

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**CAUSE AS TO WHY ROSA JOINT VENTURES,)
A NEW MEXICO PARTNERSHIP, SHOULD)
NOT BE FOUND IN VIOLATION)
OF THE PUBLIC UTILITY ACT)
AND COMMISSION RULES)**

Case No. 18-00214-UT

PROPOSED COMPREHENSIVE STIPULATION

Rosa Joint Venture Partnership, a New Mexico Partnership, (RJV) and the Sambrito Mutual Domestic Water Consumers' Association (Sambrito) (collectively, Stipulating Parties) by their respective undersigned counsel, enter into and propose this Stipulation in order to settle and propose a comprehensive, fair, just and reasonable resolution of all issues in the above-captioned case and to avoid further and continuing litigation. It is hoped that after review of testimony filed by RJV and Sambrito that this Stipulation can be modified to reflect Unanimous Support and Execution of this Stipulation by Staff and other Intervenors to the above-referenced matter.

I. PREAMBLE

1. RJV has provided potable water service, wastewater service (Water and Wastewater Systems) and non-potable irrigation service (Irrigation Service) to customers in the Lakeview Heights and Rosa Meadows Subdivisions, comprising approximately 120 lots, (the Subdivisions) since approximately 1993. The customers currently being served by RJV total approximately 60 customers. The Subdivisions are located in north San Juan County, New Mexico near Allison, Colorado at the border of New Mexico and Colorado.
2. Sambrito was created by residents of the Subdivisions for the purpose of accepting ownership of the assets and operation of the RJV Water and Wastewater Systems more fully

described in Exhibit 1, Transfer Of Potable Groundwater System And Wastewater System Assets, Operation And Service and Related Agreements From Rosa Joint Venture Partnership to the Sambrito Mutual Domestic Water Consumers Association (Transfer Agreement), attached hereto and incorporated by reference herein. Sambrito is a duly incorporated mutual domestic water association organized pursuant to and governed by the New Mexico Sanitary Projects Act.

3. Based on negotiations between the parties in the above-captioned proceeding, and as described more thoroughly by the Transfer Agreement - Exhibit 1, rather than pursue a Certificate of Convenience of Necessity (CCN), RJV has decided to transfer the Water System and Wastewater System Assets to Sambrito.

4. Upon approval of this Stipulation by the Commission, the water and wastewater public utility currently owned by RJV will be transferred to Sambrito and will simultaneously receive abandonment authority from the Commission. Upon transfer, Sambrito will own and operate the subject Water and Wastewater Systems pursuant to the Sanitary Projects Act and going forward will be regulated by the New Mexico Environment Department (NMED).

5. Rather than litigate the issues articulated in Section II, Paragraphs 6(a) through (h) below and impose fines, the Parties agree instead that the transfer and abandonment of the water system and wastewater system assets from RJV to Sambrito would be in the public interest and consistent with the goals of the Public Utility Act.

6. As described more thoroughly herein and established by supporting testimony, this Stipulation is consistent with the public interest.

II. SYNOPSIS OF PROCEDURAL BACKGROUND

1. This proceeding was initiated due to concerns raised by water customers¹ of the water and wastewater systems owned by Rosa Joint Venture Partnership.
2. On May 15, 2018, the Commission issued, in the Complaint Case, by single-signature order, a Bench Request to Staff of the Utility Division of the Commission ("Staff"), inquiring into a number of issues raised by the Complaint Case. These included:
 - (a) whether or not RJV had ever received a certificate of convenience and necessity ("CCN") from the Commission;
 - (b) whether it should apply for a CCN; and
 - (c) whether RJV should seek approval of its rates from the Commission.
3. On May 31, 2018, Staff filed its Response to the Bench Request in the Complaint Case. In the Response, Staff stated, among other things:
 - (a) RJV supplies water to lot owners of the Rosa Meadows and Lakeview Heights subdivisions;
 - (b) RJV's water system currently has about 82 customers;
 - (c) RJV admitted that it does not have a CCN from the Commission;
 - (d) Staff's position is that RJV is and has been operating as a public utility in

¹ On February 20, 2018, Bernadette Dickinson filed a formal complaint (the Complaint) against RJV, which formal complaint was docketed as Bernadette Dickinson Formal Complaint Against Rosa Joint Venture, Case No. 18-00036-UT (the Complaint Case). The issues specific to Ms. Dickinson's personal complaints against RJV were ultimately resolved between the parties by Settlement Agreement dated, October 15, 2018. After the filing of Unopposed Motions to Voluntarily Dismiss the Complaint with Prejudice, on February 25, 2019, Hearing Examiner Schannauer issued a Recommended Decision recommending that the issues pertinent to RJV customers generally continue to be addressed in the above described proceeding (Order to Show Cause Matter or Case No. 18-00214-UT), but that the Complaint Case be dismissed with prejudice. Pursuant to the Order to Show Cause and Order Appointing Hearing Examiner in Case No. 18-00214-UT, Hearing Examiner Schannauer kept jurisdiction over the Complaint Case should it be necessary to join the Complaint case with Case No. 18-00214-UT.

violation of the New Mexico Public Utility Act (the "PUA"), NMSA 1978, §§ 62-3-1 et seq.) since the inception of the water and wastewater system;

- (e) Staff recommended that the Commission issue an Order to Show Cause to RJV to give RJV the opportunity to come before the Commission to address this issue; and
- (f) Staff recommended that a hearing examiner be appointed for further proceedings in this matter. Staff's Response to the Bench Request is supported by the Affidavit of Staff Engineer Dhiraj "Raj" Solomon, P.E. (the Solomon Affidavit)

4. On July 18, 2018, the Commission issued an Order Appointing Hearing Examiner Ashley Schannauer for Further Proceedings in the Complaint Case (the "Complaint Case Order"). In that order, the Commission noted that certain issues raised in the pleadings and in Staff's Response to the Bench Request are beyond the scope of a complaint case. These issues include, but are not limited to, the potential need for RJV to apply for a CCN, to apply for rate approval from the Commission, and the assessment of penalties for alleged violations of the Public Utility Act. The Commission ordered that these and other relevant issues be addressed in a separate show cause proceeding.

5. The Complaint Case Order concluded that based on the record in the Complaint Case, that RJV is a public water utility as defined by NMSA 1978, § 62-3-3(G)(3) and it appears has "operated and continues to operate without a CCN from the Commission and without Commission approval of its rates, terms and conditions of service." *See, Complaint Case Order* at ¶ 8, pgs 3-4.

6. The subject proceeding was thus initiated on July 18, 2018, upon the Commission's own motion after finding that the Commission has appropriate jurisdiction over these issues,

pursuant to the Public Regulation Commission Act, NMSA 1978, § 8-8-4.B(7), the PUA, NMSA 1978, §§ 62- 3-1 et seq., and 1.2.2.22 NMAC of the Commission's rules. As such, the Commission ordered RJV to file an Order to Show Cause Response and also directed staff to file a factual and legal evaluation of the Order to Show Cause Response on the following show cause issues:

- (a) Why RJV should not be found to have violated the requirement of the PUA, NMSA 1978, Section 62-9-1, that "[n]o public utility shall begin the construction or operation of any public utility plant or system or of any extension of any plant or system without first obtaining from the commission a certificate that public convenience and necessity require or will require such construction or operation..." as well as Commission rule 17.12.1.9.D requiring any water utility subject to the Commission's jurisdiction to obtain a certificate of public convenience and necessity prior to commencing construction or operation, and to apply for such a certificate in the form required by Commission rule 17.12.740 NMAC.
- (b) Why RJV should not be found to have violated the requirements of Commission rule 17.12.1.9.E NMAC, implementing design, construction and operation requirements as described in Commission rule 17.12.750 NMAC
- (c) Why RJV should not be found to have violated the requirement of 17.12.750.11 NMAC, to "furnish and maintain sufficient facilities to provide a continuous and adequate supply of water... [etc.]
- (d) Why RJV should not be found to have violated the requirement of the PUA, NMSA 1978, Section 62-8-1, that "[e]very rate made, demanded or received by

any public utility shall be just and reasonable."

- (e) Why RJV should not be found to have violated the requirement of the PUA, NMSA 1978, Section 62-8-3, that "[u]nder such rules and regulations as the commission may prescribe, every public utility subject to the jurisdiction of the commission, shall file with the commission, within such time and in such form as the commission may designate, schedules showing all rates established by it and collected or enforced, or to be collected or enforced, with the jurisdiction of the commission. The utility shall keep a copy of such schedules open to public inspection under such rules and regulations as the commission may prescribe," and Commission Rule 17.1.210 NMAC, prescribing the Commission's requirements for "Schedule of Rates, Rules, and Forms."
- (f) Why RJV should not be found to have violated the requirement of Commission rule 17.12.1.9.A NMAC to file annual report forms with the Commission, the requirement of Commission rule 17.12.1.9.B NMAC to maintain financial accounts as specified therein, and the requirement of Commission rule 17.12.1.9.F NMAC to adopt customer service rules and regulations in conformance with the requirements of that rule.
- (g) Why RJV should not be assessed an administrative penalty of up to \$100,000 for each of any such violations and, if a continuing violation, for each day of any such violations, pursuant to NMSA 1978, §§62-12-4, 62-12-5 and 62-12-6.

