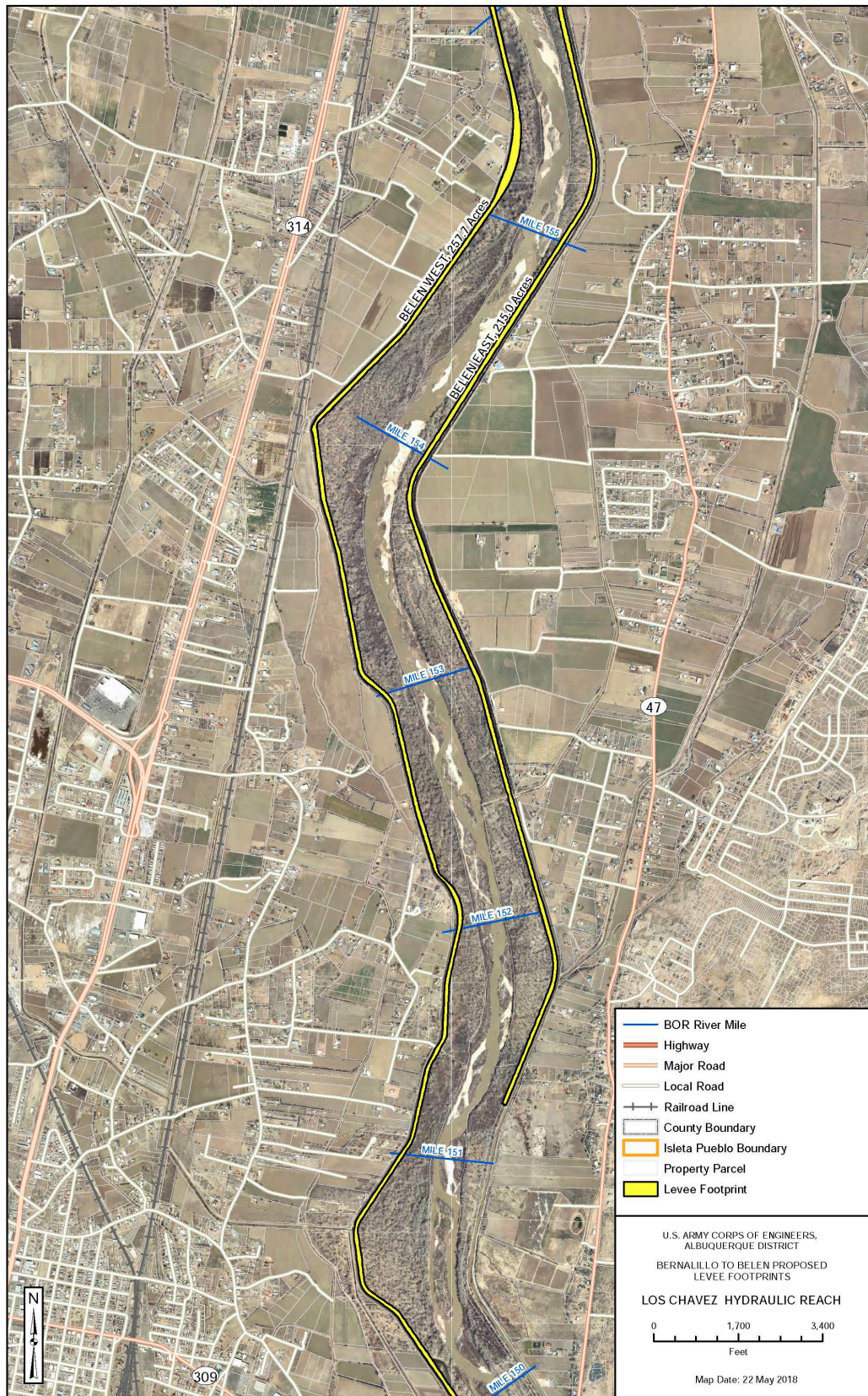
Belen East & West



Belen East & West



Belen East & West



Belen West

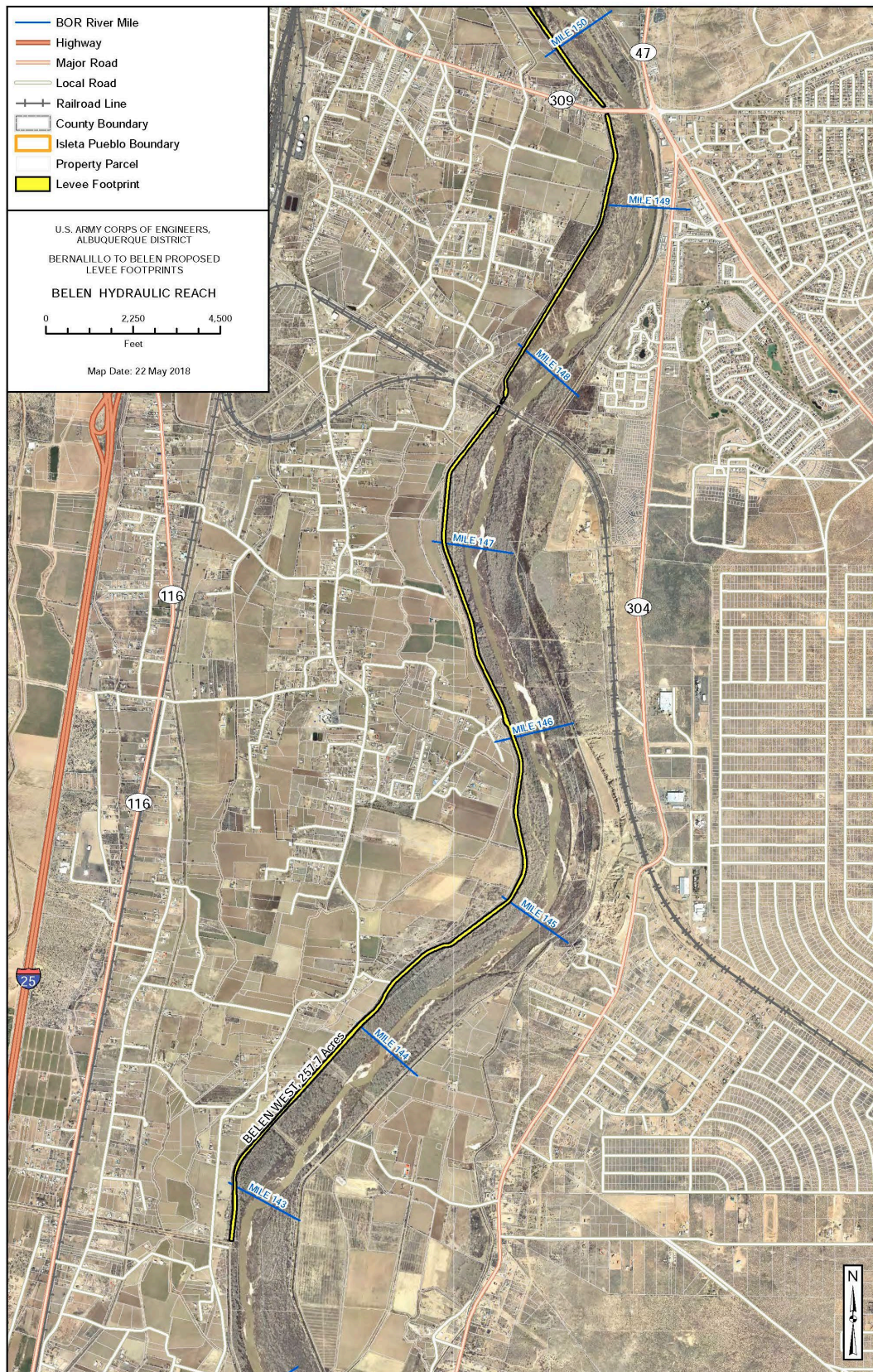


Exhibit "C" – Template for Authorization for Entry for Construction

NON-FEDERAL SPONSOR LETTERHEAD

AUTHORIZATION FOR ENTRY FOR CONSTRUCTION

I, **Name of Accountable Official**, **Title** for **Name of Non-Federal Sponsor**, do hereby certify that the **Name of Non-Federal Sponsor** has acquired the real property interests required by the Department of the Army, and otherwise is vested with sufficient title and interest in lands, to support construction of **Project Name, Specifically Identified Project Features, etc.** Further, I hereby authorize the Department of the Army, its agents, employees and contractors, to enter upon **Identify Tracts** to construct **Project Name, Specifically Identified Project Features, Etc.** as set forth in the plans and specifications held in the U.S. Army Corps of Engineers, Albuquerque District, Albuquerque, New Mexico.

WITNESS my signature as **Title** for **Name of Non-Federal Sponsor** this _____ day of _____, _____.

BY: _____
NAME
TITLE

ATTORNEY'S CERTIFICATE OF AUTHORITY

I, **Name of Non-Federal Sponsor's Attorney**, **Title of Legal Officer** for name of **Name of Non-Federal Sponsor**, certify that **Name of Non-Federal Sponsor** has authority to grant the above Authorization for Entry; that said Authorization for Entry is executed by the proper duly authorized officer; and that the Authorization for Entry is in sufficient form to grant the authorization therein stated.

