

This rule was filed as MRGC 70-1.

TITLE 21 AGRICULTURE AND RANCHING
CHAPTER 7 CONSERVANCY DISTRICTS
PART 1 GENERAL PROVISIONS

21.7.1.1 ISSUING AGENCY: Middle Rio Grande Conservancy District
[MRGC 70-1; Recompiled 12/31/01]

21.7.1.2 SCOPE: [RESERVED]
[MRGC 70-1; Recompiled 12/31/01]

21.7.1.3 STATUTORY AUTHORITY: [RESERVED]
[Recompiled 12/31/01]

21.7.1.4 DURATION: [Permanent.]
[Recompiled 12/31/01]

21.7.1.5 EFFECTIVE DATE: [Filed June 15, 1970, unless a later date is cited at the end of a section.]
[Recompiled 12/31/01]

21.7.1.6 OBJECTIVE:

A. **FOREWORD.** In order to secure the best results from the execution and operation of the project works of the District, and to prevent damage to the District by the deterioration, misuse, pollution of the waters, or unauthorized diversion of any natural or artificial watercourse within the District, and to further the recreational uses of the property of the District, the Board of Directors of the Middle Rio Grande Conservancy District hereby promulgates, makes and adopts the following policies, rules and regulations. John F. Arfman, Chief Engineer, MIDDLE RIO GRANDE CONSERVANCY DISTRICT

B. **SECRETARY'S CERTIFICATE.** I, Ione Stone, the duly appointed and qualified Secretary of the Middle Rio Grande Conservancy District, having custody of the records thereof, do hereby certify the foregoing to be true and correct copies of resolutions setting policies as adopted by the Board of Directors of the Middle Rio Grande Conservancy District. WITNESS my hand and seal of said District this 12th day of May, 1970. Ione Stone, Secretary, Middle Rio Grande Conservancy District
[MRGC 70-1; Recompiled 12/31/01]

21.7.1.7 DEFINITIONS: [RESERVED]
[MRGC 70-1 Recompiled 12/31/01]

21.7.1.8 POLICIES OF THE MIDDLE RIO GRANDE CONSERVANCY DISTRICT:

A. **WATER DISTRIBUTION.**

(1) Water that is available to the District will be divided between Divisions in proportion with the amount of land served, so far as it is possible to do so, and to lands within each Division in like manner. Indian lands under cultivation at the present time are considered to have first right to the water.

(2) No water will be delivered to water users who are delinquent in the payment of Conservancy District assessments.

(3) In the interest of water user welfare and efficient water distribution, ditchriders will not be required to deliver water to siltladen and weed-clogged community ditches, field ditches and laterals.

(4) Water will be delivered on the basis of demand and rotation. Water will be first delivered to ditches at the upper end of each division and will be supplied progressively toward the lower end of the division. Irrigation will be completed in each area before transferring the water to another area, provided inter-division water rationing and rotation are not required.

(5) In a similar manner, irrigation deliveries will be started at the upper end of each ditch, and each tract served by that ditch will be irrigated progressively downstream upon request from the water users. No irrigation deliveries will be made except with the express permission of the ditchrider.

(6) It is essential that water users irrigate both day and night on a seven-day schedule to utilize available supplies. Failure to do so will be construed to indicate no further need for water unless other arrangements are okayed by the ditchrider.

(7) Water users who work outside their farms will, if possible, be advised in advance as to when water is scheduled for delivery to their farm so that they can make arrangements for labor that may be required.

(8) Water users will be permitted to open their turnouts and operate checks only at times specifically approved by the ditchrider. The water user shall notify the ditchrider as far in advance as possible of his need for water, and the ditchrider will advise the water user as far in advance as possible when the water will be available.

(9) Each ditchrider will keep a record in a bound book furnished for the purpose of showing water use by ditches. The record will show water users in proper sequence on each ditch, the dates water was started and shut off, and whether irrigation was completed. Notes shall be made of any special cases of delivery, wasting of water, turning off at night, or violations of regulations and instructions regarding distribution or use of water. Each violation will be promptly reported to the watermaster and division manager and each report will be noted in the record book.

(10) The ditchrider holds a key position and will at all times maintain close contact with the farmer or water user. There shall be no partiality shown in distribution of water regardless of personal feeling, race, creed, relationship, political, or social standing or previous grievances.

(11) A ditchrider shall establish a definite time, preferably around meal time, when water users may call to place orders for water and obtain information. In areas where telephone service is not available or is inadequate, the ditchriders will set up memorandum boxes (similar to a mail box) where they can pick up requests for water from the water users daily. A box will also be provided at each ditchrider's residence.

(12) The ditchriders and/or superiors are duly constituted representatives of the Middle Rio Grande Conservancy District, and are in charge of operation and maintenance of District works, and shall report any violations of the above rules and regulations.

(13) Water pumped from drains is subject to the same regulations of distribution as irrigation water distributed through the regular irrigation canal distribution system.

(14) As of February 25, 1964, the issuance of licenses permitting pumping of water from Conservancy drains is discontinued, except in cases where it is not physically or financially feasible for water to be obtained from any other source. Any licensee using water in accord with permit issued prior to this date is required to conform with all rules and regulations herein set forth, and the license of any violator thereof shall be revoked.

B. INSTALLATION AND REPLACEMENT OF FARM TURNOUT STRUCTURES.

(1) Farm turnouts will be installed on the basis of one turnout per ownership or farm unit up to 40 acres in size. Where the ownership exceeds 40 acres, additional turnouts may be provided for each additional 40 acres or increment thereof. Additional turnouts may also be installed where the topography of the land makes it impractical to irrigate all of the land from one turnout. Such additional turnouts may be installed only after a careful engineering study has been made.

(2) The above policy adopted as of February 1, 1955, is applicable to canals, laterals, levees, and acequias under jurisdiction of the Middle Rio Grande Conservancy District.

(3) Additional turnouts will not be installed to serve subdivisions of existing ownerships. The subdivider will be required to provide for irrigation deliveries to all subdivisions of holdings through head ditches located outside of rights of way owned by the Conservancy District. The District's obligation shall end at the original point of diversion previously provided for serving the original tract.