See, id., at ¶10, pgs 4-6.

7. The Commission further concluded that in the event the Commission finds statutory or administrative violations, it is authorized by NMSA 1978, §§62-12-4, 62-12-5 & 62-12-6 to

assess monetary penalties against RJV of between one hundred (\$100.00) and one hundred thousand (\$100,000.00) dollars per offense. Each such violation constitutes a separate and distinct offense and in event of a continuing violation following a conviction, each day's continuing violation shall be deemed a separate and distinct offense and all such penalties shall be cumulative. *See, id.*, at ¶11, pg 6.

8. The Commission encouraged RJV to work with Staff to take remedial efforts to address violations, including obtaining CCN approval, and indicated that the Commission “may consider such remedial efforts as mitigating factors with regard to penalties to be issued by the Commission.” *See, id.*, at Ordering ¶ C, pg. 7.

9. From issuance of the Complaint Case Order through November, 2018 several status updates were held with RJV, PRC Staff and the Hearing Examiner. During this time, as documented by affidavit of Timothy A. Martinez on November 17, 2018, PRC Staff Engineer, in consultation with staff from the Drinking Water Bureau of the New Mexico Environment Department, PRC Staff evaluated the RJV water and wastewater systems, identified areas of concern and noted that RJV made several needed improvements and was making a “good faith effort to maintain adequate service while also improving the water system.” Mr. Martinez recommended that an engineering report be prepared to analyze the condition of RJV's water and wastewater system. *See, Affidavit of Timothy A. Martinez*, November 17, 2018.

10. After discussion at the status conference held on December 11, 2018, the Hearing Examiner ordered that RJV commission “an engineering report analyzing the condition of Rosa's water and wastewater systems, their physical viability, recommended improvements and potential alternatives and schedules for implementing the improvement.” *See, Order*

Scheduling Engineering Report and Status Conference, December 11, 2018.

11. On February 22, 2019, the Hearing Examiner Filed a Procedural Order setting, among other things, a Show Cause hearing beginning on April 8, 2019 and pertinent issues to be addressed in testimony attached as Attachment B to the Procedural Order.

12. On March 14, 2019, RJV submitted a Response to Procedural Order Attachment B, which included substantive documentation regarding, *inter alia*, RJV partnership, subdivision, and water and wastewater system documents; Engineer Evaluation of the Water and Wastewater Systems by Molzen-Corbin; NMED Drinking Water Bureau documentation; and proposed rules for water and wastewater services.

13. A Motion for mediation and request for abeyance of procedural deadlines was filed on April 2, 2019 by RJV. Shortly thereafter, the Rosa Meadows/Lake View Heights Water Users Association indicated support for the Motion and requested an expanded procedural schedule.

14. On April 3, 2019 the Hearing Examiner issued an order vacating the hearing dates and scheduling a status conference to discuss mediation and/or informal settlement discussions.

15. On April 8, 2019, the Hearing Examiner issued Procedural Order No. 2 ordering discovery and information exchange in preparation for settlement discussions to begin in May 2019, emphasizing on capital improvements to be undertaken by RJV and RJV's intent to proceed with an Application of Public Convenience and Necessity or with the transfer of the water and wastewater systems to a Mutual Domestic Water Consumers Association.

16. On May 13, 2019, the Hearing Examiner issued Procedural Order No. 3 setting a procedural schedule and setting a public hearing to begin July 10, 2019 and ordering RJV to provide updated testimony responsive to the first Procedural Order issued on February 22, 2019.

17. On May 31, 2019, RJV filed its Response to Procedural Order No. 3, providing updated information responsive to the first Procedural Order;
18. Prior to the scheduled hearing in July, the parties began discussing the formation of a community mutual domestic water consumers association. As a result, on July 9, 2019 the Hearing Examiner issued an order vacating the hearing and scheduling a meeting to discuss the formation of a mutual domestic water consumers association.
19. On July 15, 2019 the Hearing Examiner issued Procedural Order No. 4, directing RJV to file weekly status reports regarding the progress of the parties' efforts to transfer the partnership's assets to a mutual domestic water consumers association and setting a public hearing for August 19, 2019.
20. Based on unopposed joint motion, on August 19, 2019, the Hearing Examiner issued an order continuing the August 19, 2019 hearing to September 23, 2019.
21. Based on unopposed joint motion, on September 23, 2019, the Hearing Examiner issued an order continuing the September 23, 2019 hearing to November 19, 2019.
22. Based on progress being reported by the parties to transfer the water and wastewater assets of RJV to a mutual domestic water consumers association, the Hearing Examiner issued an order on November 5, 2019, vacating the hearing scheduled for November 19, 2019.
23. On June 22, 2020, the Hearing Examiner issued Procedural Order No. 5 setting a public hearing for October 5, 2020 resuming the Order to Show Cause matter.
24. On, or about, October 5, 2020 RJV and Sambrito Mutual Domestic Water Consumers Association (Sambrito) adopted a term sheet, which memorialized an agreement between the two parties to transfer the water and wastewater assets from RJV to Sambrito.
25. On October 5, 2020, the Hearing Examiner issued an order scheduling proceedings on

Stipulation.

26. On March 5, 2021, the Hearing Examiner issued a Prehearing Order scheduling proceedings on this Stipulation.

III. ISSUES RESOLVED BY STIPULATION

Although the Parties dispute each other's legal positions, the Parties agree that this Stipulation is a global solution that settles all disputed issues in the above- captioned proceedings. The Parties believe this Stipulation, if adopted by the Commission in its entirety, represents a full, complete, fair, just and reasonable resolution of the past and present issues that it addresses. Resolution on a stipulated basis of the matters set forth herein will conserve resources and avoid the uncertainties to all parties inherent in litigation. The agreements set forth in this Stipulation reflect good faith settlement and mediation negotiations, with reasonable "give and take" on issues by all Stipulating Parties, and result in a bargained-for resolution of the entire case in a manner that fairly benefits the interests of the parties and ratepayers. Accordingly, without waiving their respective legal positions, the Parties agree and stipulate, in consideration of the mutual promises, obligations and benefits contained herein, to the following:

A. CCN, ABANDONMENT AND TRANSFER

- 1) The Parties agree and stipulate that pursuant to NMSA 1978, §62-9-1, RJV will not be required to obtain a CCN.
- 2) The Parties agree and stipulate that the Commission should approve pursuant to NMSA 1978, §§62-6-12 and 62-9-5, the transfer and abandonment of the water and wastewater systems by RJV to Sambrito in conformance with the Transfer Agreement - Exhibit 1.

3) The Parties agree and stipulate that the approval of this Stipulation, specifically including Commission approvals of the release of the requirement to obtain a CCN, abeyance of fines and penalties, and transfer and abandonment, is expressly conditioned on the closing of the Transfer Agreement - Exhibit 1 and the completion of the list of repairs agreed to by RJV at the status conference between the parties with the Hearing Examiner held on December 4, 2020, Exhibit 2, RJV Repairs. The Hearing Examiner shall keep continuing jurisdiction over this docket until Sambrito and RJV file a report certifying that all the requirements of the Transfer Agreement and this Stipulation have been met and attaching copies of all related documents in this docket.

B. RATE BASE, REVENUE REQUIREMENT AND RATES

1) Because the water and wastewater systems are being transferred to a mutual domestic, which is not regulated by the Commission or the PUA, the parties agree and stipulate that a rate base does not need to be established in this case. The parties agree and stipulate to the current rates attached as Exhibit 3, Rate Schedule. Sambrito agrees to adopt this rate schedule as its initial rate schedule.

2) Because the water and wastewater systems are being transferred to a mutual domestic, which is not regulated by the Commission or the PUA, the parties agree and stipulate that a revenue requirement does not need to be established in this case.

C. SYSTEM IMPROVEMENTS

Once the water and wastewater systems are transferred to Sambrito, Sambrito agrees and stipulates to have the water and wastewater systems evaluated for water service and quality issues (System Improvements). Sambrito agrees and stipulates to prioritize the implementation of capital improvements consistent with consistent with sound water system operation and

maintenance practices and business principles. To this end, and as discussed in more detail by Sambrito testimony filed in this case, Sambrito has been working with an engineering firm to evaluate the systems and to prioritize projects to help improve the system as quickly and economically as possible. Sambrito has secured legislative appropriations for repair and maintenance of the water and wastewater systems and will be seeking additional governmental funding sources to continue these improvements as well.

D. GENERAL DIVERSIFICATION PLAN

Because the water and wastewater systems are being transferred to a mutual domestic, which is not regulated by the Commission or the PUA, the parties agree and stipulate that a general diversification plan pursuant to Commission rule no. 17.6.450.10 NMAC does not need to be established in this case.

