

REAL ESTATE PLAN

Middle Rio Grande Bosque Restoration Feasibility

PURPOSE:

This Plan is prepared in accordance with ER-405-1-12, and is for planning purposes in support of the Feasibility Report. This report addresses the Government's need for project lands located along the Middle Rio Grande near Albuquerque, New Mexico.

This proposed project is being prepared in partnership with the Middle Rio Grande Conservancy District (MRGCD), who is the non-Federal sponsor.

AUTHORIZATION:

The authority for this Proposed Action was derived from a series of Congressional actions authorizing projects on the Rio Grande, particularly in the Middle Rio Grande (MRG). These authorizations began with the basic flood control authorization for the Middle Rio Grande Public Law No. 228, 77th Congress, 1st Session, H.R. 4911, dated August 18, 1941. The House of Representatives Resolution, dated April 11, 1974, requested a study of environmental enhancement on the Rio Grande.

The area is maintained as a part of the Middle Rio Grande Flood Control Acts of 1941 and 1950 and is within the Facilities of the Middle Rio Grande Floodway Project which resulted in the construction of additional levees and dams between Espanola and San Marcial, New Mexico. Section 401 of the Water Resources Development Act of 1986 (Public Law 99-662) dated November 17, 1986, authorized the Middle Rio Grande Flood Control Project from Bernalillo to Belen, New Mexico, Albuquerque Levees (P.L. 80-858), Cochiti Dam (P.L. 86-645), and Jemez Dam (P.L. 80-858). Additional authorization is contained in House of Representatives Resolution 107-258, 2002. This authorization provides funds to evaluate environmental restoration including recreational components.

In response to the study authorities, a Reconnaissance Study was initiated in March 2002. The results and conclusions of the reconnaissance phase were presented in the Middle Rio Grande Bosque Restoration Section 905(b) Analysis, U.S. Army Corps of Engineers, Albuquerque District, June 2002. The recommendation of that report was that there was a Federal interest in proceeding to the feasibility phase of General Investigation Study. A Feasibility Cost Sharing Agreement was signed between MRGCD, as the non-Federal Sponsor, and the Corps, that initiated the feasibility phase of the study in the fall of 2004.

PROJECT LOCATION AND DESCRIPTION:

The Middle Rio Grande Bosque is a large riparian corridor extending through the middle reach of the Rio Grande, in the vicinity of the City of Albuquerque, New Mexico. The Proposed Action Area is located in Bernalillo and Sandoval Counties. The Proposed Action Area extends approximately 26 miles along the river, is roughly 5,300 acres in size, and is broken into five (5) reaches based on hydrologic breaks. The Proposed

Action Area includes the bosque within Albuquerque which was designated as the Rio Grande Valley State Park through the Park Act of 1983, and is cooperatively managed by the City of Albuquerque, Open Space Division (OSD) and the MRGCD. The bosque is offered protection as a State Park, but without state operating funds, and is administered by OSD and MRGCD through formal agreements.

The Proposed Action Area includes the bosque within Corrales, which is designated as the Corrales Bosque Preserve and is cooperatively managed by the Village of Corrales and the Corrales Bosque Commission through an agreement with the MRGCD. The northern extent of the Corrales Bosque Preserve forms the north boundary of the Proposed Action Area, while the southern boundary is formed by the northern limits of the Pueblo of Isleta. The east and west boundaries of the Proposed Action Area are the easements of the Facilities of the Middle Rio Grande Floodway Project which includes levees, riverside drain, and an easement area between the drain and private property.

The Proposed Action Area also includes Pueblo of Sandia lands that are owned and managed by the Pueblo.

Land Use:

Land use in the bosque is limited to a floodway with passive recreation and educational uses. Historically, the bosque had a rich legacy as a cultural landscape. Most of the historic uses such as wood cutting and agriculture have either been outlawed or displaced to adjacent areas.

As with many bottomlands on the margins of urban area, the bosque has long functioned as a dump. Early spoil levee construction and armoring techniques also employed the dumping of large amounts of construction debris. This use of the bosque continued until the 1980s.

Currently, the primary uses of land adjacent to the bosque are either residential or public in the form of the Albuquerque Biological Park (Zoo, Botanical Garden and Aquarium) or one of a number of Bernalillo County and City of Albuquerque Parks. Other land uses within land adjacent to the Proposed Action Area include flood control structures (such as levees and drains), bridges crossing the river, and other restoration project. Farming is still a major land use in various corridors.

