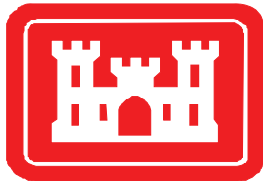


**Rio Grande Environmental Management Program, CO, NM,  
TX  
Sandia Pueblo to Isleta Pueblo, New Mexico Ecosystem  
Restoration Feasibility Study**

**Appendix I  
Real Estate Plan  
April 2019**

**Los Angeles District Real Estate Division**



**US Army Corps of Engineers  
Albuquerque District**

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## **THE REAL ESTATE PLAN:**

### **1. STATEMENT of PURPOSE**

This Real Estate Plan (REP) is prepared in accordance with Engineering Regulation (ER) 405-1-12, 12-16, Real Estate Plan, and presents the real estate requirements for this report, and identifies lands located along the Middle Rio Grande near Albuquerque, New Mexico, required for the construction of the Middle Rio Grande Ecosystem Restoration Project described below. This Proposed Project is being prepared in partnership with the Middle Rio Grande Conservancy District (MRGCD), who is the non-Federal sponsor.

This REP will be an appendix to the Integrated Feasibility Report. The Corps must for each project purpose and feature, fully describe the lands, easements, and rights of way, relocations, and disposal areas (LERRD) required for construction, operation and maintenance of the project including the acreage, estates, number of parcels, ownerships, and estimated value. The Corps must include other relevant information on sponsor ownership of land, proposed non-standard estates, existing federal projects and ownership, and relocations under the Uniform Relocation Assistance and Real Property Acquisition Policies Act (P.L. 91-626, as amended) ("the Uniform Act"), presence of contaminants, facility/utility relocations, a baseline cost estimate, a schedule for real estate activities, and other issues as required by ER 405-1-12.

This REP is written to the same level of detail as the Integrated Feasibility Report it supports. This Real Estate Plan is tentative in nature and is to be used for planning purposes only, and both the final real estate acquisition lines and the estimate of value are subject to change even after approval of the report.

### **2. PROJECT OBJECTIVE**

The objective of this report is to evaluate real estate problems, address issues, and determine the feasibility of potential solutions. In doing so, this report will research and recommend the land, easements and rights of ways (LER) required for the project and evaluate risk management alternatives for the Middle Rio Grande Conservancy District. The U.S. Army Corps of Engineers (USACE) Albuquerque District, proposes to restore approximately 216 acres of the Middle Rio Grande Bosque by; (1) improving hydrologic function by constructing high-flow channels, willow swales, and wetlands, and (2) by restoring native vegetation and habitat from exotic species/fuel reduction and restoring the riparian gallery forest. The approximate first cost of the project is estimated to be \$25,353,000.

Design alternatives and the No Action alternative were evaluated to meet the overall purpose and need of the project, which includes improving habitat quality and increasing the amount of native Bosque communities, promoting Bosque habitat heterogeneity, implementing measures to work with fluvial and ecological processes in the Bosque to create new wetland habitat, reduce the fire hazard, improve hydraulic connections between the Bosque and river, and protect/enhance potential habitat for listed species. Ecosystem Restoration is one of the primary missions of the Civil Works program. The objective of ecosystem restoration is to restore degraded ecosystem structure, function, and dynamic processes to a less degraded, more natural condition. Restored ecosystems should mimic, as closely as possible, conditions which would occur in the area in the absence of human changes to the landscape and hydrology.

### 3. STUDY AUTHORITY

The Rio Grande, Sandia Pueblo to Isleta Pueblo, CO, NM, TX (RGEMP-I) feasibility study is being conducted under the authority of Section 5056 of WRDA 2007 as amended by Section 4009 of WRRDA 2014. Section 5056 of WRDA 2007 authorized the Rio Grande Environmental Management Program, Colorado, New Mexico, and Texas. Section 5056, paragraph (b) reads in part:

*(b) Program Authority-*

*(1) IN GENERAL – The Secretary shall carry out, in the Rio Grande Basin—*

*(A) A program for the planning, construction, and evaluation of measures for fish and wildlife habitat rehabilitation and enhancement; and*

*(B) Implementation of a long-term monitoring, computerized data inventory and analysis, applied research, and adaptive management program.*

The RGEMP-I study is being conducted with initial funding provided in the Fiscal Year 2016 under the President's Budget. The non-federal project sponsor is the Middle Rio Grande Conservancy District (MRGCD).

### 4. STUDY AREA

The Rio Grande originates in southern Colorado and reaches 1,865 miles to the Gulf of Mexico, constituting the fourth largest river in the United States in terms of length and drainage area. The river bisects New Mexico in a north-to-south direction and delineates the 1,250-mile international boundary between Texas and Mexico. Portions of the river have been designated as "Wild and Scenic River" to protect its outstanding resource values.