E. MISCELLANEOUS

- 1) The Parties, with the exception of RJV, agree and stipulate that the Commission, if Case 18-0024-UT had proceeded to a fully-litigated hearing and depending on the outcome of the hearing and review of the facts and analysis raised by the respective parties, could have found RJV in violation of the Public Utility Act and Commission rules and regulations based on allegations articulated in Section II, Paragraphs 6(a) through (h).
- 2) Rather than litigate the issues articulated in Section II, Paragraphs 6(a) through (h) above and impose fines, the Parties agree instead that the transfer and abandonment of the water system and wastewater system assets from RJV to Sambrito, as well as the revenue and expense sharing transition and inclusion of real property assets contained in the Transfer Agreement – Exhibit 1, is in the public interest and consistent with the goals of the Public Utility Act.

IV. STIPULATION EFFECT

- 1) This Stipulation is made and filed solely in connection with the negotiation,

compromise, settlement, and accommodations among the Parties with respect to the issues related to Case 18-0024-UT. The Stipulation, together with the Transfer Agreement – Exhibit 1 attached to and incorporated herein, contains the full intent and understanding and the entire agreement of the Stipulating Parties and no implication should be drawn in respect to any matter not addressed in the Stipulation.

2) This Stipulation shall not prejudice, bind or affect any Stipulating Party, or be viewed as an admission, except to the extent necessary to give effect to or to enforce the terms of the Stipulation or unless otherwise specifically stated therein. Any statement made or position taken by any of the signatories during the course of negotiations will not be admissible before any regulatory agency or court.

3) This Stipulation reflects a negotiated settlement, and if the Commission does not approve this Stipulation in its entirety, this Stipulation shall be voidable by any Stipulating Party. Stipulating Parties shall file a formal statement to void the Stipulation within five (5) business days of the Commission's final order herein. In the event the Stipulation is so voided or is otherwise disapproved by the Commission, any Party may freely assert any position without regard to any position taken or concession made in this Stipulation or during negotiations leading to it, and nothing in this Stipulation or negotiations leading up to its execution shall be construed as an admission of a Stipulating Party's position on any issue nor be used or offered into evidence by a Stipulating Party in this or any other proceeding.

4) This Stipulation assumes the legality and enforceability of the agreements set forth in this Stipulation. Should any agreement set forth in this Stipulation be rejected, modified or directly or indirectly rendered inoperable by Commission order, court decision or government action, any Stipulating Party shall have the right, by filing a notice of withdrawal

with the Commission within five (5) business days after such order, decision or action, to withdraw from this Stipulation. If any Stipulating Party withdraws from this Stipulation, such action shall render this Stipulation of no further force and effect.

EXECUTION OF STIPULATION

The Parties may agree to the terms of this Stipulation through the execution of one or more counterparts or separate signature pages.

EXECUTED this 2 day of April 2021.

Colorado Water & Land Law, LLC

*Electronic approval 4/2/21
by Amy Huff*

Amy Huff
679 E.2nd Ave #11b
Durango, CO 81301
(970) 403-1770
amv@water-land.com

Attorney for Rosa Joint Venture Partnership

Michelle Henrie, LLC



Michelle Henrie, Sole Member/Owner
P.O. Box 8370
Santa Fe, NM 87504-8370
(505) 440-4948
michelle@mhenrie.com

Attorney for Judy Phelps
Partner, Rosa Joint Venture Partnership

Chappelle Law, LLC

Germaine Chappelle

Germaine Chappelle

904 NM 516

Aztec, NM 87410

(505) 795-1730

germaine@gchappellelaw.com

Attorney for Sambrito Mutual Domestic
Water Consumer's Association

**TRANSFER OF DOMESTIC GROUND WATER SYSTEM AND WASTEWATER
SYSTEM ASSETS, OPERATION AND SERVICE, AND RELATED AGREEMENTS
FROM ROSA JOINT VENTURE PARTNERSHIP, A NEW MEXICO PARTNERSHIP,
TO THE SAMBRITO MUTUAL DOMESTIC WATER CONSUMERS ASSOCIATION**

This Transfer of Domestic Ground Water System and Wastewater System Assets, Operation and Service (Transfer Agreement) dated March 26, 2021 (Effective Date) is entered into by and between Rosa Joint Venture Partnership, a New Mexico Partnership, its principal office at Allison, Colorado (RJV), and the Sambrito Mutual Domestic Water Consumers' Association formed under the Sanitary Projects Act of New Mexico, having its principal office at Lake View Heights and Rosa Meadows subdivisions, New Mexico (Sambrito).

RECITALS:

- A. RJV operates a domestic ground water system and a wastewater system that serve the Lake View Heights and Rosa Meadows Subdivisions (the Subdivisions) in San Juan County, New Mexico (Domestic Ground Water and Wastewater Systems).
- B. Sambrito is a newly formed mutual domestic water and wastewater association that was created for the purpose of acquiring and assuming all obligations associated with the Domestic Ground Water and Wastewater Systems in accordance with the Sanitary Projects Act and all other relevant law.
- C. RJV desires to voluntarily transfer the infrastructure assets, associated personal property, equipment and fixtures, certain described real property and specified easements; and operation responsibilities of the Domestic Ground Water and Wastewater Systems, as described in Exhibit A to Sambrito.
- D. Sambrito desires to own the Exhibit A infrastructure and assets of RJV, to operate the Domestic Ground Water and Wastewater Systems, and to provide said services to the residents of the Subdivisions.
- E. All of the statements and commitments herein are made pursuant to the best of RJV's knowledge and RJV shall have no liability for the Domestic Ground Water and Wastewater Systems after the transfer is completed.

AGREEMENTS:

In consideration of the mutual covenants and agreements hereinafter set forth and other good and valuable consideration, the parties hereto agree as follows:

**ARTICLE I
TRANSFER**

1.1 Transfer of Assets and Related Agreements. Pursuant to the terms and conditions set forth herein, RJV agrees at the Closing (as the term is defined in Article 6) to donate, transfer,

convey, assign and deliver to Sambrito, and Sambrito agrees to accept ownership of RJV's rights and interests listed in Exhibit A hereto and incorporated herein by reference (collectively the Acquired Assets and Related Agreements).

1.1.2 Acquired Assets. The Acquired Assets shall be conveyed to Sambrito at the Closing free and clear of all liabilities, obligations, liens or encumbrances, subject only to prior existing rights, reservations of RJV, and those exceptions provided herein.

1.1.3 Consideration. The consideration for the Acquired Assets and Related Agreements to be paid by Sambrito shall be the provision of water and wastewater services to the Subdivisions and the Release and Waiver of Claim, set forth in Paragraph 1.1.5.(Consideration).

1.1.4 Liabilities Assumed. The Parties agree that by this Transfer Agreement, Sambrito is not assuming any liabilities, debts, or legal responsibilities of RJV, other than what is specifically stated in this Transfer Agreement.

1.1.5 Release of Liability/Waiver of Claims. Upon Closing, Sambrito will execute a full and final release of any and all liabilities, losses, claims, injuries, costs, expenses, and damages that may have occurred prior to Closing, whether known or unknown. Sambrito acknowledges that it is accepting the Acquired Assets "as is" and "where is" without warranty of any kind.

ARTICLE II NO SUCCESSOR/ MERGED COMPANY

2.1 No Successor or Merged Company. Nothing in this Transfer Agreement shall be construed to or operate to cause Sambrito to be a "successor" or "merged company" under the terms of any collective bargaining agreement, other contract, or any certificate of public convenience and necessity to which RJV may be a party.

ARTICLE III REPRESENTATIONS AND WARRANTIES

3.1. RJV's Representations and Warranties. To the best of RJV's knowledge, RJV represents and warrants to Sambrito as follows:

3.1.1. Organization, Standing and Qualification. RJV is, and at the Closing will be, a New Mexico partnership duly organized, validly existing and in good standing with the laws of the State of New Mexico. Subject to the conditions herein, RJV has and will have at the time of the Closing all requisite power and authority to sell the Acquired Assets and Related Agreements and to enter into this Transfer Agreement and the other agreements contemplated hereunder.

3.1.2. Valid and Binding Obligations. This Transfer Agreement is, and at the Closing will

Transfer Of Domestic Ground Water System And Wastewater System Assets, Operation And Service, and Related Agreements From Rosa Joint Venture Partnership To The Sambrito Mutual Domestic Water Consumers Association

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be, valid and legally binding upon RJV and enforceable in accordance with its terms. The conveyances and other agreements between RJV and Sambrito contemplated herein (the Documents) will be, upon the consummation of the Closing, valid and legally binding upon RJV and enforceable in accordance with their terms. RJV possesses, and at the Closing will possess, all governmental and corporate authority necessary to transfer title to and/or sufficient easements for the Acquired Assets and Related Agreements.

3.1.3. Execution, Delivery, and Performance By RJV Is Not Breach of Authority. The execution and delivery of this Transfer Agreement and the Documents, the consummation of the transactions contemplated by this Transfer Agreement and the Documents, and the performance by RJV of the various provisions of this Transfer Agreement and the Documents do not and will not, subject to the satisfaction of the conditions precedent to RJV's obligation to close herein: (i) result in the breach of any of the terms or conditions of; or constitute a default under, the Articles of Incorporation or the Bylaws of RJV, or any lease, contract, agreement, commitment, indenture, mortgage, note, bond, license or other instrument or obligation to which RJV is now a party (whether by assignment or otherwise) or by which RJV or any of the Acquired Assets and Related Agreements is or may be bound or affected, or (ii) violate any law, rule, or regulation of any administrative agency or governmental executive body, or any order, writ, injunction, or decree of any court, administrative agency, or governmental executive or body, or (iii) except as disclosed herein, require the concern (whether already obtained or to be obtained) of any third party.