REAL ESTATE REQUIREMENTS:

Minimum real estate requirements for this project are described by ER 405-1-12, Chapter 5. All access to the site will be by public roadway and along the levee. All staging areas will be in the defined project boundaries; if needed additional access and subsidiary staging areas to facilitate construction activities would be coordinated with local land managers. A right-of-entry for survey and exploration will be required to enter upon the land to survey, stake out, appraise, make borings, and conduct tests and other exploratory work. A right-of-entry for access, staging, borrow and construction will be required. Removal of excess materials to a commercial dump site may be

required. Disposal using a commercial dump site is a construction cost; thus, LERRD credit cannot be given for this activity.

The Reconnaissance Study identified Middle Rio Grande Conservancy as the owner of a majority of bosque lands and easements along the Rio Grande. Per Judge James A. Parker, Senior United States District Judge in the United States District Court for the District of New Mexico, those lands identified as belonging to the Middle Rio Grande Conservancy District in the Reconnaissance Study are property of the United States of America in accordance with his findings and conclusions of law as described in the Memorandum Opinion and Order in the case of Rio Grande Silvery Minnow, et. al. v. John W. Keys, III, et. al., No. CV 99-1320 JP/RHS-ACE (D.N.M. 2005).

WAIVER REQUIRED:

The non-Federal sponsor (NFS) proposes to use a non-standard estate. An environmental easement will be acquired which was previously approved for use for environmental mitigation; this document will be forwarded to CESP-D-PDS-R under separate cover for approval. The Proposed Action Area includes the bosque within Albuquerque which was designated as the Rio Grande Valley State Park through the Park Act of 1983, and is cooperatively managed by the City of Albuquerque, Open Space Division (OSD) and the MRGCD. The bosque is offered protection as a State Park, but without state operating funds, and is administered by OSD and MRGCD through formal agreements.

The Proposed Action Area also includes the bosque within Corrales, which is designated as the Corrales Bosque Preserve and is cooperatively managed by the Village of Corrales and the Corrales Bosque Commission through an agreement with the MRGCD.

Additionally, Albuquerque Biological Park or one of a number of Bernalillo and City of Albuquerque Parks are along this waterway. Monitoring of project performance would be conducted for five (5) consecutive years following construction, but long-term operation and management is not being considered, since much of the land is already operated and managed as public park land. In light of the foregoing, it is proposed to acquire easements rather than fee title to the land.

EXISTING FEDERAL PROJECTS:

Currently the Corps, U.S. Bureau of Reclamation (USBR) and the New Mexico Interstate Steam Commission (NMISC) are signatories of the Memorandum of Agreement to conduct the Upper Rio Grande Water Operations Review (URGWOR) and prepare a programmatic Water Operations Environmental Impact Statement.

The MRGESCP is a multi-agency organization that has funded a number of habitat restoration projects in the Proposed Action Area. The Corps, USBR and NMISC have all constructed projects within the Proposed Action Area under the MRGESCP. These projects have been planned and constructed in coordination with each other and the development of the Route 66 Project. They have been planned so that they complement one another and do not overlap. Projects include:

Habitat Restoration Plan for the Middle Rio Grande
Middle Rio Grande Riverine Habitat Restoration Project – ISC

Rio Grande Nature Center Habitat Restoration Project
City of Albuquerque Habitat Restoration Project

The City of Albuquerque has constructed a diversion dam in the Rio Grande south of Alameda to divert San Juan/Chama water into the City's water supply system. The City has also constructed water intakes and a crossing in the Rio Grande at Campbell Road.

The Corps is involved in another 1135 Ecosystem Restoration Project within the RGVSP between I-40 and Bridge Boulevard called the Ecosystem Restoration @ RT66 Project.

Under the Bosque Wildfire project, activities of selective thinning of areas with high fuel loads and/or non native plant species populations; removal of jetty jacks and removal of debris; improvement of emergency access in the form of drain crossings, levee road improvement and construction of turnarounds; and re-vegetation of burned areas began in 2004 in and around the Albuquerque area, including the Proposed Action Area.

NAVIGABLE SERVITUDE:

None.

INDUCED FLOODING:

Induced flooding is not expected.

MINERAL ACTIVITY:

There is no known mineral activity in the vicinity of the project and none is anticipated at this time.

HTRW: Inspections have found the presence of surficial solid waste which appears to have been deposited by wind and visitors to the bosque. This waste is limited to paper, bottles, glass, cans and other household trash items. In a few distinct locations, there is the presence of weathered asphaltic concrete pavements. No hazardous, petroleum, or special wastes have been noted in the bosque area. No sign of releases of hazardous wastes, hazardous substances, or petroleum products, such as distressed vegetation or soil staining, have been observed.

A mixture of recreational, residential, commercial and industrial land uses are located adjacent to the Rio Grande. In a flooding situation, some commercial and industrial properties have a potential to pose an imminent threat to the river from release of hazardous wastes, hazardous substances, or petroleum products.