(4) Installation and replacement of farm turnouts will be done in compliance with District design criteria.

(5) Where it is practical to do so, water users in the general vicinity of a turnout will be served their water supply through the use of existing water distribution boxes, which were established at the time of the original construction of District works and/or rehabilitation by the Federal Government.

C. MAINTENANCE AND REPLACEMENT AND CONSTRUCTION OF CANAL, LATERAL, LEVEE, AND DRAIN CROSSINGS.

(1) Maintenance and replacement of all crossing structures on state, county, or city roads or streets is the responsibility of the agency maintaining the road or street.

(2) Crossing structures which were constructed by the Conservancy District or the Bureau of Reclamation to facilitate operation and maintenance work and located at points other than intersections with state, county, or city roads and streets will be maintained with funds advanced by the District.

(3) Bridges constructed by the District because of severance of ownership will be maintained and/or replaced as necessary by the District so long as the ownership continues to be severed. If all of the land on one side of the ditch is sold, the severance will no longer exist. Maintenance or replacement of a crossing constructed by the District because of severance which no longer exists will no longer be the responsibility of the Conservancy District. In instances where the District has maintenance responsibility on bridge crossings as requirements demand, the District will up-date these crossings either by revamping the bridge or by the installation of a pipe to meet the load requirements of today's activities.

(4) Crossing structures at private roads must be maintained and replaced as necessary by the individual using the crossing. Bridge or culvert designs must be specifically approved in advance by the District and the Bureau of Reclamation.

(5) No crossing may be constructed without prior written approval of the Conservancy District and the Bureau of Reclamation. Such approval shall be in the form of a license. Licenses for construction of new crossings will be issued only after the responsibility for maintenance has been clearly established.

(6) A license for the construction of a crossing over District facilities may be granted in event of definite inconvenience or hardship imposed by severance or as a result of District or Bureau construction, real estate transactions or developments which result in loss of access detrimental to land use through no fault of the applicant.

(7) Requests for licenses to construct new crossings must be submitted in writing to the General Manager of the Conservancy District. No construction will be permitted until controlling elevations have been established or checked in the field by a representative of either the District or the Bureau.

D. CONSTRUCTION OF CROSS FENCES. No fences may be constructed or maintained across rights of way of the District or the United States unless specifically authorized.

E. FENCES PARALLELING RIGHTS OF WAY OF UNITED STATES OR DISTRICT. Upon request, the Bureau or the District may establish in the field the location of the rights-of-way line so that parallel fences may be constructed on that line. No parallel fences may be constructed upon rights of way of the United States or the District unless license is issued.

F. FIELD HEAD DITCHES: Field head ditches will not be permitted upon rights of way owned by the United States or the District. It shall be the land owner's responsibility to remove any such existing ditches from rights of way of the District or the Bureau of Reclamation upon notice.

G. OTHER ENCROACHMENTS AND TRESPASSES ON RIGHTS OF WAY OF THE UNITED STATES OR DISTRICT. It is the duty of every employee of District to report to his supervisor what may appear or definitely be any encroachment or trespass of any kind upon rights of way of the United States or the District. Failure to do so will be considered grounds for disciplinary action.

H. USE OF OPERATION AND MAINTENANCE ROADS BY THE PUBLIC. The roads adjacent to the canals, laterals, levees, and drains are essential for efficient and economical operation and maintenance. Any unauthorized use shall be discontinued. The cooperation of City, County, State and Federal law enforcement officers will be solicited to aid in achieving this goal.

I. DUMPING TRASH ON RIGHTS OF WAY OWNED BY THE UNITED STATES OR THE CONSERVANCY DISTRICT. Employees of the District or the Bureau are required to report the description of the vehicle, license number, name of driver, if available, time, and place of any observed unlawful dumping of trash or debris on the rights of way of the District or the United States. Failure to do so will be considered grounds for disciplinary action.

J. CONTAMINATION OF WATER IN DITCHES OWNED BY THE UNITED STATES OR THE CONSERVANCY DISTRICT. It shall be the duty of every employee to advise the public as to regulations concerning contamination of waters conveyed by canals, laterals and drains as may be required, and to promptly report violations to his supervisor.

K. CONSTRUCTION OF UTILITIES ON RIGHTS OF WAY OWNED BY THE UNITED STATES OR THE CONSERVANCY DISTRICT. Overhead utility lines such as power lines, telephone lines, etc., gas, water, sewage lines, high pressure oil or gas lines, etc., shall be constructed only after an appropriate license has been issued. Application for such license shall be made through the District.

[MRGC 70-1 6-15-70, 7-26-71, 6-24-74, 5-11-77; Recomplied 12/31/01]

21.7.1.9 OPERATION AND MAINTENANCE POLICY PRIVATE AND COMMUNITY ACEQUIAS:

A. WHEREAS, numerous requests have been made to the Middle Rio Grande Conservancy District petitioning said District to clean out and maintain certain local acequias which have heretofore been cleaned and maintained by the individual landowners thereunder and for their own use, and

B. WHEREAS, the Official Plan of the District provides that the District will deliver water to within approximately one-half miles of any and all lands within the District and that by so doing it has fulfilled its obligation in that respect, said private ditches not being the property of the Conservancy District but are the private service laterals of the landowners who have constructed and maintained the same for their own individual use and benefit,

C. NOW, THEREFORE, BE IT RESOLVED.

(1) that it has been and is the policy of this Board that the cleaning and maintaining of said private acequias is not an obligation of the District and rests entirely with the individual landowners thereunder; that the District will clean and maintain only such main ditches as were cleaned and maintained by the community at large under the direction of community ditch commissioners prior to their acquisition by the Conservancy District.

(2) The District will, however, when requested to do so by the landowners, supervise and direct the cleaning of such private ditches and keep the records of time of the various owners doing the work thereon.

[MRGC 70-1 6-15-70, 5-11-77; Recompiled 12/31/01]

21.7.1.10 PUMPING POLICY - MAIN IRRIGATION CANALS:

A. WHEREAS, applications have been made by owners of land adjacent to some of the main irrigation canals of the District for the right to pump water from said canals for the irrigation of lands not serviceable by gravity flow from said canals said lands being within the exterior boundaries of the Middle Rio Grande Conservancy District but have not been appraised for benefits or assessed for construction or operation and maintenance cost.