3.1.4. Title to Acquired Assets. RJV has good, marketable and insurable title to all the Acquired Assets and Related Agreements. At the Closing, the Acquired Assets and Related Agreements will be conveyed subject to only preexisting rights and the reservations contained herein.

3.1.5. No Misstatement or Omissions. RJV has disclosed in writing via public filings with the New Mexico Public Regulation Commission (NMPRC) all facts material to its ownership and operation of the Acquired Assets and Related Agreements. Representations made by RJV or contained herein or any exhibit hereto or any of the information furnished by RJV or in connection with this Agreement or the transactions contemplated hereby do not contain any known untrue statement of material fact or knowingly omit to state a material fact.

3.2. Sambrito's Representations and Warranties. Sambrito represents and warrants to RJV as follows:

3.2.1. Organization, Standing and Qualification. Sambrito is a Mutual Domestic Water and Wastewater Consumers Association formed under the New Mexico Sanitary Projects Act, is duly organized, validly existing and in good standing under the laws of New Mexico.

3.2.2. Authority of Sambrito. Sambrito has, and at the Closing will have, all necessary power and authority to enter into this Agreement and the Documents contemplated hereunder and

to perform its obligations under this Agreement and the Documents.

3.2.3. Agreement Binding Upon Sambrito. This Transfer Agreement is, and at the Closing will be, valid and legally binding upon Sambrito and enforceable in accordance with its terms. Neither the execution, delivery, nor performance of this Agreement by Sambrito will, with or without the giving of notice or the passage of time, or both, conflict with, result in a default, right to accelerate, or loss of rights under, or result in the creation of any lien, charge, or encumbrance pursuant to any provision of Sambrito's Certificate of Incorporation or Bylaws, or any franchise mortgage, deed of trust, lease, license, agreement, understanding, law, rule or regulation, or any order, judgment, or decree to which Sambrito is a party or by which it may be bound or affected.

3.2.4. Disclaimer of Warranties. Except as is otherwise expressly provided in this Transfer Agreement, the transfer of the property as provided for herein is made on a strictly "as is" "where is" basis as of the closing date. Except as otherwise expressly provided in this Transfer Agreement, Sambrito expressly acknowledges that, in consideration of voluntarily transferring the Domestic Ground Water and Wastewater Systems, RJV makes no warranty or representation, express or implied, or arising by operation of law, including, but in no way limited to, any warranty of quantity, quality, condition, habitability, suitability or fitness for a particular purpose of the property, or any improvements located on the property. Sambrito specifically acknowledges that Sambrito is not relying on (and RJV hereby disclaims and renounces) any representations or warranties made by or on behalf of RJV of any kind or nature whatsoever, except as is otherwise expressly provided in this Transfer Agreement.

ARTICLE IV CONDUCT PENDING AND AFTER CLOSING

4.1. Conduct Pending Closing. Consistent with Orders from the Public Regulation Commission, RJV will transfer all authority to operate the Acquired Assets and collect revenues to Sambrito, and both RJV and Sambrito will use commercially reasonable efforts to effect the arrangements on Exhibit A hereto.

4.2 Investigation by Sambrito. RJV agrees to cause to be made available to Sambrito and its attorneys, accountants, employees, representatives, and agents, at all reasonable times prior to the Closing and for a reasonable period of time after the Closing, all of the contracts, lease documents, premises, inventories, equipment, and properties (real, tangible and intangible) pertaining to the Acquired Assets and Related Agreements.

ARTICLE V CONDITIONS PRECEDENT TO CLOSING

5.1. Conditions Precedent to Closing by Sambrito. All obligations of Sambrito hereunder are subject to each of the following conditions at or prior to the Closing:

5.1.1. All representations and warranties of RJV contained herein or in any document delivered pursuant hereto shall be true and correct, to the best of RJV's knowledge, in all material respects when made and shall be deemed to have been made again and as of the date of the Closing.

5.1.2. All covenants, agreements and obligations required by the terms of this Transfer Agreement to be performed by RJV at or before the Closing shall have been duly and properly performed in all material respects, unless the parties agree otherwise.

5.1.3. The Acquired Assets shall be, in all material respects, in as good condition as of the Closing as such assets were on the date of this Agreement, ordinary wear and tear excepted.

5.1.4. There shall be delivered to Sambrito a certificate executed by RJV, dated the date of the Closing, certifying that the conditions set forth in paragraphs 5.1.1, 5.1.2, and 5.1.3 of this Article have been fulfilled.

5.1.5. There shall be an executed release and waiver, as set forth in paragraphs 1.1.5 and 3.3.4 and delivered to RJV at or prior to Closing.

5.1.6. All documents required to be delivered to Sambrito at or prior to the Closing shall have been so delivered.

5.1.7. At or prior to the Closing, RJV will deliver to Sambrito copies of all necessary documents and all required resolutions or consents of any government agency or private party from which approval may be required, approving the execution and delivery of this Transfer Agreement and the consummation of all of the transactions contemplated hereby, duly certified by the owners of RJV.

5.1.8. The NMPRC approves this transaction without additional conditions and the NMPRC approves the transfer of assets contemplated herein to Sambrito and abandonment of the certificate of public convenience and necessity by RJV without cost, liability or penalty to be paid.

ARTICLE VI CLOSING

6.1 The Closing shall take place after NMPRC approval of this Transfer Agreement and NMPRC confirmation that the Domestic Ground Water and Wastewater System are transferred and abandoned for purposes of NMPRC regulation/jurisdiction. The day on which the Closing takes place is the Closing Date. In the event a condition to the Closing has not been met (or waived by the party or parties entitled to waive it), the parties may agree in writing to postpone the Closing from time to time until such conditions to Closing have been met. If the Closing does not occur 60 days after NMPRC approval (or such later date as the parties may hereafter agree to in writing), this Transfer Agreement may be terminated without any liability whatsoever of one party to the

other party.

6.2 Documents to be delivered at Closing. 1) Bill of Sale, 2) Partnership Resolutions of RJV, 3) Deeds to real property, 4) applicable Easements or Transfer of Easements 5) Resolution of Sambrito, and 6) All documentation related to the fulfillment of all conditions precedent and otherwise necessary to achieve transfer of Acquired Assets and Related Agreements listed in Exhibit A.

6.3 RJV's Post-Closing Documents. At any time and from time to time after the Closing, at Sambrito's request and without further consideration, RJV will execute and deliver such other instruments of sale, transfer, conveyance, assignment, and confirmation and take such action as Sambrito and RJV may reasonably deem necessary or desirable in order to effectively transfer, convey, and assign to Sambrito, and to confirm Sambrito's title to the Acquired Assets, as described on Exhibit A.

6.4 Sambrito's Post Closing Documents. At any time and from time to time after the Closing, at RJV's request and without further consideration, Sambrito will execute and deliver such other instruments of transfer, assignment and confirmation and take such action as RJV may reasonably deem necessary or desirable in order to more effectively give effect to Sambrito's obligations under this Agreement.

ARTICLE VII MISCELLANEOUS

7.1 Legal and Other Costs. In the event that any party defaults in its obligations under this Transfer Agreement (the Defaulting Party) and, as a result thereof, another party (the Non-Defaulting Party) seeks to legally enforce its rights hereunder against the Defaulting Party, then, the Non-Defaulting Party shall be entitled to recover an amount equal to all costs and expenses (including reasonable attorneys' fees and interest at the rate of two percent (2%) per month or the highest rate of interest provided by the laws of New Mexico paid or incurred by the Non-Defaulting Party in connection with such enforcement).

7.2 Press Releases. Sambrito and RJV will cooperate in the preparation of any press releases concerning this transaction. Neither party shall issue any press release without the prior written consent of the other, and neither will withhold its consent unreasonably.

7.3 Entire Agreement. This Transfer Agreement, together with the Stipulation entered into by the Parties and filed in PRC Case No. 18-00214-UT shall constitute the entire agreement of the parties with respect to the subject matter hereof and may not be modified, amended or terminated except by written agreement specifically referring to this Transfer Agreement executed by all of the parties hereto.

7.4 Waiver of Breach of Default. No waiver of any breach or default hereunder shall be

Transfer Of Domestic Ground Water System And Wastewater System Assets, Operation And Service, and Related Agreements From Rosa Joint Venture Partnership To The Sambrito Mutual Domestic Water Consumers Association

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considered valid unless in writing and signed by the party giving such waiver, and no such waiver shall be deemed a waiver of any subsequent breach of default of the same or similar nature.

7.5 Successors and Assigns. This Transfer Agreement shall be binding upon and inure to the benefit of each corporate party hereto and its successors and assigns.

7.6 Paragraph Headings. The paragraph headings contained herein are for the purposes of convenience only and are not intended to define or limit the contents of said paragraphs.

7.7 Further Actions and Additional Documents. Each party hereto shall cooperate, shall take such further action and shall execute and deliver such additional documents as may be reasonably requested by any other party in order to carry out the provisions and purposes of this Transfer Agreement.