Several locations that currently store hazardous materials, hazardous wastes, and petroleum products and where there have been significant releases of hazardous substances, hazardous wastes, and petroleum products in the past, have been identified within the 500-year floodplain for the project. Since all the sites that were identified are located several miles from the actual project sites for this project, there would not be any apparent or expected impact from the project work on any of these identified release or

storage sites. Likewise, the sites that do have leased contaminants and petroleum products are located several miles from the Proposed Action sites and do not pose a hazard to the work site, workers constructing the Proposed Action features, nor to the public which would be visiting the project site after construction.

All work planned to construct the proposed features would be conducted in accordance with Federal, state and local pollution control laws. Requirements would include the contractor's storage and use of fuels, herbicides, and other potential contaminants, and the implementation of the National Pollutant Discharge Elimination System (NPDES) permit for storm water pollution prevention from construction activities.

REAL ESTATE BASELINE COST ESTIMATE:

There are currently 52,000 different parcels identified within the Bosque Parcel Basemap. Access permits may be required from the Sandia Pueblo in the north portion of the project and the Isleta Pueblo in the south portion of the project; otherwise access for surveying, staging and construction activities would be obtained from the MRGCD and the Bureau of Reclamation. All work will occur within the Albuquerque levees. Reclamation and/or MRGCD own fee or easement rights for irrigation water delivery and drainage purposes; these rights would be utilized for project purposes to avoid obtaining costly permanent ownership of the properties.

The Proposed Action Area includes the bosque within Albuquerque which was designated as the Rio Grande Valley State Park through the Park Act of 1983, and is cooperatively managed by the City of Albuquerque, Open Space Division (OSD), and the MRGCD. The bosque is offered protection as a State Park, but without state operating funds, and is administered by OSD and MRGCD through formal agreements. The Proposed Action Area also includes the bosque within Corrales, which is designated as the Corrales Bosque Preserve and is cooperatively managed by the Village of Corrales and the Corrales Bosque Commission through an agreement with the MRGCD. Additionally, Albuquerque Biological Park or one of a number of Bernalillo and City of Albuquerque Parks exist along this waterway.

<u>Reach</u>	<u>Landowner</u>	<u>Acres</u>	<u>\$/Sq.Ft.</u>	<u>Estate</u>	<u>TOTAL</u>
1	Sandia Pueblo	118.00	\$ 0.08*	Easement	\$ 411,206.00
1	BoR/MRGCD	501.00	\$ 0.00	Easement	\$ 0.00
2	BoR/MRGCD	110.00	\$ 0.00	Easement	\$ 0.00
3	City of Albuquerque	113.00	\$ 0.08*	Easement	\$ 393,782.00
4	BoR/MRGCD	201.00	\$ 0.00	Easement	\$ 0.00
5	BoR/MRGCD	240.00	\$ 0.00	Easement	\$ 0.00
Direct Real Estate Cost – Lands and Damages					\$ 804,988.00
Contingency 30%					\$ 241,496.00
					<u>\$1,046,484.00</u>

Note: The reaches identified above are sub-reaches of the Albuquerque Reach of the Middle Rio Grande. Acreage figures shown above are estimates.

*Cost estimate based on .08 cents/square foot/yr; sales of land in adjacent areas \$0.92/sq.ft., or \$4002/acre (information obtained from area licensed appraiser).

Non-Federal Sponsor Estimate:

Property Surveys, 21 @ \$5,000/each	\$ 105,000.00
Appraisals, 9 @ \$8,000/each	\$ 72,000.00
Preliminary Title Reports, 21 @ \$550/each	\$ 11,550.00
(Final Title Reports based on property value)	
Negotiations at Closing	\$ 11,250.00
Condemnations, \$20,000/each	\$ 0.00
Certificate of Sufficiency	\$ 2,500.00
Administrative Costs	\$ 5,000.00
Non-Federal, in-kind services provided	
Subtotal	\$ 207,300.00
Contingency + 30%	\$ 62,190.00
Estimated Credit to be Provided	\$269,490.00
Lands and Damages	\$1,046,484.00
Grand Total LERRDS	\$1,315, 974.00

REAL ESTATE ACQUISITION SCHEDULE:

The following table is shown with Real Estate activities projected to begin in Fiscal Year 2010.

Acquisition Tasks	Due
Draft Real Estate Plan	May 2008
Prepare Acquisition Maps and Legal Descriptions	60 days after Plan and Specs.
Obtain Rights-of-Entry	120 days after Plan and Specs.
Real Estate Certificate of Sufficiency	180 days after Plan and Specs.