B. WHEREAS, it is provided in the conservancy act that the District has legal right to sell, or lease, water to land owners for such use, to promote the safe, economical and reasonable use of the waters of the District for the purpose of encouraging agricultural development of the District, and to secure funds to be applied to the cost of construction, operation and maintenance of the District works;

C. BE IT RESOLVED that the District grant applications for extension of water use, in conformity with the Conservancy Act, through the installation and operation of pumping plants by the applicants at their own cost and expense and that the District levy an annual charge for the service of said water upon the basis of the annual charge for principal, interest, guaranty and operation and maintenance on lands classified by the Appraisers Report as the same classification and character. All of such applications to be submitted to and approved by the Chief Engineer.

[MRGC 70-1 6-15-70; Recompiled 12/31/01]

21.7.1.11 PLAN FOR TAKE OVER AND OPERATION OF CERTAIN COMMUNITY DITCHES:

A. We have received numerous petitions and requests from landowners on the larger of the community ditches, asking that the District take over and operate said ditches.

B. In most of the cases involved the acreage irrigated under the ditch is not very large but due to the large number of holdings and improvements constructed, the benefits appraised against the lands involved are considerably above the average for the District.

C. For this reason and due to the fact that so many users are involved I wish to recommend to the Board that the District take over and operate certain of these ditches, subject to the following terms and conditions:

(1) That a petition be presented to the District signed by owners representing at least 75% of the acreage or appraised benefits under the ditch, requesting that such ditch be taken over by the District.

(2) That the landowners, at no expense to the District, furnish the District with sufficient easement for the efficient operation of said ditch.

(3) That after compliance with the above, and after being reviewed by the District officials, the Board take specific action on each ditch individually as to whether or not it shall be taken over and operated, and specifying any other provisions or reservations necessary, as the case may require.

[MRGC 70-1 6-15-70; Recompiled 12/31/01]

21.7.1.12 TAKE OVER - OPERATION AND MAINTENANCE COMMUNITY DITCHES:

A. WHEREAS, during the year 1940 the Middle Rio Grande Conservancy District by the Board of Commissioners took over the operation and maintenance (except for the construction of individual turnouts and checks) of six community ditches on the petition and grant of easement by the landowners thereon, and

B. WHEREAS, the Board during the past few months has received numerous petitions to take over operation and maintenance on additional community ditches of various sizes and lengths and has also received many other oral and written requests to clean and maintain other small ditches and it is expected that in as much as there are a great number of such ditches in the District many more such petitions will be presented in the future, and

C. WHEREAS, it has been brought out in discussion with the petitioners that the burden of cost of maintaining these small community ditches is not excessive to the landowners thereon, but that great difficulty is encountered in the distribution of work to be done in getting the various owners together to do the necessary work, and it is also brought out that as a general rule the petitioners are willing and anxious to install their own individual turnouts and checks in said ditches, if the operation and maintenance of the ditches are handled by the District, and

D. WHEREAS, it is the desire of this Board to extend the distribution system for irrigation as far as possible in keeping with the financial ability of the District to do so, and while it is felt that to take over operation and maintenance of all ditches on which petitions have been received and are expected to be received will require a financial outlay which may at this time impair the efficient operation and maintenance of the main canals, laterals, and other District works, it is believed that the larger and more important of the ditches on which petitions are being received should be taken over and operated and maintained by the District under certain terms and conditions.

E. NOW, THEREFORE, BE IT RESOLVED, that until further policies are established by the Board of Commissioners of the Middle Rio Grande Conservancy District, the said District will take over the operation and maintenance of certain community irrigation ditches subject to the following terms and conditions:

(1) That as to size of the ditch, acres irrigated therefrom, number of landowners thereon, and amount of appraised benefits for maintenance involved at least two of the following conditions must be met.

(a) The area subject to irrigation from the ditch must be not less than eighty (80) acres.

(b) The number of individually owned tracts served by the ditch must be not less than twenty (20).

(c) The benefits appraised for maintenance purposes shall be not less than Eight Thousand Dollars (\$8,000).

(2) That at least 75 per cent of the landowners thereon sign a petition in a form prepared by the District requesting that the operation and maintenance of said ditch be taken over by the District.

(3) That a grant of easement for right-of-way in a form prepared by the District be signed by each and every owner of land over which the ditch passes.

(4) That until such time as the District is in a more stable financial condition that all individual turnouts and checks in any ditch, which may be taken over, be installed by the individual property owners and that each individual must have such structures constructed satisfactorily to the District, and that in no instance will the water user be permitted to irrigate through open cuts in the banks of the ditch nor to throw earthen dams in the ditch.

(5) That the provisions of this resolution be made a part of any agreement to take over operation and maintenance of community ditches.

[MRGC 70-1 6-24-74; Recompiled 12/31/01]

21.7.1.13 ROADS TO BE CLOSED TO VEHICLE TRAVEL ALONG DISTRICT STRUCTURES:

A. WHEREAS, it has been brought to the attention of the Board of Directors of the Middle Rio Grande Conservancy District that the general public is using the roads along the canals and ditches, title to which is now vested in the United States of America, for vehicular travel; and

B. WHEREAS, the use of such roads for vehicular travel has resulted in damage to the District works, and greatly interferes with the personnel of the Bureau of Reclamation in patrolling such canals and ditches and protecting the works of the District from further damage; and

C. WHEREAS, it is the consensus of the Board of Directors, in order to properly police and protect the works of the District pursuant to the authority vested in the Board under Section 75-31-4, New Mexico Statutes Annotated, 1953 Compilation, that certain roads along the canals and ditches hereafter described, be closed to all vehicular travel, except vehicles belonging to the District, Bureau of Reclamation, and Corps of Army Engineers, and such other vehicles duly authorized to travel upon such roads.