7.8 Payment of Applicable Taxes. Sambrito will pay all sales, transfer, and documentary taxes, if any, payable in connection with the sale, conveyance, assignments, transfers, and deliveries under this Transfer Agreement. Furthermore, RJV represents that all property taxes are current and up to date on real property conveyed as part of this transaction.

7.9 Counterparts. This Transfer Agreement may be executed in one or more counterparts, all of which taken together shall be deemed one original.

7.10 Applicable Law. This Transfer Agreement and all amendments thereof shall be governed by and construed in accordance with the law of the State of New Mexico applicable to contracts made and to be performed therein.

7.11 Mediation/Arbitration of Disputes Involving. Any dispute or controversy arising with respect to a claim hereunder shall first be submitted in good-faith to mediation. If after 30 days, the parties determine that their dispute cannot be resolved through mediation, the dispute will be settled by arbitration in Farmington, New Mexico in accordance with the New Mexico Uniform Arbitration Act. Judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof, and the parties consent to the jurisdiction of the New Mexico courts for this purpose.

7.12 Jurisdiction. RJV and Sambrito consent to the jurisdiction of the State Courts sitting in New Mexico in any action arising out of or connected in any way with this Agreement, including any action to enforce an arbitration award or judgment, and RJV and Sambrito further agree that service of process upon them at the addresses set forth in this Agreement shall be deemed good, proper, and effective service upon them. Venue for any legal action shall be San Juan County, New Mexico.

7.13 Severability. Wherever there is any conflict between any provisions of this Transfer Agreement and any statute, law, regulation or judicial precedent, the latter shall prevail, but in

Transfer Of Domestic Ground Water System And Wastewater System Assets, Operation And Service, and Related Agreements From Rosa Joint Venture Partnership To The Sambrito Mutual Domestic Water Consumers Association

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such event the provisions of this Transfer Agreement thus affected shall be curtailed and limited only to the extent necessary to bring it within the requirement of the law. In the event that any part, section, paragraph or clause of this Transfer Agreement shall be held by a court of proper jurisdiction to be invalid or unenforceable, the entire Transfer Agreement shall not fail on account thereof; but the balance of the Transfer Agreement shall continue in full force and effect unless such construction would clearly be contrary to the intention of the parties or would result in unconscionable injustice.

7.14 Notices. Any and all notices or other communications required or permitted to be given under any of the provisions of this Transfer Agreement shall be in writing and shall be deemed to have been duly given when personally delivered or mailed by first class certified mail, return receipt requested, addressed to the parties at the addresses set forth below (or at such other address as any party may specify by notice to all other parties given as aforesaid).

Sambrito:

Germaine Chappelle
904 NM 516
Aztec, NM 87410
germaine@gchappellelaw.com

RJV:

Amy Huff
679 East 2nd Ave, Ste 11
Durango, CO 81301
amy@waterland-law.com

WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

ROSA JOINT VENTURE PARTNERSHIP

By: Ralph Phelps Senior Managing Partner
Ralph Phelps, Managing Partner

By: Jean Phelps Managing Partner
Jean Phelps, Managing Partner

Transfer Of Domestic Ground Water System And Wastewater System Assets, Operation And Service, and Related Agreements From Rosa Joint Venture Partnership To The Sambrito Mutual Domestic Water Consumers Association

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By: _____
Judy Phelps, Partner

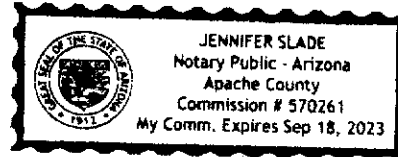
SAMBRITO MUTUAL DOMESTIC WATER CONSUMERS ASSOCIATION

By: _____
Mike House, President

STATE OF Arizona)
)ss
COUNTY OF Apache)

This document was acknowledged before me on this 31 day of March, 2021, by Ralph Phelps, Managing Partner of Rosa Joint Venture Partnership.

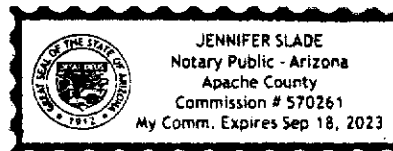
Notary Signature
My commission expires: 9/18/2023



STATE OF Arizona)
)ss
COUNTY OF Apache)

This document was acknowledged before me on this 31 day of March, 2021, by Jean Phelps, Managing Partner of Rosa Joint Venture Partnership.

Notary Signature
My commission expires: 9/18/2023



Transfer Of Domestic Ground Water System And Wastewater System Assets, Operation And Service, and Related Agreements From Rosa Joint Venture Partnership To The Sambrito Mutual Domestic Water Consumers Association

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only to the extent necessary to bring it within the requirement of the law. In the event that any part, section, paragraph or clause of this Transfer Agreement shall be held by a court of proper jurisdiction to be invalid or unenforceable, the entire Transfer Agreement shall not fail on account thereof; but the balance of the Transfer Agreement shall continue in full force and effect unless such construction would clearly be contrary to the intention of the parties or would result in unconscionable injustice.

8.14. Notices. Any and all notices or other communications required or permitted to be given under any of the provisions of this Transfer Agreement shall be in writing and shall be deemed to have been duly given when personally delivered or mailed by first class certified mail, return receipt requested, addressed to the parties at the addresses set forth below (or at such other address as any party may specify by notice to all other parties given as aforesaid).

Sambrito:

Germaine Chappelle
904 NM 516
Aztec, NM 87410
germaine@gchappellelaw.com

RJV:

Amy Huff
679 East 2nd Ave, Ste 11
Durango, CO 81301
amy@waterland-law.com

WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

ROSA JOINT VENTURE PARTNERSHIP

By: _____
Ralph Phelps, Managing Partner

By: _____
Jean Phelps, Managing Partner

By: Judy Phelps
Judy Phelps, Partner, who signs this Transfer Agreement as one of the Partners in Rosa Joint Venture Partnership in order to effectuate the transfer of the water system, but whose signature in no way agrees, acknowledges or acquiesces that Jean Phelps is a Managing Partner of Rosa Joint Venture Partnership and all rights to dispute the same are expressly reserved.

Transfer Of Domestic Ground Water System And Wastewater System Assets, Operation And Service, and Related Agreements From Rosa Joint Venture Partnership To The Sambrito Mutual Domestic Water Consumers Association

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SAMBRITO MUTUAL DOMESTIC WATER CONSUMERS ASSOCIATION

By: _____
Mike House, President

STATE OF _____)
)ss
COUNTY OF _____)

This document was acknowledged before me on this ____ day of March, 2021, by Ralph Phelps, Managing Partner of Rosa Joint Venture Partnership.

Notary Signature
My commission expires: _____

STATE OF _____)
)ss
COUNTY OF _____)

This document was acknowledged before me on this ____ day of March, 2021, by Jean Phelps, Managing Partner of Rosa Joint Venture Partnership.

Notary Signature
My commission expires: _____

STATE OF Colorado)
)ss
COUNTY OF La Plata)

This document was acknowledged before me on this 30th day of March, 2021, by Judy Phelps, Partner of Rosa Joint Venture Partnership.

Notary Signature
My commission expires: May 13, 2024

ELIZABETH SIMONS
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20034042922
MY COMMISSION EXPIRES MAY 13, 2024

Transfer Of Domestic Ground Water System And Wastewater System Assets, Operation And Service, and Related Agreements From Rosa Joint Venture Partnership To The Sambrito Mutual Domestic Water Consumers Association

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SAMBRITO MUTUAL DOMESTIC WATER CONSUMERS ASSOCIATION

By: 
Mike House, President

STATE OF _____)
)ss
COUNTY OF _____)

This document was acknowledged before me on this ____ day of March, 2021, by Ralph Phelps, Managing Partner of Rosa Joint Venture Partnership.

Notary Signature
My commission expires: _____

STATE OF _____)
)ss
COUNTY OF _____)

This document was acknowledged before me on this ____ day of March, 2021, by Jean Phelps, Managing Partner of Rosa Joint Venture Partnership.

Notary Signature
My commission expires: _____

STATE OF _____)
)ss
COUNTY OF _____)

This document was acknowledged before me on this ____ day of March, 2021, by Judy Phelps, Partner Rosa Joint Venture Partnership.

Notary Signature
My commission expires: _____

Transfer Of Domestic Ground Water System And Wastewater System Assets, Operation And Service, and Related Agreements From Rosa Joint Venture Partnership To The Sambrito Mutual Domestic Water Consumers Association

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STATE OF Colorado)
)ss
COUNTY OF La Plata)

This document was acknowledged before me on this 31 day of March, 2021, by Mike House, President, Sambrito Mutual Domestic Water Consumers Association.

Marcia R. Vining
Notary Signature

My commission expires: 7-16-2023

MARCIA R VINING
NOTARY PUBLIC - STATE OF COLORADO
NOTARY ID 20154027712
MY COMMISSION EXPIRES JUL 16, 2023

EXHIBIT A: ACQUIRED ASSETS AND RELATED AGREEMENTS

A. WATER SYSTEM ASSETS: With respect to Domestic Ground Water System Assets, this Agreement concerns only the potable/domestic ground water system that has been used to serve the Lake View Heights and Rosa Meadows subdivisions (Subdivisions). The parties acknowledge that Rosa Joint Venture Partnership (RJV) also owns and operates an irrigation water supply system for its agricultural holdings and understand that other than the agreement arrangement as set forth herein, this agreement/proposal does not affect RJV's irrigation and agricultural water from the Pine River Basin.