RELOCATION ASSISTANCE: **Facility/Utility Relocations:** There are no known facilities or utility relocations known at this time. There is no requirement for a Preliminary Attorney's opinion of Compensability. The Government will make a final determination of the relocation(s), if any, necessary for the construction, operation and maintenance of the project after further analysis and completion and approval of the Final Attorney's Opinion of Compensability for each of the impacted utilities and facilities.

P.L. 91-646 Relocation Assistance Benefits: The project is not displacing usable or habitable structures. There is not any personal property that has been identified as a relocation requirement.

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

I. Legal Authority

- a. Does the non-Federal sponsor have the legal authority to acquire and hold title for project purposes? Yes
- b. Does the sponsor have the power of eminent domain for this project? No
- c. Does the sponsor have "quick-take" authority for this project? No
- d. Are any of the lands/interests in land required for the project located outside the sponsor's political boundary? Yes, Pueblo lands are outside the sponsor's political 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, Middle Rio Grande Conservancy District (MRGCD) cannot condemn.

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.
- b. If the answer to II. A. is "yes," has a reasonable plan been developed to provide such training? N/A
- c. Does the sponsor's in-house staff have the sufficient real estate acquisition experience to meets its responsibility for the project? Yes.
- d. Is the sponsor's projected in-house staffing level sufficient considering its other workload, if any, and the projected schedule? Yes.
- e. Can the sponsor obtain contractor support, if required, in a timely fashion? Yes.
- f. Will the sponsor likely require USACE assistance in acquiring real estate? Yes.

III. Other Project Variable

- 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? No, these have yet to be developed and/or finalized.

IV. Overall Assessment

- a. Has the sponsor performed satisfactory on other USACE projects? Yes.
- b. With regard to this project, is the sponsor anticipated to be highly capable? Yes.

V. Coordination

- a. Has the assessment been coordinated with the sponsor? Yes.
- b. Does the sponsor concur with the assessment? Yes.