D. BE IT THEREFORE RESOLVED by the Board of Directors of the Middle Rio Grande Conservancy District, the Bureau of Reclamation "hereunto consenting, that the following roads be closed to all vehicular travel, except as to vehicles belonging to the Middle Rio Grande Conservancy District, the Bureau of Reclamation, and the Corps of Army Engineers, to-wit:

(1) Barr Interior Drain from West Line of Second Street, SW to North line of Isleta Indian Pueblo lands;

- (2) Williams Lateral from Barr Main Canal to wasteway into Barr Riverside Drain of North line of Tract 35-A, Map 59 (MRGCD Property Maps);
- (3) Albuquerque Riverside Drain north from Lane Lateral Wasteway at north line of Tract 98, Map 22 (MRGCD Property Maps);
- (4) Barr Riverside Drain from Isleta Indian Pueblo North boundary to Highway 85 and from Highway 66 to north line of Tract 335, Map 35 (MRGCD Property Maps);
- (5) Atrisco Riverside Drain from Highway 66 to Highway 85;
- (6) Albuquerque Riverside Drain from north line of Tract 51-A, Map 22, to south line of Sandia Pueblos lands (MRGCD Property Maps);
- (7) Sandoval Lateral from Corrales Main Canal to north line of Tract 4, Map 20, (MRGCD Property Maps);
- (8) Corrales Riverside Drain from Corrales Bridge (State Road 46) to Corrales Main Canal siphon under Rio Grande at north line of Tract 1, Map 14 (MRGCD Property Maps);
- (9) Corrales Acequia from North line of Tract 21-A, Map 15 to State Road 46 on south (MRGCD Property Maps);
- (10) Corrales Main Canal from north line of State Road 46 to Corrales Main Canal river siphon on north of north line of Tract 1, Map 14 (MRGCD Property maps);

E. BE IT FURTHER RESOLVED THAT this resolution be published in some newspaper of wide circulation published in the Counties wherein the above described roads are located for not less than two weeks, notifying all persons concerned of the action of the Board, and that all of such roads be posted against trespass. [MRGC 70-1 6-15-70; Recompiled 12/31/01]

21.7.1.14 CLOSED ROADS AMENDMENT

A. WHEREAS, the District by resolution duly adopted on or about the 14 day of November, 1961, and thereafter published, has closed to vehicular traffic certain roads on the properties of the MIDDLE RIO GRANDE CONSERVANCY DISTRICT along or near certain drains, laterals, canals or ditches within the District, and

B. WHEREAS, by virtue of additional construction of highways within Bernalillo County, including the Rio Bravo Bridge, and the increasing density of population in areas in Bernalillo County, and

C. WHEREAS, the use of the roads along the Atrisco Riverside Drain between Highway 85 and the north boundary of the Isleta Pueblo, has resulted in damage to the District works, unauthorized dumping of trash, interference with the personnel of the United States Bureau of Reclamation patrolling and maintaining such ditches and canals, and

D. WHEREAS, certain persons within the MIDDLE RIO GRANDE CONSERVANCY DISTRICT or outside the District desire to cut firewood in the floodway of the Rio Grande or in other areas under the control of the MIDDLE RIO GRANDE CONSERVANCY DISTRICT, and it would be in the interests of the District to have said wood removed, to reduce fire hazards, under appropriate regulation and supervision.

E. NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the MIDDLE RIO GRANDE CONSERVANCY DISTRICT, the United States Bureau of Reclamation "hereunto consenting, that the resolution of 14 November, 1961, be amended by adding the following:

(1) That the following additional roads be closed to all vehicular traffic except vehicles belonging to or authorized by the said MIDDLE RIO GRANDE CONSERVANCY DISTRICT, including police officers, the United States Bureau of Reclamation and the Corps of Army Engineers, service roads from Highway 85 intersection with the Atrisco Riverside Drain south to the north boundary of the Isleta Pueblo.

(2) That those persons who desire to cut firewood on the properties owned or under the control of the MIDDLE RIO GRANDE CONSERVANCY DISTRICT will be permitted to do so under the following conditions: that they make application to the Chief Engineer of the District for a permit without cost to the person desiring wood, which permit will allow them at times specified by the District to enter upon the said roads for the purpose of securing firewood.

F. BE IT FURTHER RESOLVED that other than amended hereby, the resolution of 14 November, 1961, shall remain in full force and effect. [MRGC 70-1 6-15-70; Recompiled 12/31/01]

21.7.1.15 USE OF FLOODWAY BETWEEN RIVER AND LEVEE BANKS FOR PARKS AND RECREATIONAL PURPOSES:

A. WHEREAS, considerable publicity regarding use of Conservancy District and Bureau of Reclamation rights-of-way for park and recreational areas is being circulated; and

B. WHEREAS, properties generally being considered are within the floodway areas along the Rio Grande and are subject to being flooded when rains or melting snow fill the main canal; and

C. WHEREAS, due to the above-mentioned flood threat there are definite limitations to the possible use of the flood plain; and

D. WHEREAS, legal as well as legislative questions may be involved in the use of the flood plain for recreational uses; and

I. WHEREAS, any recreational use made of the flood plain should be of a public benefit.

J. THEREFORE, BE IT RESOLVED that the Middle Rio Grande Conservancy District will cooperate with any governmental agency which would legally and legislatively assume full responsibility for the development of this area for public use; and

K. FURTHER, BE IT RESOLVED that any planned use shall be reviewed by the Middle Rio Grande Conservancy District, Bureau of Reclamation, and the Corps of Engineers for the concurrence on the suitability of the proposal; and

L. FURTHER, BE IT RESOLVED that whatever agency assumes this responsibility shall hold the Middle Rio Grande Conservancy District, Bureau of Reclamation and Corps of Engineers harmless from any and all liability of any nature which may arise by nature of such uses of the flood plain of the Rio Grande River.
[MRGC 70-1 6-5-73; Recompiled 12/31/01]

21.7.1.16 BRIDGES IN LIEU OF PIPE:

A. WHEREAS, certain main canals and portions of the carrier system for irrigation water within the Conservancy District are located contiguous to mesa land; and

B. WHEREAS, these canals, etc. are vulnerable to blowing tumbleweeds and other debris blown from the adjacent mesa land; and