Additionally, the access roads for the potable/domestic ground water supply system are also used by energy companies and are necessary for RJV's agricultural operations, as well as the further use of RJV's real property. Therefore, any and all easements granted to the Sambrito Mutual Domestic (Sambrito) will be non-exclusive and shall run with the land so as to bind successors in interest, except if required otherwise by federal or state law. All easements granted to Sambrito will be restricted to authorized personnel consistent with operation of the Domestic Ground Water and Sewer Systems. All easements granted to Sambrito are subject to prior uses and those rights held/reserved by RJV and applicable third parties. RJV agrees it will not unreasonably interfere with Sambrito's usage of easements or take any action related to the easements that violates federal or state law. Sambrito agrees that it will not unreasonably interfere with RJV's usage of the easements or take any action related to the easements that otherwise violates federal or state law.

Notwithstanding the foregoing, RJV will transfer, by deed and/or bill of sale as appropriate or transfer/assign or grant an easement as appropriate, of those domestic ground water system assets described herein, which are necessary to maintain and operate the Rosa Joint Venture Water System as approved by the New Mexico State Engineer, New Mexico Environment Department and the New Mexico Drinking Water Bureau as follows:

1. Storage Tanks:

a. Storage Tank 1: Transfer of existing shared easement and conveyance of installed personal property and equipment associated with continued use of the tank site as described in Attachment 1, including access to tank site.

b. Storage Tank 2: Shared easement and conveyance of installed personal property and equipment associated with continued use of the tank site on RJV's real property as shown in Attachment 2, including access to tank site. The grant of easement will include that amount of land as reasonably necessary for operation and maintenance of the water tank and easement for access to Storage Tank 2.

2. Water Wells:

a. Un-Numbered Well Near Gas Well:

- i. Shared easement and conveyance of installed personal property and equipment associated with continued use of the well depicted, for the well site, as described in Attachment 3.
- ii. Production: 3892 gallons per day/ 116,760 gallons per month
- iii. Regulatory Status: Agricultural well

b. Well 4/Well House Well:

- i. Easement and conveyance of installed personal property and equipment associated with continued use of the well depicted in Attachment 4.
- ii. Production: 696 gallons per day/ 20,880 gallons per month
- iii. Regulatory Status: Agricultural well

c. Well 5/Meadow Well:

- i. Easement and conveyance of installed personal property and equipment associated with continued use of the well depicted in Attachment 4.
- ii. Production: 737 gallons per day/ 22,110 gallons per month
- iii. Regulatory Status: Domestic well

d. Well 6/Knob Well:

- i. Conveyance of installed personal property and equipment associated with continued use of the well depicted on Attachment 5 (Note conveyance of real property below).
- ii. Production: 4607 gallons per day/ 138,210 gallons per month
- iii. Regulatory Status: Domestic well

e. Other wells that may have been used by RJV are not being conveyed to Sambrito because they have been abandoned and/or have no production value.

f. Option and access to evaluate and drill new well(s), in a manner that preserves the rights and operations of current oil and gas wellhead site near the well described in Attachment 1, or in other locations on property owned by RJV, as needed, and upon terms mutually agreed upon, including but not limited to fair compensation, with Sambrito specifically paying all costs associated therewithin. Unless mutually agreed upon by RJV and Sambrito, Sambrito must first attempt to drill any new wells on real property transferred as part of this Agreement. (See Attachments 5 and 6).

3. Real Property:

- a. **Knob Property and Well 6** (approximately 13 acres) Highlighted portion of real property described in Attachment 5 will be transferred by Special Warranty Deed. To the extent that RJV has any structures, facilities, or easements on or through the property at issue, not including well or distribution pipeline conveyed as part of the water system, RJV will reserve said easements in any deed.
 - b. **Office/Warehouse site** (approximately 1.5 acres) as depicted in Attachment 6. To the extent that RJV has any structures, facilities, or easements on or through the property at issue, not including well or distribution pipeline conveyed as part of the water system, RJV will reserve said easements in any deed.
 4. **Water Rights:** RJV agrees to negotiate with Sambrito and the NM Office of State Engineer to ensure that Sambrito has sufficient water rights to supply a domestic/potable ground water for the Subdivisions. RJV believes that the NM State Engineer has approved a legal water supply for the Subdivisions; however, should the State Engineer require additional water rights to be transferred to supply full buildout of the Subdivisions, RJV agrees to transfer the required NM water rights that it currently owns for that purpose. RJV is under no obligation to acquire additional NM water rights or to use its Colorado water rights for this purpose.
 5. **Pump House:** Grant of easement and conveyance of installed personal property and equipment associated with continued use of the pump house as depicted in Attachment 4.
 6. **Potable Water Distribution Network and Related property, Equipment and Supplies:** Transfer of existing, or creation of new, easements for the existing/established potable ground water distribution network, including bill of sale as needed, for those materials related to the Domestic Ground Water and Wastewater System, if any, previously purchased by RJV and available at the time of Closing. Ralph Phelps, within a reasonable time, will supply all available plats and will agree to generate other drawings (i.e., sketches) with the understanding that said drawings will not be stamped by an engineer to depict the water distribution network and related components of the water system.
- B. IRRIGATION DISTRIBUTION SYSTEM AND IRRIGATION AGREEMENT:** It is recognized that RJV has an extensive irrigation distribution system that delivers irrigation water from the Pine River system to its agricultural property in NM. It is also recognized that RJV has allowed property owners that will be served by Sambrito to use its irrigation water upon the payment of a portion of the maintenance costs associated with the irrigation system. The parties acknowledge that maintaining the historical

irrigation water delivery practices to Sambrito water users is critical to the ongoing successful operation of the potable water system because utilization of irrigation water reduces the water demand from the potable water system. It is further understood that RJV's continued ownership of its irrigation water and the irrigation water system is essential to its agricultural operations. An irrevocable agreement, as permitted by law, will be negotiated among the parties (Sambrito and RJV) to continue the status quo regarding the delivery of irrigation water to the Subdivisions, which agreement shall include the following basic terms:

1. RJV will continue its ownership and control over the irrigation system and rights-of-way necessary to maintain, repair and operate the irrigation systems, including, but not limited to, determining when irrigation water delivery begins and when irrigation water is shut off. Sambrito and RJV will work together to repair and maintain the distribution portion of the irrigation system within the Sambrito service area.
2. Irrigation water may only be used by existing RJV customers. Any new users must be approved by RJV. This restriction does not apply to transfers of existing service.
3. Sambrito will work with RJV to ensure that all irrigation water is delivered by RJV through a one (1) inch riser. Pumps are prohibited.
4. RJV's delivery obligations are subject to natural conditions (e.g., water supply), and applicable regulatory agencies. RJV will use its best efforts to deliver water to Sambrito, but it cannot guarantee certain flows.
5. In the event that regulatory agencies, such as the NM State Engineer or the NRCS, restrict or dispute RJV's delivery of irrigation water, to the Sambrito water users, the parties will readdress and re-negotiate Sambrito's use of irrigation water.

C. WATER STORAGE PONDS: Provide emergency access for Sambrito's authorized personnel to water storage ponds when necessary for fire protection and emergency water supply.

D. WASTEWATER SYSTEM ASSETS: With respect to Wastewater System Assets, described below, this Agreement concerns only the Wastewater System that has been used to serve the Subdivisions. The access roads for the Wastewater System are also used by energy companies and are necessary for RJV's agricultural operations. Therefore, any and all shared easements granted to Sambrito will be non-exclusive and shall run with the land so as to bind successors in interest, except if otherwise required by federal or state law. All easements granted to Sambrito will be restricted to authorized

personnel consistent with this Agreement. All easements granted to Sambrito are subject to prior uses and those rights/reservations held by RJV and applicable third parties. RJV agrees it will not unreasonably interfere with Sambrito's usage of easements or take any action that violates federal or state law. Sambrito agrees it will not unreasonably interfere with RJV's usage of easements or take any action that violates federal or state law.

1. Notwithstanding the foregoing, RJV will transfer ownership, by deed and/or bill of sale as appropriate or transfer/assign or grant an easement as appropriate, of those Wastewater System assets described herein, which are necessary to maintain and operate the Rosa Joint Venture Wastewater System as approved by the New Mexico Environment Department as follows:
2. Conveyance of real property, installed personal property and equipment associated with continued use of the of three lagoons, both permitted and unpermitted, as depicted on Attachment 7. Conveyance of real property (per Attachment 7), installed personal property and equipment associated with continued use of the leak detection wells on record with the NMED, and easements for said leak detection wells. To the extent that RJV has any structures, facilities, or easements on or through the property at issue, not including well or distribution pipelines conveyed as part of the Domestic Ground Water and Wastewater system, RJV will reserve said easements in any deed.
3. Conveyance of installed personal property and equipment associated with continued use of all existing underground wastewater gathering pipelines with shared right-of-way easements, and related supplies for the Subdivisions, if the same exists.