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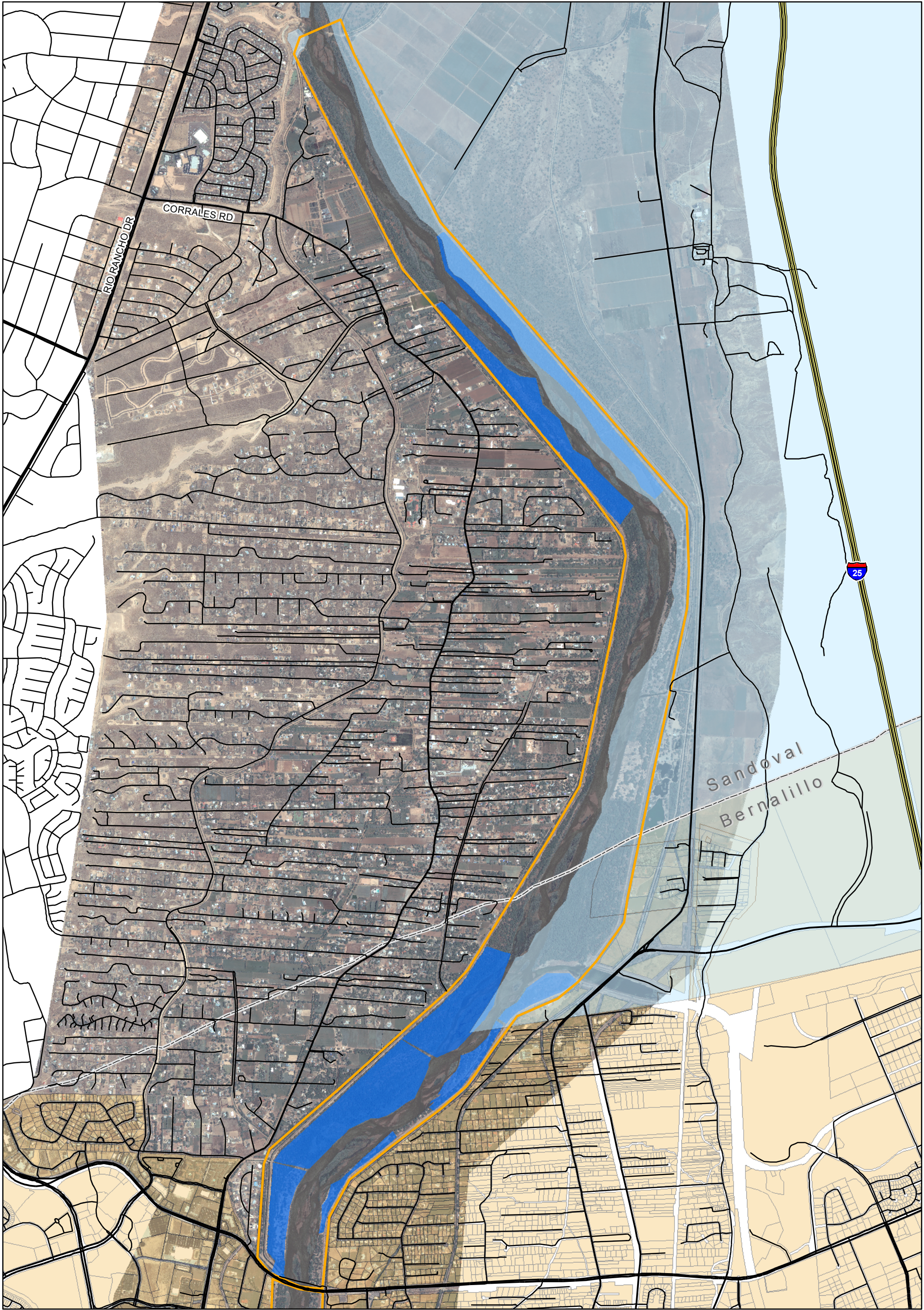
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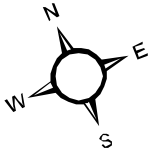
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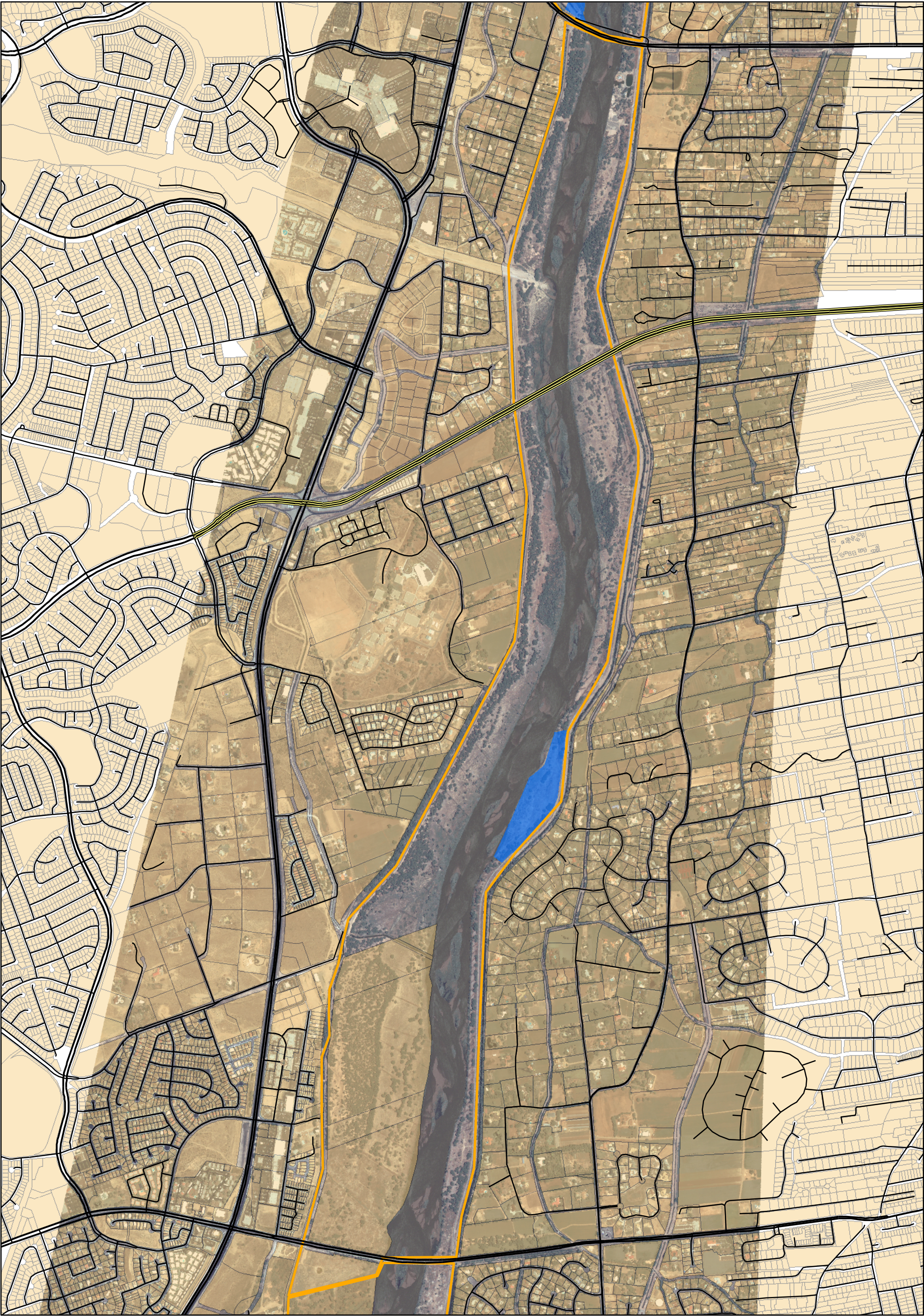