WITNESS my signature as **Title of Legal Officer** for **Name of Non-Federal Sponsor**, this this _____ day of _____, _____.

BY: _____
NAME
TITLE

Exhibit "D" – Assessment of the Non-Federal Sponsor's Capability to Acquire Real Estate

ASSESSMENT OF NON-FEDERAL SPONSOR'S REAL ESTATE ACQUISITION CAPABILITY

**PROJECT NAME: Middle Rio Grande Flood Damage Reduction Project,
Bernalillo to Belen, New Mexico**

NON-FEDERAL SPONSOR: Middle Rio Grande Conservancy District (MRGCD)

(Blue are Sponsors answers, Black are Corps answers)

I. Legal Authority:

- a. Does the sponsor have legal authority to acquire and hold title to real property for project purposes? Yes, The Middle Rio Grande Conservancy District's (MRGCD's) Board's power and authority is clearly established by the Conservancy Act of New Mexico at New Mexico State Statutes Annotated (NMSA) 1978 § 73-14-39 (1927). This Act authorizes and empowers the MRGCD to protect life and property within the district from flooding by constructing the necessary works either within or outside of the district. The Board was given authority through the Conservancy Act to acquire real or personal property, public or private, either within or outside of the district, through donation, purchase, or condemnation.
- b. Does the sponsor have the power of eminent domain for this project? Yes, Please refer to I.a., above
- c. Does the sponsor have a "quick-take" authority for this project? Yes, The New Mexico State Statutes Annotated 42A-I-22, Condemnation Proceedings, " ... court may make an order within 30 days of the condemnation filing authorizing the condemner to take immediate possession of the property ... ", and 42-2-6, Special Alternative Condemnation Procedure, Preliminary Order of Entry, " ... petitioner may obtain a preliminary order permitting the political subdivision to immediately enter and occupy the premises sought to be condemned pending the action and to do such work thereon as may be required."
- d. Are any of the lands/interests in land required for the project located outside the sponsor's political boundary? No, all land/interests are within the sponsors boundary..
- e. Are any of the lands/interests in land required for the project owned by an entity whose property the sponsor cannot condemn? Yes, The Sponsor can not condemn any land owned by the Pueblo of Isleta. Lands would be permitted to the sponsor by the corresponding agency.

II. Human Resource Requirements:

- a. Will the sponsor's in-house staff require training to become familiar with the real estate

Requirements of Federal projects including P.L. 91-646, as amended? ____ No, The Army Corps of Engineers real estate staff will facilitate MRGCD obtaining a contracted real estate service provider familiar with the real estate requirements of the federal project including P.L. 91-646 as amended.

- b. If the answer to II a is yes, has a reasonable plan been developed to provide such training?
- c. Does the sponsor's in-house staff have sufficient real estate acquisition experience to meet its responsibilities for the project? ____ Yes
- d. Is the sponsor's projected in-house staffing level sufficient considering its other work load if any, and the project schedule? ____ Yes
- e. Can the sponsor obtain contractor support, if required, in a timely fashion? ____ Yes, The Corps will facilitate MRGCD in obtaining Acquisition services for the project. Acquisition services are readily available within the New Mexico area.
- f. Will the sponsor likely request USACE assistance in acquiring real estate? ____ No. The partner will utilize contracted real estate services as necessary for acquiring real estate.

III. Other Project Variables:

- a. Will the sponsor's staff be located within reasonable proximity to the project site? ____ Yes
- b. Has the sponsor approved the project/real estate schedule/milestones? ____ The Sponsor is aware of the status of the project and continues to support project development. MRGCD has reviewed and approved the phases of the project.

IV. Overall Assessment:

- a. Has the sponsor performed satisfactorily on other USACE projects?
Yes, The sponsor currently is working with the Corps on the Rio Grande Floodway San Acacia project. The Sponsor is a well-established, long-standing state service provider to the inhabitants of the area and is empowered under the Conservancy Act of New Mexico at NMSA 1978 § 73-14-39 (1927), New Mexico State Statutes Annotated, which states in part:

“ . . . the board is authorized and empowered . . . in or out of said district . . . to construct and maintain main and lateral ditches, . . . canals, . . . levees, . . . retarding basins, floodways, . . . and any other works and improvements deemed necessary to construct,

preserve, operate or maintain the works in or out of said district; to construct, reconstruct or enlarge or cause to be constructed, reconstructed or enlarged, any and all bridges that may be needed in or out of said district; . . . to construct, reconstruct any and all of said works and improvements in or out of said district; . . . and shall have the right to acquire by donation, purchase or condemnation to construct, own, lease, use and sell, to hold, encumber, control and maintain any easement, water right, acequias, well, railroad right-of-way, canal, sluice, flume, reservoir site, reservoir or retarding basin, mill dam, water power, franchise, park, cemetery or any other public way or place or any real or personal property, public or private in or out of said district, for rights-of-way and such other things, or for materials of construction or for any other use not inconsistent with the purposes of this act; . . .”

b. With regard to this project, the sponsor is anticipated to be: Highly Capable

V. Coordination:

a. Has this assessment been coordinated with the sponsor?

Yes, additionally the Corps will coordinate with the Sponsor during the upcoming conduct of the Technical Appendix prepared for the General Reevaluation Report.

b. Does the sponsor concur with this assessment? **Yes**

Date: 4/13/17

Prepared by: Benjamin Miranda, Realty Specialist

Reviewed and Approved by: 

Reginald Bougeois, Chief Albuquerque Branch,
Asset Management Division
Los Angeles District

Exhibit "E" – Risk Notice



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
ALBUQUERQUE DISTRICT, CORPS OF ENGINEERS
4101 JEFFERSON PLAZA NE
ALBUQUERQUE NM 87109-3435

May 31, 2016

CESPL-AM-AB
Albuquerque Asset Management Branch

Mike A. Hamman
Chief Engineer
Middle Rio Grande Conservancy District
P.O. Box 581
Albuquerque, NM 87103-0581

Subject: Middle Rio Grande Flood Control Project, Bernalillo to Belen, New Mexico

Dear Mr. Hamman:

During the planning and feasibility phase of civil works projects, the U. S. Army Corps of Engineers identifies the estimated need and extent of real estate interests required for the proposed project. My staff and I have been working on the Middle Rio Grande Bernalillo to Belen Flood Risk Management Project real estate requirements and have come up with some initial estimates.

When real estate requirements are determined, Government regulations require us to send a letter advising the sponsor of the risks involved in acquiring necessary real estate interests prior to execution of the Project Partnership Agreement ("PPA").

This letter constitutes official notice of the risks involved with acquiring property rights for the proposed Flood Risk Management project located in the Middle Rio Grande Floodway from the south of the Albuquerque city limit, at the South Diversion Channel to immediately south of the railroad bridge south of Belen, prior to the signing of the PPA. As one of the non-Federal sponsors, the Middle Rio Grande Conservancy District assumes full and sole responsibility within the pueblos ownership footprint for any and all costs, responsibility, or liability arising out of the acquisition effort. Generally, these risks include, but are not limited to, the following:

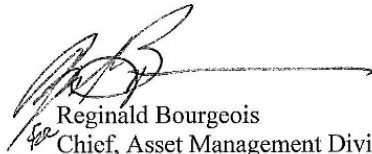
1. Congress may not appropriate funds to construct the proposed project;
2. The proposed project may otherwise not be funded or approved for construction;
3. A PPA, mutually agreeable to the non-Federal sponsor and the Government, may not be executed and implemented;
4. The non-Federal sponsor may incur liability and expense by virtue of its ownership of contaminated lands, or interests therein, whether such liability should arise out of local, state, or Federal laws or regulations including liability arising out of CERCLA as mentioned;

5. The non-Federal sponsor may acquire interests or estate that are later determined by the Government to be inappropriate, insufficient, or otherwise not required for the project;
6. The non-Federal sponsor may incur costs or expenses in connection with its decision to acquire or perform lands, easements, rights-of-way, relocations, and disposal areas (LERRD) activities in advance of the executed PPA and the Government's notice to proceed which might not be creditable under the provisions of Public Law 99-662 or the PPA; and

The non-Federal sponsor may initially acquire insufficient or excessive real property acreage which may result in additional negotiations and/or benefit payments under P.L. 91-646 as well as the payment of additional fair market value to affected landowners which could have been avoided by delaying acquisition until after PPA execution and the Government's notice to commence acquisition and performance of LERRD.

If you have any questions please contact Ben Miranda at 505-342-3224 or Benjamin.C.Miranda@uasce.army.mil or feel free to contact me at 505-342-3221 or Reginald.S.Bourgeois@usacc.army.mil.

Sincerely,

A handwritten signature in dark ink, appearing to read 'R. Bourgeois', with a long horizontal line extending to the right.

Reginald Bourgeois
Chief, Asset Management Division
Los Angeles District
US Army Corps of Engineers