E. OPERATIONAL, FINANCIAL TRANSFER/TRANSITION AND REGULATORY APPROVALS:

1. **Operational/Financial Transition:**
 - a. RJV retains and shall be entitled to all receivables not yet collected that are attributable to water delivery through March 31, 2021, and by April 15, 2021 RJV will enter into reasonable agreements with customers to pay over time any unpaid balances –although said agreements are between customers and RJV, Sambrito will encourage customers to make such agreements with RJV:
 - b. Sambrito will be entitled to all billings collected on water and wastewater services beginning in April, 2021;

- c. Sambrito will begin performing meter reading functions for water and wastewater services provided to customers during the month of April, 2021 during the first week of May, 2021.
 - d. Sambrito will issue billing for April water to customers in the first week of May and will begin collecting payments for April water and wastewater services during the month of May. This means that collections/cash flow will not become positive for Sambrito until June; RJV will pay the cost of normal operations (electric, operator, water sample testing etc.) through the end of May;
 - e. RJV will operate, repair and maintain the water and wastewater system until Sambrito has received regulatory approval. Sambrito and RJV will cost share (50/50) for all expenses associated therewith for the month of June, 2021, with reasonable extensions of time should regulatory approvals not yet be finalized;
 - f. Sambrito will operate, repair and maintain the water and wastewater system as soon as it has appropriate regulatory approvals;
 - g. Finalization of documentation for transfer must be completed by May 1, 2021;
 - h. RJV agrees to provide operational support from a transition standpoint until July 1, 2021.
 - i. The parties will issue a joint letter to customers explaining the transition considerations provided in this Section E with the bill sent to customers in May for water and wastewater services provided to customers in April.
2. **Environmental Assessment:** RJV agrees to cooperate with Sambrito's performance of an environmental assessment in order to qualify for innocent purchaser defense. This assessment will not require RJV to take any action or pay any costs/fees. It also will not subject RJV to any liability. Sambrito's attorney is donating the legal costs associated with performing the Environmental Assessment;
3. **Documents and Software:** All currently available customer, billing, maps, drawings, permitting, regulatory documents (hard copy and electronic), software and other pertinent information will be tendered to Sambrito's counsel by April 15, 2021;
4. **Regulatory transition/transfer:** RJV agrees to cooperate with Sambrito and its consultant/engineering/legal team to obtain all necessary transfer approvals from the pertinent regulatory agencies, including but not limited to: PRC; NMED; NM

State Engineer; San Juan County. This agreement is limited to documents and institutional knowledge/ regulatory information sharing. RJV will not have any out-of-pocket costs/fees.

5. **Loan/Grant/Other Funding Applications:** During the transition, RJV agrees to cooperate with Sambrito and its consultant/engineering/legal team to provide needed information for loan, grant and other funding applications. Such information must be reasonably available to RJV.
6. **Transition Costs:** The parties agree to keep surveying and other document preparation costs to a minimum. The settlement terms have been drafted to minimize such costs as well. Legal work needed to subdivide the real property being conveyed, create easements, bills of sale, and assign easements will be donated by Sambrito's attorney with the intent to minimize attorney fees for RJV and with the understanding that RJV will retain its attorney. Sambrito will fully cooperate with RJV throughout the transition and will not take any action without RJV's approval, which approval shall not be unreasonably withheld. RJV will share in the recording costs to effect transfer of the Domestic Ground Water and Wastewater systems, as contemplated herein. In the event additional costs and fees are incurred, the parties agree to work together in equitably allocating said costs and fees. It is understood that RJV has limited financial resources and that it is contributing a significant amount of time (as well as a significant amount of assets, including real property) to assist in this transition.

F. MISCELLANEOUS:

1. **Right of First Refusal:** Sambrito agrees to provide RJV with a ROFR should Sambrito decide not to operate the Domestic Ground Water and Wastewater Systems in the future or should Sambrito desire to sell the Domestic Ground Water and Wastewater Systems.
2. **Sufficiency of Conveyance:** The parties agree that the Acquired Assets are the same assets previously used by RJV to operate the Domestic Ground Water and Wastewater Systems that serve the Subdivisions. If Sambrito desires additional land or property owned by RJV, it must pay RJV fair compensation for such property, as provided for in paragraph A.2.f.
3. **Transfer or Sale of RJV Property:**
 - a. In the event of a transfer or sale of RJV property, RJV agrees to provide notice to Sambrito and to negotiate conversion of easements to fee ownership of land underlying water and wastewater system assets, where

practicable, and upon terms and conditions agreeable to RJV, such as additional compensation to RJV or its successor.

- b. In the event of a transfer or sale of RJV property, RJV agrees to provide Sambrito with continued emergency access to water storage ponds for fire protection as long as said ponds continue to be used as water storage ponds for such purpose when under different ownership.
- c. Should RJV or its successor decide to discontinue use of irrigation water from the Pine River, Sambrito will be provided reasonable advance notice so that Sambrito can make alternative arrangements for an irrigation water supply.

4. **Easements to RJV:**

- a. **Lagoon/Pond:** RJV will reserve a non-exclusive easement on the real property that comprises the 3rd lagoon/pond and access to the same. Ralph G. Phelps made a verbal agreement with the NM State Park and Bureau of Reclamation to use the RJV pipeline to provide irrigation water to the wetlands area near the 3rd Lagoon/pond. RJV will therefore need an easement to continue to fulfill this obligation in the future.
- b. **Access Roads:** Sambrito understands that RJV requires easements on the existing access roads. To that end, RJV will retain its right to use the existing roads in all conveyances and transfers to Sambrito. The parties understand that the majority of roads at issue are jointly used by RJV and energy companies. Thus, Sambrito will become another joint user of the roads and its use will be subject to the existing rights of others.
- c. **Pipelines and Infrastructure:** To the extent that RJV has any underground pipelines or infrastructure, easements or structures, for its irrigation system that are located on any of the real property that will be conveyed to Sambrito (whether fee ownership or as an easement), Sambrito agrees to ensure that RJV will maintain its existing rights/property interests so that RJV's irrigation and agricultural practices are fully preserved.

4. **Water and Sewer Service.** Sambrito intends to serve all lots within the Subdivisions; provided, it has adequate water rights and a sufficient physical supply. Subject to the forgoing limitations, Sambrito does not intend to impose a moratorium or in any way restrict the development within the Subdivisions.

Transfer Of Domestic Ground Water System And Wastewater System Assets, Operation And Service, and Related Agreements From Rosa Joint Venture Partnership To The Sambrito Mutual Domestic Water Consumers Association

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END OF DOCUMENT TEXT

=====ATTACHMENTS 1 THROUGH 7 FOLLOW=====

ATTACHMENT 1:

STORAGE TANK 1 – TRANSFER OF SITE AND ROW EASEMENTS



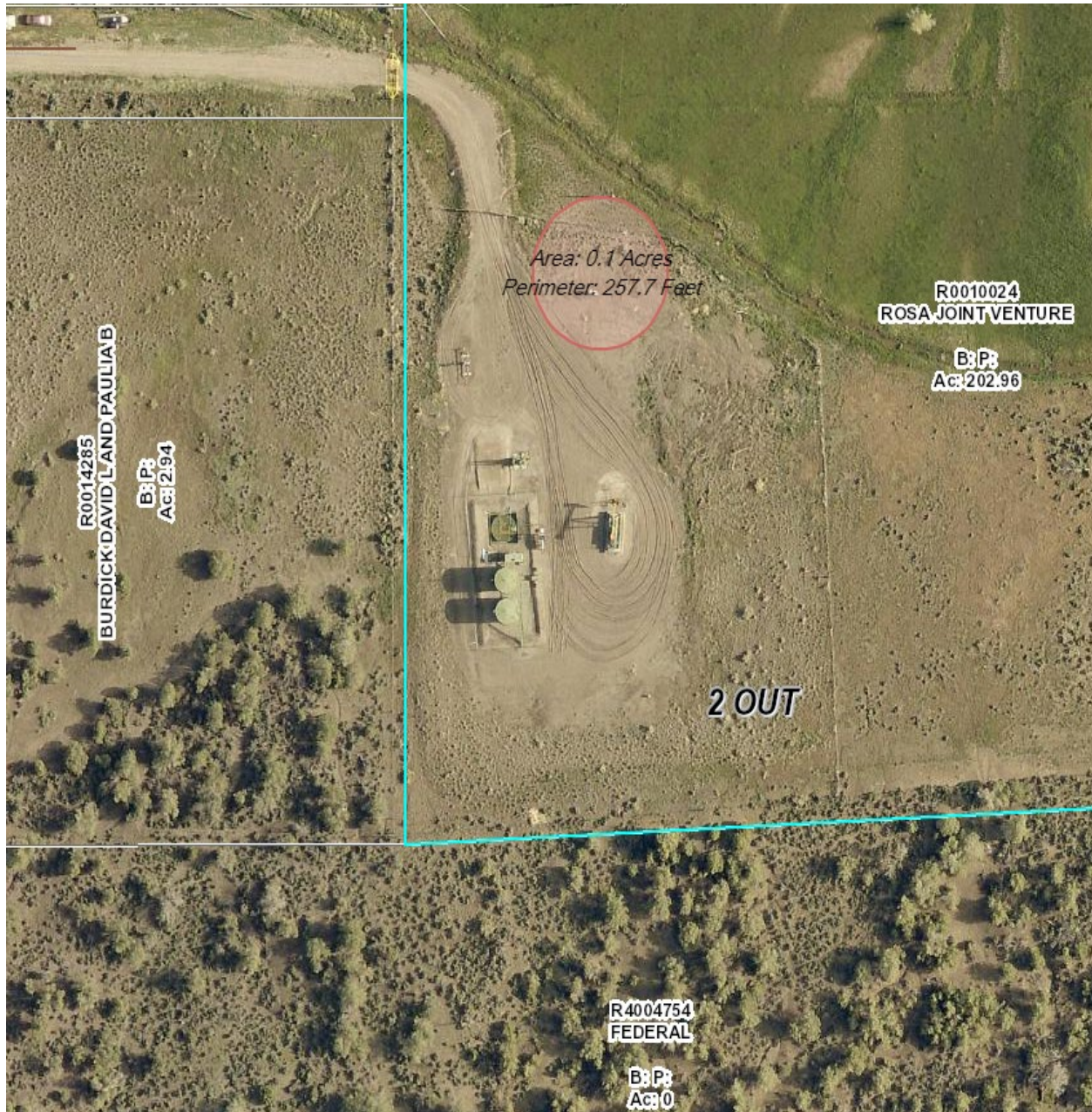
ATTACHMENT 2:

STORAGE TANK 2 – CREATION OF ROW EASEMENTS



ATTACHMENT 3:

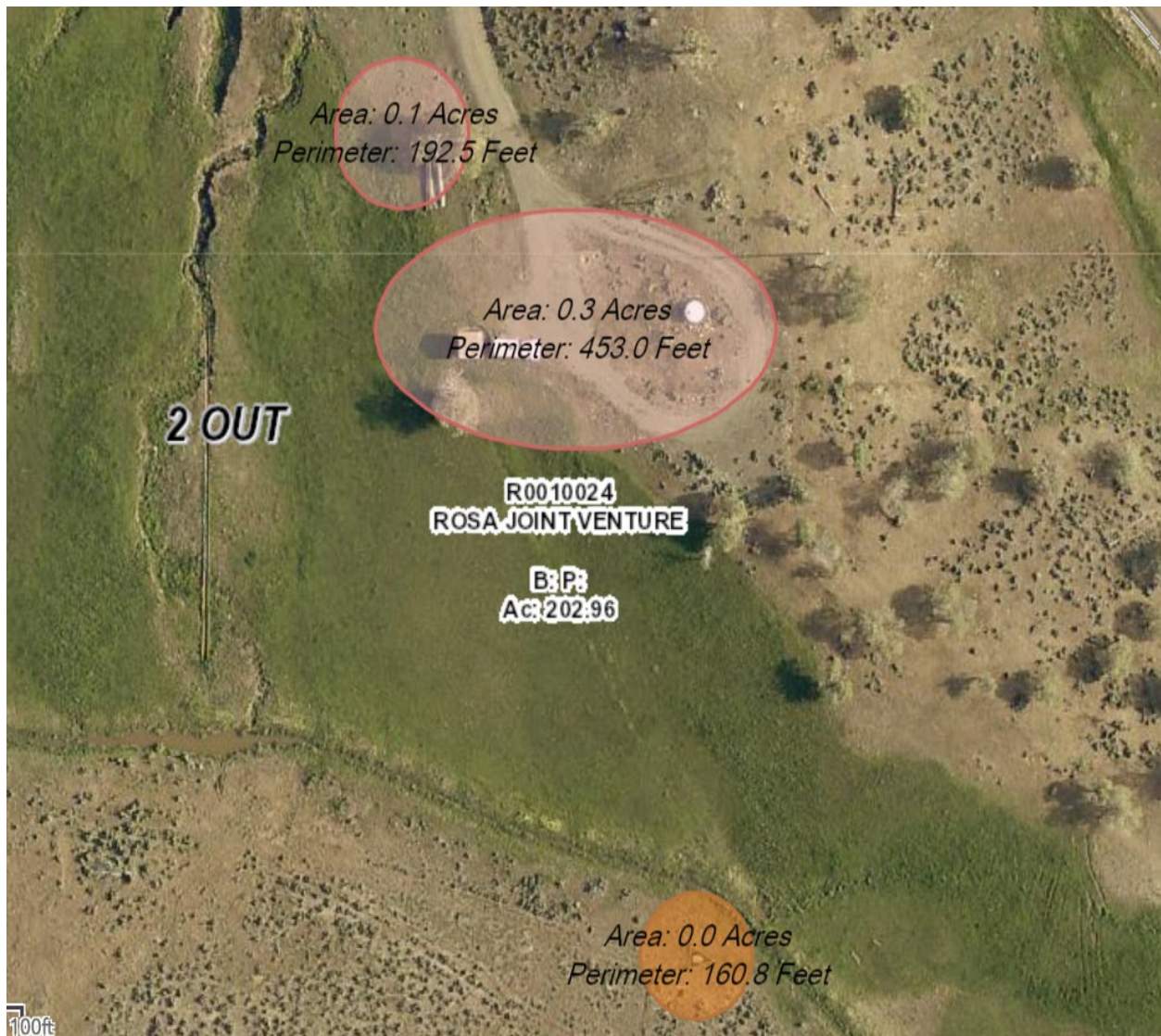
CREATION OF EASEMENT FOR UN-NUMBERED OIL AND GAS WELL
(Location estimated – confirmation needed)



ATTACHMENT 4:

**CREATION OF EASEMENT FOR
WELL 4, WELL 5 AND WELL HOUSE**

(Locations estimated – confirmation needed)



Transfer Of Domestic Ground Water System And Wastewater System Assets, Operation And Service, and Related Agreements From Rosa Joint Venture Partnership To The Sambrito Mutual Domestic Water Consumers Association

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ATTACHMENT 5:

KNOB PROPERTY AND WELL: TRANSFER OF REAL PROPERTY AND WELL 6



ATTACHMENT 6:

TRANSFER OF OFFICE/WAREHOUSE PROPERTY



ATTACHMENT 7:
TRANSFER OF LAGOONS



RJV REPAIRS

REPAIR ITEMS DISCUSSED AT 12/4/20 STATUS CONFERENCE

John Newingham – completion of culvert replacement and needs lid for meter can

Janet Garret – needs lid for meter can

Mary Seagrave – repair culvert (full of water)

Charissa Kearns - needs culvert around meter severely damaged

Kyle Guire - needs culvert around meter

Doug Windolph – repair damaged shut off valve

Todd House - needs lid for meter can

Leslie Hunt - needs lid for meter can Thomas Gurule needs lid

Rodger Martinez - needs lid for meter can

Yvonne Lucero – repair flooded meter can and needs lid for meter can

Quentin Archuleta – repair flooded meter can

Jeffrey Lallard – repair flooded meter can

SAMBRITO MUTUAL DOMESTIC WATER CONSUMERS ASSOCIATION*
INITIAL RATE SCHEDULE

WATER SYSTEM:

Base Charge (0 to 1000 gallons)	\$12.00
1001 to 2000 gallons	\$0.12/gallon
2001 to 3000 gallons	\$0.24/gallon
3001 and above	\$0.48/gallon

WASTEWATER SYSTEM:

Base Charge	\$15.00
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***Carry-over rate structure from Rosa Joint Venture Partnership.**

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF AN ORDER TO)	
SHOW CAUSE AS TO WHY ROSA)	
JOINT VENTURE PARTNERSHIP,)	
SHOULD NOT BE FOUND IN VIOLATION)	CASE NO. 18-00214-UT
OF THE PUBLIC UTILITY ACT AND)	
COMMISSION RULES)	

AMENDED CERTIFICATE OF SERVICE

I certify that, on April 2, 2021, I emailed the parties listed here, via email only, a true and correct copy of foregoing pleading. The foregoing pleading has been resubmitted April 8, 2021 to comply with newly adopted electronic filing requirements in PRC Docket 20-00190.

VIA EMAIL

Michelle Henrie	michelle@mhenrie.com
Judy Phelps	judy.phelps42@icloud.com
Amy Huff	amy@waterland-law.com
Alice McKaughn	alicemckaughn@gmail.com
Ralph G. Phelps	GloriaBailey1953@yahoo.com
Cecil Phelps	cecilphelps@gmail.com
Dan Najjar	dnajjar@virtue.law.com
Carla Najjar	csnajjar@virtue.law.com
Bernadett Dickinson	Help4all@earthlink.com
Milo Chavez	Milo.chavez@state.nm.us
Timothy Martinez	Timothy.martinez@state.nm.us
Russell Fisk	russell.fisk@state.nm.us
John Bogatko	john.bogatko@state.nm.us
John Dustin	john@j-dustin-rifle.com
Ashely Schannauer	ashley.shannauer@state.nm.us

Dated April 8, 2021.

Germaine Chappelle