C. WHEREAS, the numerous existing pipe crossings located on these canals and carrier system almost invariably become clogged at the occurrence of windstorms causing serious delays in water delivery and excessive cleaning costs; and

D. WHEREAS, subdivision development on mesa land adjacent to the aforementioned canal system has caused ever-increasing requests for crossings and access;

E. BE IT THEREFORE RESOLVED and made a part of the policies of the Middle Rio Grande Conservancy District and Bureau of Reclamation that, in addition to licensing, future crossings to be constructed shall be limited to bridges, and such plans for construction of bridges shall be approved in advance by Middle Rio Grande Conservancy District and Bureau of Reclamation.
[MRGC 70-1 6-15-70; Recompiled 12/31/01]

21.7.1.17 TURNOUT POLICY:

A. WHEREAS, District policies heretofore adopted and in existence for many years have provided that there will be one turnout to supply each forty (40) acres of land with surface waters from existing ditches of the District; and

B. WHEREAS, in areas within the benefitted area of the District, tracts of land or portions thereof are being purchased and then subdivided by subdivision plat, the subdivider making no provisions prior to subdivision and sale of lots within the subdivision for the irrigation of lots within the subdivision by way of easements for ditches; and

C. WHEREAS, persons are appearing before the Board who have acquired lots in such subdivision and now seek water from turnouts to use surface water from ditches within the subdivision; and

D. WHEREAS, installation of multiple turnouts to furnish each tract of land within a subdivision abutting on an irrigation ditch would substantially increase the costs of operation and maintenance of the District and impair the ability of the District to properly maintain the ditches for the purpose of transporting surface waters to irrigators;

E. NOW, THEREFORE, BE IT RESOLVED THAT, the policies heretofore established by the District are reaffirmed and that any subdivider desiring to have a plat of his subdivision approved by the District, it being the intention of the subdivider that tracts are to use surface waters for irrigation, such subdivision plat must provide for rights of way for ditches across the lands of such subdivision and the subdivider must provide a means of securing

water from existing turnouts, or the District shall be absolved of all obligations to furnish irrigation waters and services to any portions thereof, other than from existing turnouts.
[MRGC 70-1 6-15-70; Recompiled 12/31/01]

21.7.1.18 UPDATING OG TURNOUT INSTALLATIONS:

- A. WHEREAS, the Middle Rio Grande Conservancy District frequently has requests from water users for additional turnouts, or relocation of turnouts, and
- B. WHEREAS, the Conservancy District recognizes that there is reason for people to change their methods of irrigation which might create the need for a relocation of a turnout,
- C. IT IS HEREBY RESOLVED that if in the good judgment of the administrative personnel of the Conservancy District, there is a need for either installation of a new turnout or relocation of an old turnout, that this work should be done with the water user sharing in the cost of whatever modification expenses are incurred; but this resolution shall in no way modify prior resolutions of the Board, other than set forth herein.
[MRGC 70-1 7-26-71; Recompiled 12/31/01]

21.7.1.19 USE OF RIGHT OF WAY BY UTILITIES - UNDERGROUND INSTALLATIONS [1969]:

- A. WHEREAS, the Middle Rio Grande Conservancy District is continually being asked by the utility companies (gas, electricity and telephone) for the use of or for crossings of our right-of-way, and,
- B. WHEREAS, the Middle Rio Grande Conservancy District has in the past always tried to accommodate the needs of the utility companies without hindering the operation of or adding to the costs of the District, and
- C. WHEREAS, electric and telephone lines are more and more being placed underground, and
- D. WHEREAS, in the past the District has not been of the opinion that the placing of utility lines underground in our rights-of-way was desirable, and
- E. WHEREAS, the placing of the electric and telephone wires underground does add considerably to the aesthetic appearance of a neighborhood,
- F. BE IT, THEREFORE, RESOLVED, that upon the request of a utility company for license to install their facilities underground within our right-of-way, that permission be granted, provided that:
 - (1) Upon examination of the request, both in the field and from office records, there will not be any encroachment on or interference with the operation of the District works.
 - (2) That if ever damage occurs to the utility facilities from the normal operation of District works, or, in the event of damage to others by reason of the utility's facilities, the District and the United States Government shall be held harmless from any and all liability in connection therewith.
 - (3) Should it ever become necessary to move the utility facilities because of realignment, rehabilitation or for any other reason requiring a change in the works of the District, the relocation of the facilities of the utility shall be solely the responsibility of the utility and the cost of such relocation will be paid by the utility.
[MRGC 70-1 7-26-71; Recompiled 12/31/01]

21.7.1.20 USE OF RIGHT OF WAY BY UTILITIES - UNDERGROUND INSTALLATIONS [1973]:

- A. WHEREAS, on request of public utility companies the District, with the concurrence of the United States Bureau of Reclamation, has issued licenses to such utilities for crossing rights-of-way for District works, and
- B. WHEREAS, such crossings oftentimes may interfere with machine cleaning of ditches, drains or canals, particularly if such crossings are overhead crossings, and
- C. WHEREAS, during recent years procedures have been developed for installation of electrical and telephone cables underground, and
- D. WHEREAS, installation of utility lines generally benefits residents of the District as well as those outside the District,
- E. NOW, THEREFORE, BE IT RESOLVED that where applicable, licenses issued on request of utilities, including, but not limited to, water, sewer, gas, electricity and telephone, after approval of installation plans by the District and Bureau, shall provide that the installation of the utility shall be within five feet of the outside edge of the right-of-way and at least three feet below the level of the adjoining natural ground surface and the same shall be so installed that there will be no interference with the operations or maintenance of the District works involved.
[MRGC 70-1 6-24-74; Recompiled 12/31/01]

21.7.1.21 STORAGE OF WATER FOR INDIANS - EL VADO RESERVOIR:

A. WHEREAS, at a regular meeting of the Board of Directors of the Middle Rio Grande Conservancy District held on January 27, 1970, there was submitted to the Board of Directors for consideration a letter under date of January 13, 1970, from the Honorable Orme Lewis, Jr., Deputy Assistant Secretary of the Interior requesting the Board of Directors to store water in E1 Vado Reservoir for the use and benefit of the Pueblo Indians within the confines of the Middle Rio Grande Conservancy District for the year 1970, and

B. WHEREAS, the Middle Rio Grande Conservancy District recognizes its obligation to the Pueblo Indians within the confines of the Middle Rio Grande Conservancy District to furnish water under that certain contract and agreement between the United States of America on behalf of the Indians, dated December 14, 1928; and

C. WHEREAS, the Department of the Interior, Bureau of Reclamation, by contract, is now in full control of the operation of E1 Vado Dam and Reservoir; and

D. WHEREAS, after full discussion, it was unanimously voted that the Middle Rio Grande Conservancy District should instruct the Bureau of Reclamation to comply with the District's contract with the United States of America on behalf of the Indians dated December 14, 1928, by storing water in E1 Vado Reservoir for the use and benefit of the Pueblo Indians within the confines of the Middle Rio Grande Conservancy District for the year 1970.