The Middle Rio Grande Bosque is a riparian area located in the middle reach of the Rio Grande, in the vicinity of the City of Albuquerque, New Mexico. 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 (USACE 2002, 2003a, 2007, 2008a, b). The Bosque area within Albuquerque was designated as the Rio Grande Valley State Park (RGVSP) through the Park Act of 1983 and is cooperatively managed by the City of Albuquerque Open Space Division (AOSD) and the MRGCD. That is, the Bosque is offered protection as a state park, but without state operating funds, and is administered by the City and MRGCD through formal agreements.

*Senate Bill 529 provides that it is the intent of the Rio Grande Valley State Park Act that the State Parks Division (SPD) of Energy, Minerals, and Natural Resources Department (EMNRD) not bear the operating costs for the Rio Grande Valley State Park except for the area within the Rio Grande Nature Center State Park. ... The Rio Grande Valley State Park is managed by the City of Albuquerque with a joint powers agreement with the MRGCD.*

The Bosque within Corrales 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. Pueblo of Sandia lands are also within the study area and those lands are managed by the Pueblo.



The Northern extent of the Pueblo of Sandia forms the north boundary of the study area, whereas the southern boundary is formed by the southern limits of the Pueblo of Isleta. The area is defined on the east and west by the Albuquerque Levee system, although the areas outside and adjacent to the levees within the original floodplain have also been considered in the study. The study area is approximately 40 miles in length along the river and roughly 15,900 acres in areal extent. The average width of the floodway area between the levees is 1,500 feet and consists of the river channel and narrow strips of riparian habitat on each bank.

Because the RGEMP-I study area is so large, and the relative effects of proposed designs are localized to some degree, the Corps divided the project area into seven reaches. For this study, reaches one thru five mirror the reaches evaluated in the Middle Rio Grande Bosque. Reach designation allows for simplified hydrologic analysis of existing conditions and evaluation of proposed restoration plans. Bridges denote the upstream and downstream boundaries for each reach because bridge crossings tend to have the greatest influence on hydrology and, therefore, constitute a logical break point. The reach designations are amenable to consideration of stakeholder interests, vegetative community makeup, and geographic location.

Scoping discussions with MRGCD and the Pueblos resulted in deferral of the reaches on Sandia and Isleta Pueblos to a future study. This decision reduces the study area from seven to the original five reaches of the Middle Rio Grande Bosque study.

## **5. PROJECT PLAN DESCRIPTION**

The tentatively selected plan (TSP) consists of 42 Willow swales, 15 Treat-Retreat-Reveg, 5 Hi-flow Channels, 3 Wetlands, 2 Connections to River, 1 Enhance ditch for wet habitat, 1 Wet Meadow, 1 Divert outfall flows, 1 Bank line terrace, 3 Remove berms. 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.

In addition to carrying out the authorities granted to USACE for ecosystem restoration and specific legislation provided for initiation and support of this study, the project complies with the letter or intent of several Federal laws, executive orders, and treaties, with which USACE must comply, concerning restoration and conservation efforts, which include:

- North American Waterfowl Management Plan. The project will increase the amount and quality of resting, breeding, and foraging habitat for waterfowl.
- Executive Order No. 11990 (Protection of Wetlands) and North American Wetlands Conservation Act of 1989. The MRG restoration project will conserve, create, or improve a significant portion of the 5,000-acre project area, which is largely considered wetland habitat under the Executive Order and Act. Permanent and seasonal wetlands will be created and temporary inundation of the floodplain will be restored to over 25 percent of the study area.
- Executive Order No. 11988 (Floodplain Management). Through restoration efforts, the project will improve, and in most cases restore, critical functions that provide for the health of the floodplain.

- Endangered Species Act of 1973, as amended. The project will provide essential hatching and rearing habitat for the endangered Rio Grande silvery minnow through extended areas of inundation of the floodplain during high flows.
- Bald Eagle Protection Act of 1940. The project would ensure existing and future roost sites for migratory eagles. The restoration would indirectly benefit the eagle from water quality and higher fish availability.
- Migratory Bird Treaty Act of 1918, Migratory Bird Conservation Act of 1929, and associated treaties. Habitat improvements and diversification will benefit migratory birds using the MRG as a travel corridor and breeding site. Habitat improvements will benefit Neotropical migrants by providing essential feeding and resting habitats along the Rio Grande flyway.

## **6. REAL ESTATE REQUIREMENTS – DESCRIPTION OF LANDS, EASEMENTS, AND RIGHTS-OF- WAY (LER) REQUIRED FOR THE PROJECT**

All real estate (260.71 acres) required for the Tentatively Selected Plan is MRGCD (Sponsor) owned. Through agreements, some of the footprint is managed by the City of Albuquerque, the Village of Corrales, Sandia Pueblo, and State Land Office. The MRGCD has been a successful non-Federal sponsor for several past district projects.

All staging/laydown, borrow and disposal parcels will be confined within the construction footprint on sponsor owned land.