Middle Rio Grande Bosque Parcel Basemap
Alternative Plan 7
Reach 1

- Bernalillo County Parcel Map (Nov 2008)
- MRG BER Project Area
- Sandia Pueblo
- Isleta Pueblo
- Albuquerque Open Space
- MRGCD/BOR

0 0.25 0.5
Miles

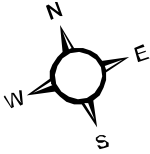


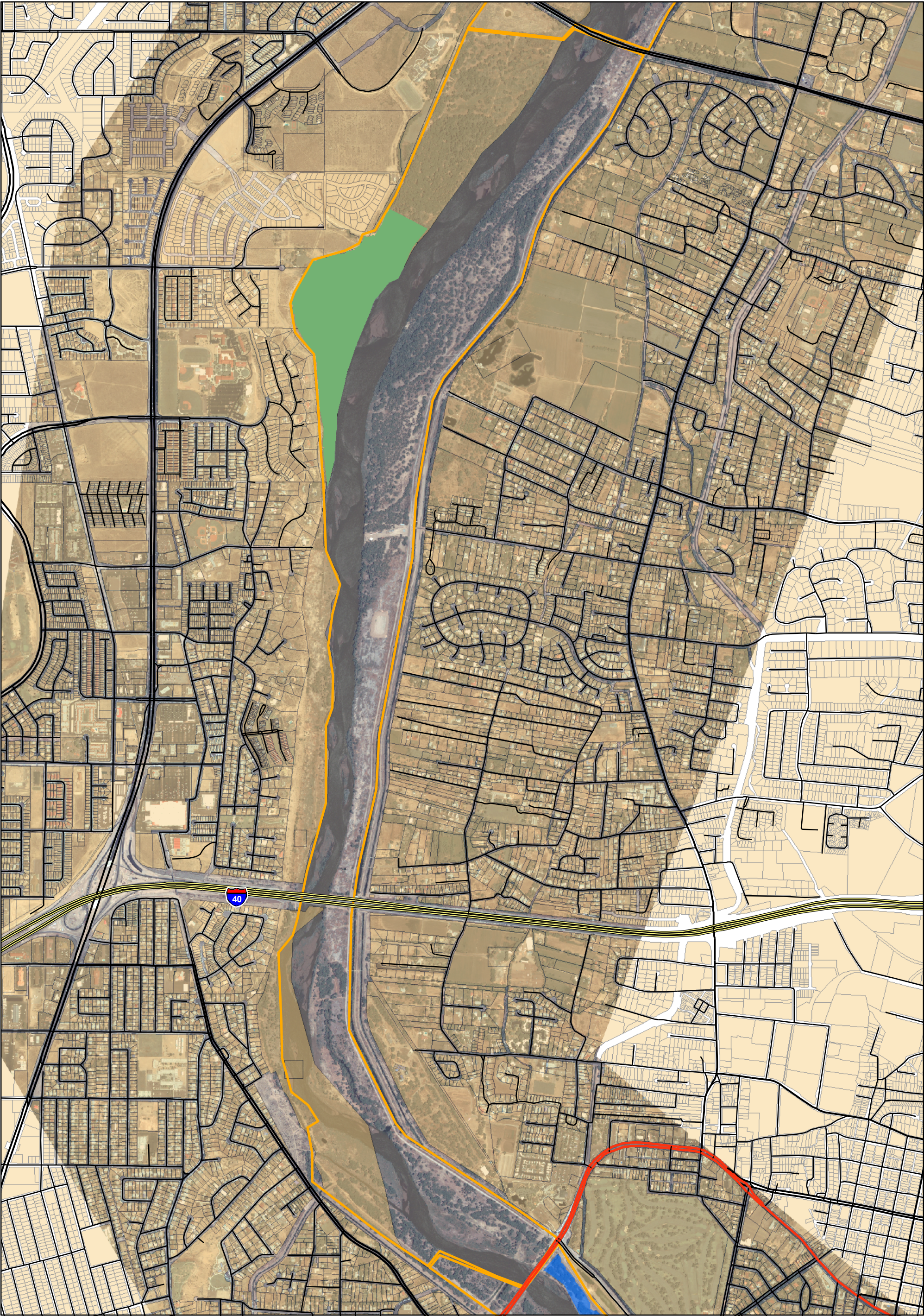


Middle Rio Grande Bosque Parcel Basemap
Alternative Plan 7
Reach 2

- Bernalillo County Parcel Map (Nov 2008)
- MRG BER Project Area
- Sandia Pueblo
- Isleta Pueblo
- Albuquerque Open Space
- MRGCD/BOR