E. NOW, THEREFORE, BE IT RESOLVED and the Board of Directors of the Middle Rio Grande Conservancy District hereby instructs the Bureau of Reclamation to comply with the District's obligation to store water in E1 Vado Reservoir for the use and benefit of the Pueblo Indians within the confines of the Middle Rio Grande Conservancy District for the year 1970 pursuant to the provisions of the aforementioned contract dated December 14, 1928.

[MRGC 70-1 6-15-70; Recompiled 12/31/01]

21.7.1.22 HUNTING AND FISHING:

A. WHEREAS, the Board of Directors of the Middle Rio Grande Conservancy District, on January 27, 1970, did pass a Resolution allowing limited hunting in certain areas of the flood channel of the Rio Grande,

B. WHEREAS, the Board of Directors of the Middle Rio Grande Conservancy District find that they do not have the staff necessary to enforce this regulation and find that in the absence of such a regulation, enforcement would be covered by the laws of the governmental entity having jurisdiction in that portion of the river,

C. WHEREAS, the Board of Directors of the Middle Rio Grande Conservancy District find it to be in the best interests of the people of the State of New Mexico and the Middle Rio Grande Conservancy District to abolish the resolution entered on January 27, 1970, allowing certain hunting and disallowing other hunting.

D. NOW, THEREFORE, IT IS RESOLVED by the Board of the Directors of the Middle Rio Grande Conservancy District that the Resolution adopted by the Board on January 27, 1970, allowing limited hunting is withdrawn.

E. BE IT FURTHER RESOLVED that all hunting and fishing will be regulated by the governmental entity other than the Middle Rio Grande Conservancy District having jurisdiction in the area involved.

[MRGC 70-1 10-18-79; Recompiled 12/31/01]

21.7.1.23 APPORTIONMENT:

A. WHEREAS, the Middle Rio Grande Conservancy District, a municipal corporation, and the United States of America, on the 24th day of September 1951, in pursuance of the Act of Congress of June 17, 1902, and Acts amendatory thereof and supplementary thereto and particularly the Acts of Congress of June 30, 1948, and May 17, 1950, all collectively herein styled the Federal Reclamation Law, and pursuant, also, to the Conservancy District Reclamation Act of the State of New Mexico, entered into a contract the main objects of which were the rehabilitation and construction of project works within the confines of the Middle Rio Grande Conservancy District, and the payment of reimbursable construction and the operation and maintenance costs thereof; and

B. WHEREAS, it was and is provided by Article 38 of the aforementioned contract that the provisions of the Conservancy Act of the State of New Mexico relative to the assessment and levies made thereunder to pay the District's obligation to the United States should apply; and

C. WHEREAS, the intent and purpose of the aforementioned reclamation contract was to discard the present method of assessment under the Conservancy Act, and to adopt a more equitable method of assessment as provided under the terms of the Conservancy District Reclamation Contract Act and the Federal Reclamation Law; and

D. WHEREAS, the Board of Directors of the Middle Rio Grande Conservancy District on November 12, 1957, duly passed a resolution classifying the real estate within the confines of the Middle Rio Grande Conservancy District into Class "A" real property and into Class "B" real property; and

E. WHEREAS, the aforementioned resolution was duly adjudicated and approved by the Conservancy Court on the 25th day of April 1958; and

F. WHEREAS, in order to carry out the intent of the contracting parties in adopting a more equitable method of assessment, and in pursuance to the resolution classifying the real property within the confines of the Middle Rio Grande Conservancy District, it is now necessary that the annual assessments to be levied against the real property within the confines of the Middle Rio Grande Conservancy District be apportioned between Class "A" real property and Class "B" real property, as provided under Section 75-32-7, New Mexico Statutes Annotated, 1953 Compilation [73-18-7 NMSA 1978].

G. BE IT THEREFORE, RESOLVED: That the annual assessments to be made from year to year against the real property within the confines of the Middle Rio Grande Conservancy District shall be apportioned, percentage-wise, as follows: 25% of the total annual assessments to be levied from year to year shall be apportioned to Class A real property; and 75% of the total annual assessments to be levied from year to year shall be apportioned to Class B real property.

H. BE IT FURTHER RESOLVED that a certified copy of this resolution apportioning the total annual assessments as between Class A real property and Class B real property be submitted to the Secretary of the Interior of the United States of America for approval; and

I. BE IT FURTHER RESOLVED that proceedings be instituted in the Conservancy Court to determine the validity of the apportionment of the total annual assessments between Class "A" real property and Class "B" real property and to determine the validity of the resolution apportioning the total assessments as between Class "A" real property and Class "B" real property which has been approved by the Secretary of the Interior of the United States of America.