All access to the sites will be by public roadway and along the levee roadway, and no right of entries or access easements will be required. MRGCD owns in fee or easement rights for irrigation water delivery and drainage purposes.

There will be no planned Relocations of people or utilities within the project footprint.

The 260.71 acre project footprint will be divided into 5 reaches as depicted on the attached project maps. Reach 1 and 5 will not have any construction activities, and there will be no acquisition within the entire footprint. Table 1 below shows the breakdown of ownership and required standard estates.

**Table 1**

<b>Project Area</b>	<b>Project Feature</b>	<b>Acreage</b>	<b>Current Interest held by NFS</b>	<b>Standard Estate to be used</b>	<b>Owner</b>
<b>Reach 1</b>		0	Fee	Fee	MRGCD
<b>Reach 2</b>	Levee/Channel	104.80	Fee	Fee	MRGCD
<b>Reach 3</b>	Levee/Channel	100.86	Fee	Fee	MRGCD
<b>Reach 4</b>	Levee	55.05	Fee	Fee	MRGCD
<b>Reach 5</b>	Levee/Channel	0	Fee	Fee	MRGCD
	<b>Total</b>	260.71			

## **7. SPONSOR OWNED LER**

The land owner, Middle Rio Grande Conservancy District (MRGCD) supports the Recommended Plan (TSP). Partnership interests follow:

**USBR:** The U.S. Bureau of Reclamation (USBR) 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.

## **8. STANDARD FEDERAL ESTATES AND NON-STANDARD ESTATES**

All land needed for this project is owned in fee, and all construction required shall be done within this footprint. Borrow, disposal, temporary work area easements, staging areas, and right of entries will not be required. The estate for the whole footprint shall be Standard Estate No. 1, Fee:

No. 1 FEE

The fee simple title to (and described in Schedule A) (Tracts Nos. , and ), Subject, however, to existing easements for public roads and highways, public utilities, railroads and pipelines.

### **NON-STANDARD ESTATES**

The use of non-standard estates is not required for this project. If project requirements change and a non-standard estate is proposed, it will be vetted by the District, Division and HQ for approval before use.

## **9. DESCRIPTION OF ANY EXISTING FEDERAL PROJECTS IN OR PARTIALLY IN THE PROPOSED PROJECT**

Currently the Corps, the 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. This is relevant for purposes of flood risk management.

The Middle Rio Grande Endangered Species Collaborative Program (MRGESCP) is a multi-agency organization that has funded a number of habitat restoration projects in the Proposed Project Area. The Corps, USBR and NMISC have all constructed projects within the Proposed Project Area under the MRGESCP. These projects have been planned and constructed in coordination with each other. They have been planned so that they complement one another and do not overlap. Projects include:

- a. Habitat Restoration Plan for the Middle Rio Grande
- b. Middle Rio Grande Riverine Habitat Restoration Project
- c. Rio Grande Nature Center Habitat Restoration Project
- d. 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, selective thinning of areas with high fuel loads and/or nonnative 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 Project Area.

## **10. DESCRIPTION OF ANY FEDERALLY OWNED LAND NEEDED FOR THE PROJECT**

There are no additional known Federal lands needed for the project.

## **11. NAVIGATIONAL SERVITUDE**

Exercise of Federal navigational servitude is not applicable to this project and is not being invoked.

## **12. PROJECT MAP**

Exhibit A depicts maps of the project area.

## **13. POTENTIAL FLOODING INDUCED BY CONSTRUCTION, OPERATION, OR MAINTENANCE OF PROJECT**

Induced flooding is not anticipated for this project. All restoration work (and overbank inundation) will occur in the Bosque floodway between the levees through the Albuquerque area (roughly from the north end of Corrales to the I-25 crossing of the Rio Grande). A hydraulic model was conducted for 100 year flows to insure that the project would be safe and not adversely affect the levees or otherwise place properties at risk.

## 14. REAL ESTATE BASELINE COST ESTIMATE

Pre-acquisition appraisal services are not required unless total real estate costs constitute more than 10% of the total project costs. The values depicted below are based upon an informal value estimate derived from local Municipal Tax Assessment Office, and other publicly obtained information. All of the construction footprint is owned by the MRGCD, and the values below may or may not be used for crediting as determined by a fully executed Project Partnership Agreement, and existing Federal Law. Under federal law, already owned land acquired many years before this project will be eligible for crediting which will make the following land valuation moot as depicted in Table 2:

**Table 2**

<b>Non-Federal Sponsor Cost:</b>	<b>ACRES (Approx.)</b>	<b>COST</b>
Lands, Easements and Rights of Way (01 Account) (Including Disposal Sites)	260.71	\$451,740.00
Non Federal Administrative Costs Estimated at 10% of LER costs (01 Account)		\$45,174.00
*Incremental LER Costs (40% contingency) (01 Account)		\$180,696.00
<b>Sub-Total LER (01 Account)</b>		<b>\$677,610.00</b>
Facility/Utility Relocations (02 Account)		\$0.00
Incremental RE Costs (40% contingency) (02 Account)		\$0.00
<b>Subtotal Relocations (02 account)</b>		<b>\$0.00</b>
<b>Total Non-Federal LER and Relocations (01 and 02 Account)</b>		<b>\$677,611.00</b>
<b>Federal Cost:</b>		
Federal Administrative Costs (01 Account)		\$41,000
<b>Total Real Estate Costs Including Federal and Sponsor Admin.</b>		<b>\$718,610.00</b>

Typical Federal Real Estate costs include preparation of all Real Estate Reports, acquisition review of all ownerships materials, and coordination and planning meetings, review of documents, costs of legal reviews, mapping costs, and general administrative costs associated with the project, including monitoring activities.

## 15. PUBLIC LAW-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.

## **16. MINERAL/TIMBER ACTIVITY**

Commercial excavation and developed borrow pits exist in the Region, but not within the project area. 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.

## **17. NON-FEDERAL SPONSOR'S LEGAL AND PROFESSIONAL CAPABILITY AND EXPERIENCE TO ACQUIRE AND PROVIDE LER**

A thorough assessment of the non-Federal sponsor's (MRGCD) legal and professional capability and experience to acquire, provide and perform LER has been completed through the Assessment of Non-Federal Sponsor's Real Estate Acquisition Capability, which is in the format prescribed in ER 405-1-12, Appendix 12-E, and attached as Exhibit E. Based on the information provided by the non-Federal sponsor, the District's overall assessment is that the non-Federal sponsor is anticipated to be "fully capable."

## **18. APPLICATION OR ENACTMENT OF ZONING ORDINANCES**

At this time there are no foreseen enactments of zoning ordinances to facilitate acquisition of real property in connection with this project.

## **19. REAL ESTATE ACQUISITION SCHEDULE**

<b>Acquisition Tasks</b>	<b>Due</b>
Real Estate Personnel meet with Non-Federal Sponsor	Done, August 2018
Real Estate Plan	March 2019
Obtain Rights of Entry	Ongoing throughout life of project
Prepare Real Estate Cost Estimate	December 2018
Send Risk Letter to NFS for Proof of LER Ownership	Letter sent June 2018
Obtain Preliminary Title Report (Sponsor)	Order Title work when PPA is executed (late 2019)
Order Appraisals (Sponsor)	After final design/acquisition maps are prepared, and title work approved by OC by Mid-summer 2020, Appraisals should take about 3 to 6 months to complete.
Begin Acquisition of LERRD (Sponsor)	After all title, survey work and appraisals are certified. Spring 2022. All additional LER should be acquired within 6-8 months.
Prepare and Submit Credit Requests	After certification of LER by Sponsors Attorney
Review/Approve or Deny Credit Requests	60 day after request is received

## 20. FACILITY/UTILITY RELOCATIONS

A preliminary assessment of any utilities and facilities within the recommended plan footprint has been completed using guidance set forth in Real Estate Policy Guidance Letter (PGL) No. 31. In accordance with PGL No. 31, the District Real Estate Office has drafted a real estate assessment addressing whether any identified utility/facilities are generally of the type eligible for compensation under the substitute facilities doctrine and consulting data or evidence that demonstrates that it has identified an owner with a compensable interest in the affected property. There are no known facilities or utility relocations known at this time.

**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 LER RESPONSIBILITIES IS PRELIMINARY ONLY. THE GOVERNMENT WILL MAKE A FINAL 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.**

## 21. IMPACT ON REAL ESTATE ACQUISITION DUE TO SUSPECTED OR KNOWN CONTAMINANTS

The LER estimate is predicated on the assumption that all lands and properties are clean and require no remediation. A Phase I Environmental Site Assessment was completed with no known issues.

## 22. SUPPORT/OPPOSITION FOR THE PROJECT

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

## 23. NON-FEDERAL SPONSOR NOTIFICATIONS OF RISKS OF PRE-PPA ACQUISITION

The Middle Rio Grande Conservancy District will be the non-Federal Sponsor (NFS) for the Project. The NFS has the responsibility to acquire all real estate interests required for the Project. The NFS shall accomplish all alterations and relocations of facilities, structures and improvements determined by the government to be necessary for construction of the Project. The NFS will have operation and maintenance responsibility for the project after construction is completed.

Title to any acquired real estate will be retained by the NFS and will not be conveyed to the United States Government. Prior to advertisement of any construction contract, the NFS shall furnish to the government an Authorization for Entry for Construction (Exhibit "C" to the Real Estate Appendix) to all lands, easements and rights-of-way, as necessary. The NFS will also furnish to the government evidence supporting their legal authority to grant rights-of-way to such lands. The NFS 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). A form for the Assessment of the Non-Federal Sponsor's Capability to Acquire Real Estate is at Exhibit "C" to the Real Estate Appendix.