0 0.25 0.5 Miles

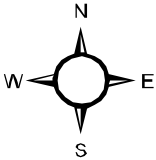


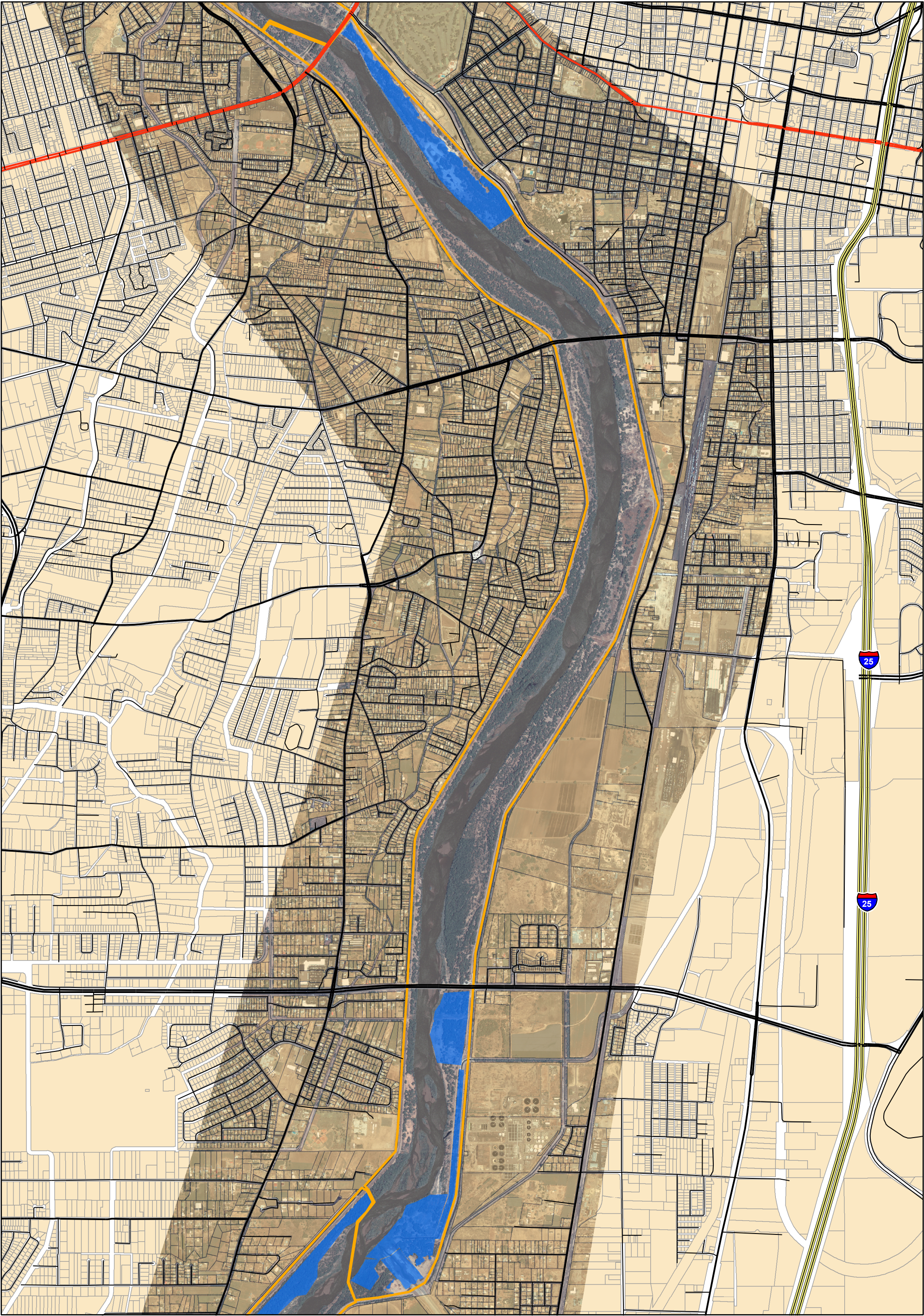


Middle Rio Grande Bosque Parcel Basemap
Alternative Plan 7
Reach 3

- Bernalillo County Parcel Map (Nov 2008)
- MRG BER Project Area
- Sandia Pueblo
- Isleta Pueblo
- Albuquerque Open Space
- MRGCD/BOR