[MRGC 70-1 10-18-79; Recompiled 12/31/01]



[Map]

21.7.1.24 REGULATIONS OF MIDDLE RIO GRANDE CONSERVANCY DISTRICT: In order to secure the best results from the execution and operation of the project works of the District, and to prevent damage to the District by the deterioration, misuse, pollution of the waters, or unauthorized diversion of any natural or artificial watercourse within the Middle Rio Grande Conservancy District, THE BOARD OF DIRECTORS OF THE MIDDLE RIO GRANDE CONSERVANCY DISTRICT hereby promulgates, makes and adopts the following regulations, pursuant to the authority contained in Section 75-28-22, and Section 75-28-30, New Mexico Statutes Annotated, 1953 [73-14-43 and 73-14-51 NMSA 1978]:

A. PROTECTION OF PROJECT WORKS AND FACILITIES.

(1) It shall be unlawful for any person, firm or corporation to discharge, flow, run, place or dump any sewage, industrial waste, waste waters from dairy farms, oil, sludge from drilling operations, trash, garbage, waste from septic tanks and cesspools, or any other substance or waste matter of any kind whatsoever, in any of the irrigation ditches, drainage ditches, canals, watercourses, roadways, levees, floodways, or other structures of the Middle Rio Grande Conservancy District or the United States.

(2) It shall be unlawful for any person, firm or corporation to install any wasteways into or from community ditches, into or from any wasteways, or into the drains of the District for disposing of waste waters from agricultural lands, or waters from their **properties resulting from heavy downpours or other sources**, except pursuant to a license granted by the Middle Rio Grande Conservancy District and the U.S. Bureau of Reclamation, and in accordance with the plans, specifications, and directions of the Chief Engineer or General Manager of said District and the Bureau of Reclamation.

(3) It shall be unlawful for any person, firm or corporation to construct, build or install any bridge, road, highway, fence, culvert, crossing, check or any obstruction of any kind, in, into, along, or across any channel, watercourse, reservoir, drainage or irrigation ditch, canal, service road, levee, floodway, right of way or other construction or facility of the Middle Rio Grande Conservancy District or of the United States without the advance permission and approval, as to the time, type of construction, plans and specifications, of the Chief Engineer of said District and the U.S. Bureau of Reclamation.

B. PENALTIES. Any person, partnership, association, private or public corporation, or entity willfully failing to comply with the regulations contained in sections 1, 2 and 3 [now Paragraphs (1), (2), and (3) of Subsection A of this section] hereof, and violating same, shall be deemed guilty of a misdemeanor, and upon conviction thereof will be punished by a fine of not more than one thousand dollars (\$1,000). (75-28-22(2), N.M. Stats. 1953 Anno. [73-14-43 NMSA 1978])

C. REMOVAL OF UNAUTHORIZED STRUCTURES. Any structures or facilities placed upon the project works or rights of way of the Conservancy District in violation of these regulations may be removed by the District or the U.S. Bureau of Reclamation and all costs involved by such removal shall be assessed against the person or public corporation committing such violation.

D. USE AND DISTRIBUTION OF WATER.

(1) It shall be unlawful for any person, firm or corporation to divert water from irrigation ditches and facilities of the Conservancy District or the United States, except when specifically authorized to do so in advance by a duly authorized representative of the U.S. Bureau of Reclamation.

(2) It shall be unlawful for any person, firm or corporation to receive or to divert water from any irrigation ditch or other facility of the Conservancy District where such person, firm or corporation is delinquent in the payment of Conservancy District Assessments.

(3) Any person, partnership, association, private or public corporation, or entity willfully failing to comply with these rules and regulations as contained in sections 6 and 7 [now Paragraphs (1) and (2) of this Subsection] hereof, and violating same, shall be deemed guilty of a misdemeanor, and upon conviction thereof will be punished by imprisonment for not less than six (6) months or more than one year, or by a fine not to exceed \$3,000, or both such fine and imprisonment within the discretion of the court as set forth by the laws of New Mexico in Section 75-28-32, New Mexico Statutes, Anno. (1953) [73-14-53 NMSA 1978].

E. These regulations shall go into effect from and after their adoption and approval by the Board of Directors of the Middle Rio Grande Conservancy District, and upon being published as provided by Section 75-28-30 of New Mexico Statutes, Annotated, 1953 [73-14-51 NMSA 1978]. Adopted this 13th day of June 1961 [as amended February 11, 1975].

[MRGC 70-1 6-15-70, 6-26-75; Recompiled 12/31/01]

21.7.1.25 FENCING OF DITCHES:

A. WHEREAS, the Board of Directors of the Middle Rio Grande Conservancy District has been deeply concerned over drownings of persons in ditches or canals within the Middle Rio Grande Conservancy District, as well as the criticism which has been directed at the District because of these drownings, particularly those which involve unattended or unsupervised small children, and

B. WHEREAS, in the past, as well as recently, the Board of Directors and Staff of the District has devoted substantial time and effort in researching and considering all alternatives that might be used to provide a measure of protection for small children who, while unattended by any parent or other person, may wander on to the properties of the District and expose themselves to some danger, and

C. WHEREAS, the United States owns title to most of the works of the District and the United States Bureau of Reclamation, which operates and maintains the works of the District under contract, through its Albuquerque Planning Office, conducted in 1968 a Waterway Safety Study, in which it estimated a projected initial cost of construction in 1968 of fencing and piping of some 16 million dollars for the limited areas covered by the report, and

D. WHEREAS, under present day costs of construction, it is estimated that annual assessments against real property in the District would have to be increased to pay for such construction, if amortized over a period of 20 years at 6% interest as follows:

(1) Class "A" property increased approximately 9.50 per acre

(2) Class "B" property increased approximately 9.00 per thousand dollars of assessed valuation.

E. WHEREAS, with the present indebtedness to the United States, including the amounts that will be due on the San Juan Diversion Project, together with the increased cost of operation and maintenance of the District, the Board of Directors has been and is of the opinion that the financial burden of such a program cannot be borne by the property owners of the District without real danger to its financial integrity, and

F. WHEREAS, there is considerable controversy as to the value of fencing as a safety measure, as well as the environmental and recreational effects thereof, and before committing the property owners to such

increased assessments the Board of Directors believe that the property owners, who would be required to pay such assessments, should be given an opportunity to express their desires, and

G. WHEREAS, because of the volume of silt, weeds and other debris that enter the ditches, the value of underground piping is questionable in view of the cost of maintenance and operation, and

H. WHEREAS, the abandonment of some ditches has been accomplished by the District and is encouraged by the District in areas where the need for delivery of surface water has diminished and health, environmental and other problems have arisen, and