As all land within the project footprint are owned (many years before this project was planned) in fee by the sponsor, the sponsor may or may not be entitled to receive credit against its share of project costs for the value of lands it provides and the value of the relocations (if any) that are required for the project. Generally, for the purpose of determining the amount of credit to be afforded, the value of the LER 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 NFS 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 to execution of the PPA, 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. Letters advising the NFS of the risks of early acquisition are at Exhibit "D".

**SIGNATURE OF AUTHOR:**

I HAVE PREPARED THIS REAL ESTATE REPORT IN COMPLIANCE WITH ER 401-1-12:

By: MIRANDA.BENJAMIN.1274054278  
Benjamin C. Miranda  
Realty Specialist  
New Mexico/Colorado Branch (CESPL-AMA-AB)  
U.S. Army Corps of Engineers


Digitally signed by  
MIRANDA.BENJAMIN.1274054278  
Date: 2019.04.23 16:00:50 -06'00'

04/23/2019

Date

**REVIEW AND SIGNATURE OF CHIEF OF REAL ESTATE NEW MEXICO/COLORADO BRANCH:**

I HAVE REVIEWED AND APPROVED THIS REAL ESTATE REPORT FOR COMPLIANCE TO ER 401-1-12:

By:   
Sarah J. Watts  
Chief, New Mexico/Colorado Branch  
Los Angeles District (CESPL)  
U.S. Army Corps of Engineers