0 0.25 0.5 Miles

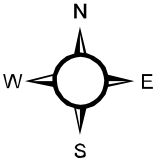




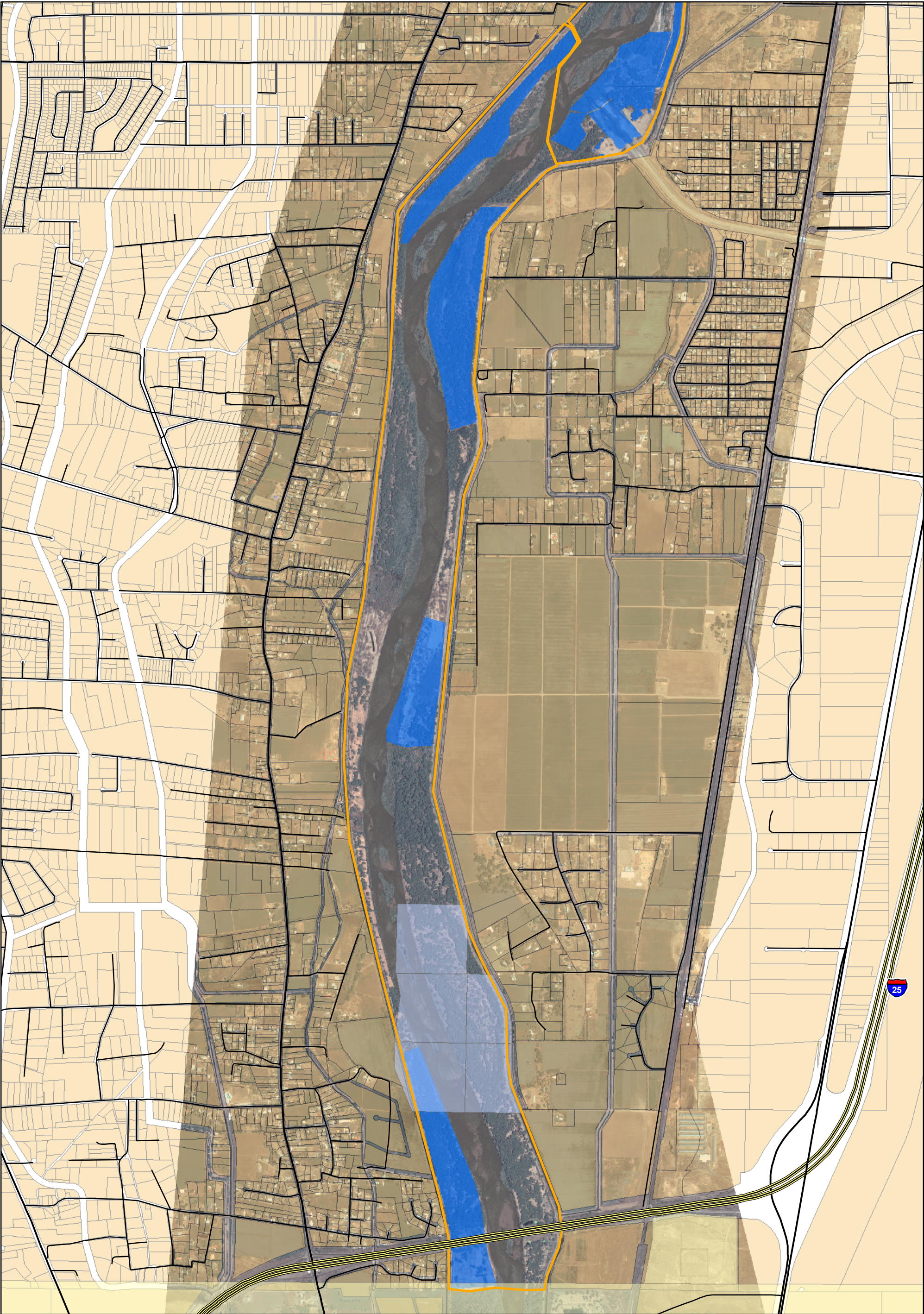
Middle Rio Grande Bosque Parcel Basemap
Alternative Plan 7
Reach 4

- Bernalillo County Parcel Map (Nov 2008)
- MRG BER Project Area
- Sandia Pueblo
- Isleta Pueblo
- Albuquerque Open Space
- MRGCD/BOR

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Miles



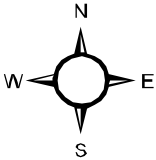
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Middle Rio Grande Bosque Parcel Basemap
Alternative Plan 7
Reach 5

-  MRG BER Project Area
-  State Trust Land
-  Sandia Pueblo
-  Isleta Pueblo
-  Albuquerque Open Space
-  Bernalillo County Parcel Map (Nov 2008)
-  MRGCD/BOR

0 0.25 0.5
Miles



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Albuquerque District