I. WHEREAS, substantial operational and legal problems are involved in fencing and piping areas of the District works.

J. NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Middle Rio Grande Conservancy District will encourage, if it is determined to be a feasible solution to the problems, the funding of a project for fencing and piping through other agencies of government, including those at the federal, state, city and county level and will fully cooperate with any agencies who will undertake such a program and the operation and maintenance thereof, and

K. BE IT FURTHER RESOLVED, that the Board of Directors encourage the fencing by property owners of their property to prevent their children from being exposed to the dangers of street traffic, ditches, canals, or other possible hazards, and

L. BE IT FURTHER RESOLVED, that the Board of Directors of the Middle Rio Grande Conservancy District will continue towards phasing out and abandoning of ditches that have outgrown their usefulness in the community, and

M. BE IT FURTHER RESOLVED, that the Board of Directors direct the staff to initiate, in cooperation with the Red Cross and other agencies, an educational program to alert persons living in the valley areas of the continued need of parental or other supervision of youngsters who are in the vicinity of ditches or canals within the District and further to also carry this educational program into the schools and such other areas in the Middle Rio Grande Valley as may be deemed advisable.

[MRGC 70-1 4-25-72; Recompiled 12/31/01]

21.7.1.26 USE OF INDIVIDUAL WELLS TO SUPPLEMENT NORMAL SURFACE FLOW IN DITCHES IN PERIODS OF EXTREME EMERGENCY:

A. WHEREAS, during times of extreme drought and grossly inadequate supply of irrigation water, a means may be developed in certain areas where underground pumping is available to provide irrigation water through ditches of the District to property of farmers owning the wells or to other property owners in the immediate vicinity with suitable arrangements between the property owners, and

B. WHEREAS, measurement of gravity flow surface water when a meager supply is in a ditch can be made to insure that property owners are not deprived of the use of such flow while crops can be saved by the use of ditches to deliver pumped water to crops in the immediate vicinity by use of the individually owned wells under proper supervision of the Conservancy District or the United States Bureau of Reclamation, and

C. WHEREAS, during the year 1972 extreme drought conditions exist,

D. NOW, THEREFORE, BE IT RESOLVED, that, during such period of extreme emergency as above expressed, use of individual wells to supplement normal surface flow in ditches may be made so long as normal rotation of water to the users of water on the ditch will not change nor any individual's share of existing surface water be reduced as a result of the comingling of surface water in said ditch.

E. Passed, adopted and signed this 25th day of July, 1972.

[MRGC 70-1 9-19-72, 6-24-74; Recompiled 12/31/01]

21.7.1.27 WATER RIGHTS:

A. WHEREAS, the Board of Directors of the Middle Rio Grande Conservancy District has heretofore authorized the Attorney for the District to institute litigation in connection with the transfer of water rights by property owners in the Middle Rio Grande Conservancy District to points outside the District and changing surface rights to underground rights, and

B. WHEREAS, because of the seriousness of the problems being created there have been numerous conferences with the State Engineer and members of his staff concerning such transfers and the proposed litigation, and the institution of litigation has been deferred by the Attorney for the District with the knowledge of the Board of Directors.

C. NOW THEREFORE BE IT RESOLVED that the deferring of litigation on water rights by the Attorney has the approval of the Board of Directors and discussion and conferences should be continued with the State Engineer and his staff to resolve the problems created, either by litigation or otherwise.

D. Passed, adopted and signed this 11th day of December, 1973.
[MRGC 70-1 6-24-74; Recompiled 12/31/01]

21.7.1.28 OPERATION AND MAINTENANCE - DISTRICT WORKS:

A. WHEREAS, under contract dated the 24th of September, 1951, between the United States and the Middle Rio Grande Conservancy District, the United States took over the operation and maintenance of the District works on or about February 2, 1955, and

B. WHEREAS, by annual resolutions the Board of Directors of the Middle Rio Grande Conservancy District has requested the United States to continue the operation and maintenance of the District works, and

C. WHEREAS, funds have been budgeted by the District for such operation and maintenance by the United States through the calendar year 1974, and

D. WHEREAS, the Board of Directors of the Middle Rio Grande Conservancy District believes that it would be in the best interest of the District to request the United States to return some segments, portions or all of the operation and maintenance of the District works to the District.

E. NOW, THEREFORE BE IT RESOLVED by the Board of Directors that the United States is hereby requested to return the operation and maintenance of those segments, portions or all of the District works to the District as can be mutually agreed to be returned for operation and maintenance, the transfer to be accomplished as soon as agreement can be reached and arrangements made for an orderly transfer.

F. Passed, adopted and signed this 11th day of December, 1973.
[MRGC 70-1 6-24-74, 2-28-79; Recompiled 12/31/01]

21.7.1.29 BOARD OF DIRECTORS MEETINGS:

A. BE IT RESOLVED by the Board of Directors of the Middle Rio Grande Conservancy District, that the regular meetings of the Board of Directors be held on the second and fourth Monday of each month at the hour of 1:30 p.m. in the Diego Abeita Boardroom of the Middle Rio Grande Conservancy District, 1931 Second Street, S.W., Albuquerque, New Mexico unless otherwise changed by action of the Board. Special meetings and emergency meetings are subject to call of the President, or, in his absence, the Vice-President.

B. BE IT FURTHER RESOLVED by said Board of Directors, that reasonable notice of said meetings of said Board of Directors shall be given as follows: In each county of the four counties of the District, a news release shall be provided for the newspaper of general circulation and news media in each of said counties setting forth the regular meeting dates; and that notice of special meetings shall be given at least 48 hours prior to a special meeting; and that notice for emergency meetings shall be given as early as possible, depending on the state of emergency.

C. DATED AND RESOLVED this 7th day of February, 1994, Middle Rio Grande Conservancy District. Lawrence Trocosa, Chairman.

[MRGC 70-1 6-24-74, 2-28-79, 7-2-93, 3-10-94; Recompiled 12/31/01]

HISTORY OF 21.7.1 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives:

MRGC 70-1, Policies, Rules and Regulations, 6-15-70, as amended by filings on September 19, 1972; June 5, 1973; June 24, 1974; May, 11, 1977; February 28, 1979; and October 18, 1979;.

History of Repealed Material: [RESERVED]