04/24/2019

Date



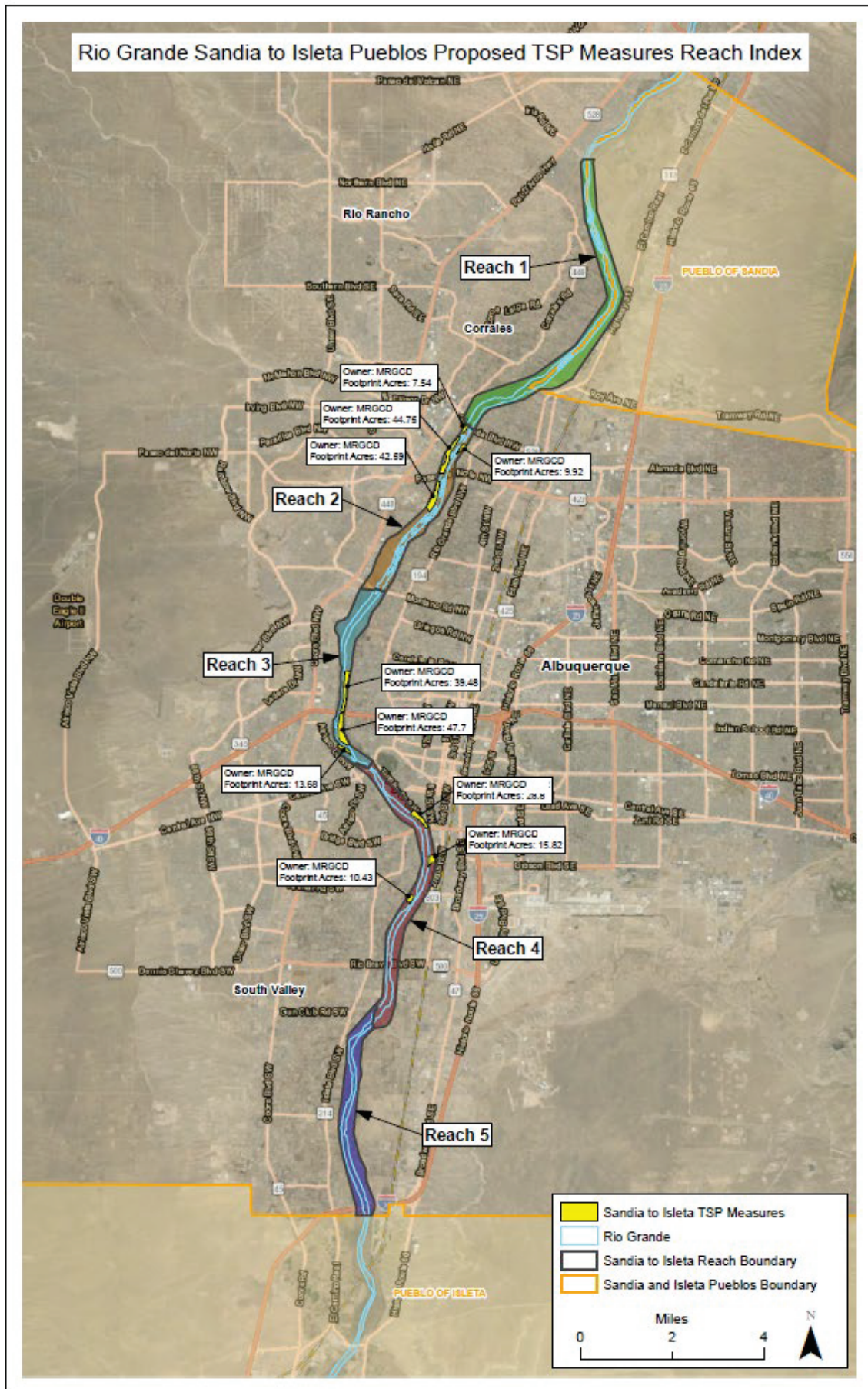
**REVIEW AND SIGNATURE OF CHIEF OF REAL ESTATE LOS ANGELES DISTRICT:**

I HAVE REVIEWED AND APPROVED THIS REAL ESTATE REPORT FOR COMPLIANCE TO  
ER 401-1-12:

By: \_\_\_\_\_ Date \_\_\_\_\_  
Cheryl L. Connett  
Chief, Real Estate Division  
Los Angeles District (CESPL)  
U.S. Army Corps of Engineers

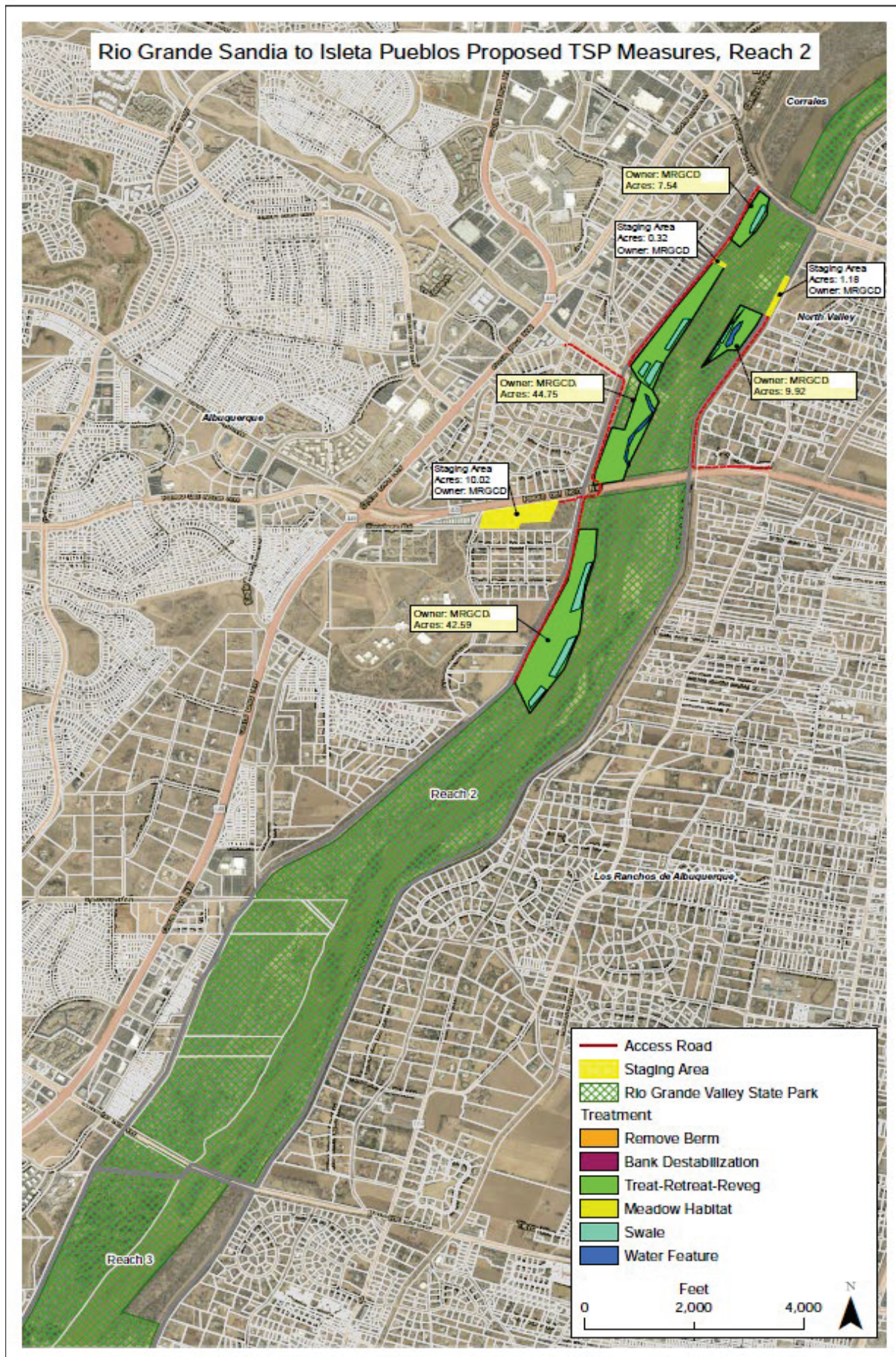
-----**SEE EXHIBITS BELOW**-----

# EXHIBIT A



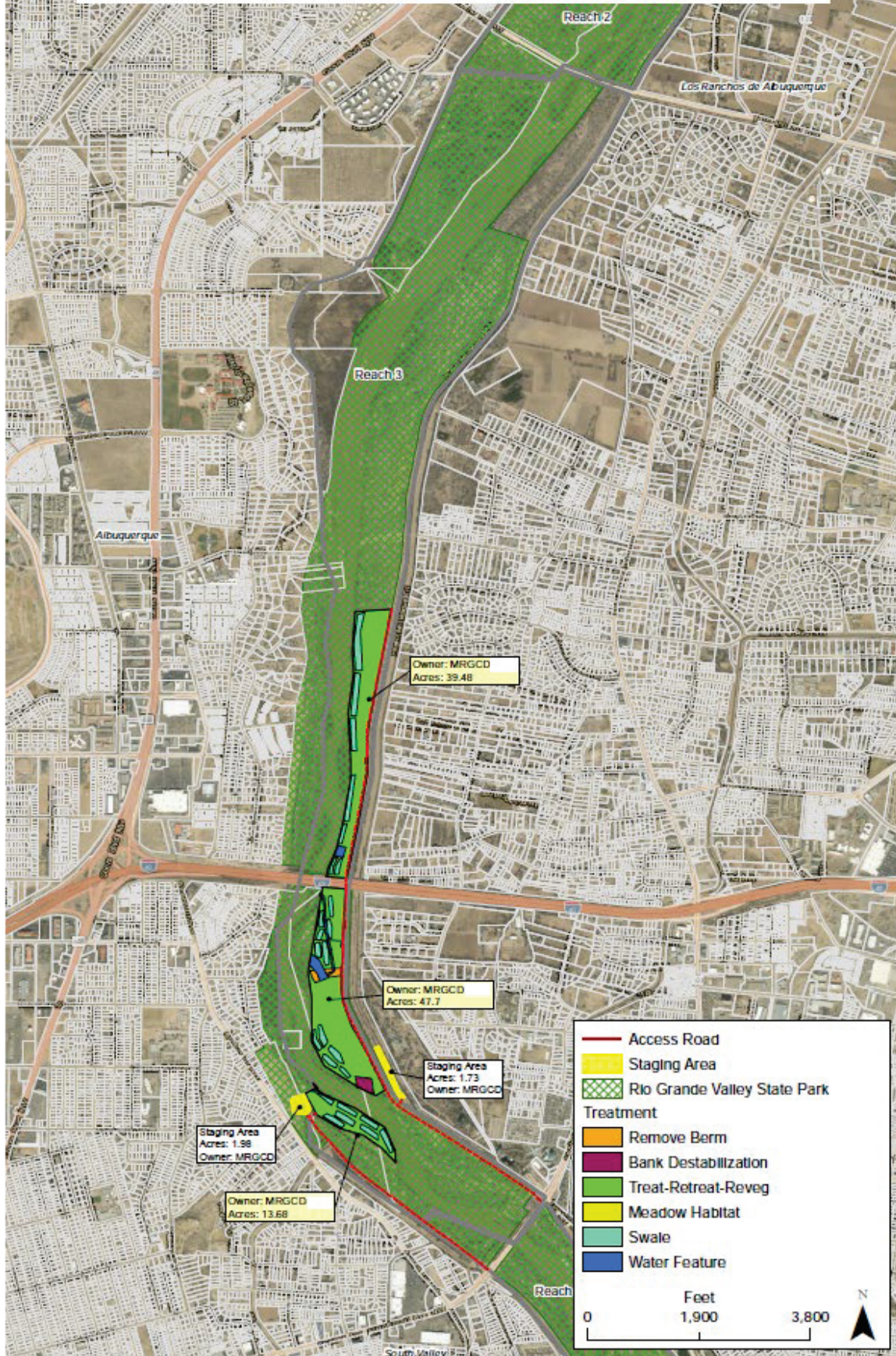


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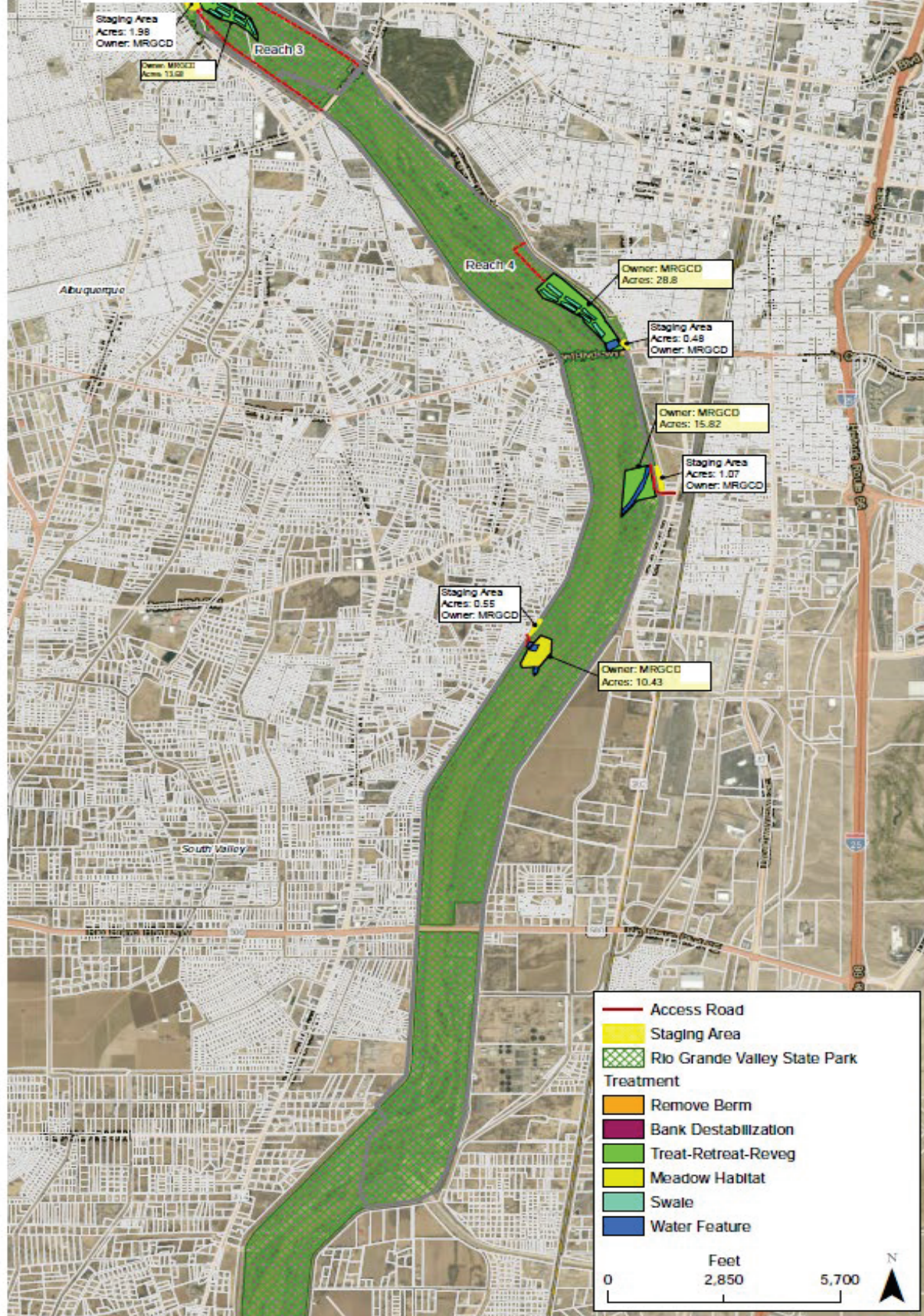


# Rio Grande Sandia to Isleta Pueblos Proposed TSP Measures, Reach 3





# Rio Grande Sandia to Isleta Pueblos Proposed TSP Measures, Reach 4





## EXHIBIT C

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

**PROJECT NAME:** Middle Rio Grande Ecosystem Restoration Project,  
Sandia to Isleta, 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? No, there will be no condemnation actions within the project footprint due to landownership title belonging to Bureau of Reclamation/ Middle Rio Grande Conservancy District.

#### 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

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**

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### 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,

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 Tentative Selected Plan Report.

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

Date: February 22, 2019

Prepared by: Benjamin Miranda, Realty Specialist

Reviewed and Approved by:

CONNETT.CHERYL  
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Cheryl L. Connett, Chief  
Real Estate Division  
Los Angeles District



## EXHIBIT D



REPLY TO  
ATTENTION OF:

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

June 5, 2018

CESPL-REN  
New Mexico/Colorado Branch

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

Subject: Middle Rio Grande Ecosystem Restoration Project, Sandia to Isleta, 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 Sandia to Isleta Ecosystem Restoration 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 Ecosystem Restoration project located in the Middle Rio Grande Floodway from the south property boundary of Sandia Pueblo, to the north property boundary of Isleta Pueblo, 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 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@usace.army.mil or feel free to contact me at 213-452-3118 or Cheryl.L.Connett@usace.army.mil.

Sincerely,

CONNETT.CHERY  
L.L.1231861358

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Cheryl L. Connett  
Chief, Real Estate Division  
Los Angeles District  
US Army Corps of Engineers