

ENMWUA Regular Board Meeting

DATE:

Thursday, July 27, 2023

LOCATION:

Clovis Carver Library (North Annex), 701 N. Main Street, Clovis NM, 88101.

1. Call to Order

The meeting was called to order at 3:01 pm

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2. Roll Call

5 Roll was called, the following ENMWUA Board Members were in attendance:

6 Chairman Morris

Secretary Bryant

8 Member Garza

Member Lucero (was present Via Teams)

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The following Board members were absent:

12 Vice-Chair Jackson

Member Carter

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ENMWUA Administrator Orland Ortega and staff, ENMWUA Attorney Kameron Barnett, Jim Honea and Wendy Christofferson with Jacobs Engineering were present. Joe Thompson with Thompson Consulting, LLC. was present via Teams. Members of the public that attended: Autum Scott from the Eastern New Mexico News, Robby Sanders with Smithco Construction, and Jim Mitchell with J&H Services.

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3. Approval of Agenda

21 A motion to adopt the agenda was unanimously approved.

Result: Approved by Vote (4-0)

Ayes: 4

Nays: 0

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4. Approval of Minutes

a) The Board unanimously approved the minutes from the Regular Board Meeting held on Thursday, June

22, 2023, at 3:00 pm at the Clovis Carver Library (North Annex), Clovis NM, 88101.

Result:	Approved by Vote (4-0)	
Ayes: 4		
Nays: 0		

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5. Public Input

30 Chairman Morris addressed the public for any comments.

31 Autum Scott a reporter for the Eastern New Mexico News spoke and advised that she has been assigned

32 to cover the Eastern New Mexico Water Utility Authority Meetings and will be attending all meetings in

33 the foreseeable future.

34 Mr. Ortega addressed the Board Members and informed them that the ENMWUA has added a new

employee named Helen Page who joined the Authority on July 24, 2023. He advised that Ms. Page comes

to the Authority with bookkeeping, accounts payable and receivable, office, and customer service

37 experience.

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6. Monthly Financials

a) Approval of Monthly Financials for the Month Ending June 30, 20223. - Ortega

Mr. Ortega reported total revenues for the month ending June 30, 2023, were in the amount of \$1,674,766.04. Expenditures reported for the month of June 30, 2023, was \$1,293,816.73. Reported expenditures included administrative professional services, operation and maintenance, Finished Water 3A Pay App 18, Finished Water 1 Pay App 4, and project task order activities. Bank account balances reported as of June 30, 2023, were as follows: ENMWUA business checking account had a balance of \$315,366.74, ENMWUA Money Market account had a balance of \$2,083,754.31, Capital Construction account had a balance of \$748,653.62, and the ENMWUA CD had a balance of \$2,541,595.63. Reported as of June 30, 2023, ENMWUA business checking account had a current balance of \$315,366.74, Money Market account balance sits at \$2,083,754.31, ENMWUA CD balance is reported the same at \$2,541,595.63, and Capital Construction account has a current balance of \$248,653.62. The total balance of all Authority accounts as of July 27, 2023, was reported at \$5,689,370.30.

A motion was made for approval of the monthly financials, and a roll call vote took place.

Result:	Approved by Vote (4-0)
Motion:	
Bryant	
Second:	
Garza	

Ayes: 4			
Nays: 0			

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58 59 b) Approval of Monthly Bank Transfer Request from Money Market Account #7111 to Business Checking

Account #7101. – Ortega

M. Ortega explained that the Authority is requesting a transfer of \$110,000.00 from the Money Market account to the Business Checking account to pay monthly administrative, professional, and O & M expenditures.

60 A motion was made for approval, and a roll call vote took place.

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Result:	Approved by Vote (4-0)
Motion:	
Garza	
Second:	
Bryant	
Ayes: 4	
Nays: 0	

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c) Request to Obtain ENMWUA Purchase Card to be used for Capital Construction Small Expenditure
Activity. – Ortega

Mr. Ortega informed the Board Members this purchase card will be used for Capital Construction activity for small items that need immediate payment such as easement recordings at the County Courthouses, and certified mailings at the Post Office, and small purchases involving capital construction. Mr. Ortega asked Ms. Bowens to provide further details. Ms. Bowens shared the Capital Construction card usage would be as follows:

- Easement Recordings
- Postage
- Title Company Expenditures
- Capital Construction Unknown Expensditures (Ex. Signage)

Ms. Bowens further shared the advantages of the Capital Construction card would be as follows:

- Limitation of current tracking of expenditures for transfer request from one account to another.
- Easier tracking for USBR reimbursement request.
- Clear documentation for USBR reimbursement request.

Requested card limit is \$10,000.00 with a requested daily limit of \$2,000.00.

79 A motion was made for approval, and a roll call vote took place.

Result:	Approved by Vote (4-0)
Motion:	
Bryant	

Second: Garza			
Ayes: 4			
Nays: 0			

7. New Business Items

a) Resolution 2023-06 Adoption of the June 30, 2023, 4th Quarter Year to Date Financial Report. – Ortega Mr. Ortega stated that this resolution allows the Authority to complete the FY2023 budget. The report is a reconciliation of funds left over. If adopted, the ENMWUA will submit the June 30, 2023, 4th Quarter Year to Date Financial Report along with Resolution 2023-06 to the NM Department of Finance and Administration for their review and approval.

A motion was made for approval, and a roll call vote took place.

Result:	Approved by Vote (4-0)
Motion: Garza	
Second: Bryant	
Ayes: 4	
Nays: 0	

b) Resolution 2023-07 Adoption of FY2024 Final Budget. - Ortega

Mr. Ortega reported the adoption of this resolution approves the FY2024 Final budget. No changes of the Board approved interim budget have been made other than updating the balances as of June 30, 2023. Once adopted by the Board, the Final budget will be submitted to the New Mexico Department of Finance and Administration for their review and approval.

A motion was made for approval, and a roll call vote took place.

Result:	Approved by Vote (6-0)
Motion: Lucero	
Second: Garza	
Ayes: 4	
Nays: 0	

c) Request for Approval of Grant Agreement between the ENMWUA and the State of New Mexico
Department of Environment Fund 93100 Capital Appropriation Project SAP 23-H5146-HB2 for the Eastern
New Mexico Rural Water System Project in the Amount of Fifteen Million Dollars minus Two Hundred
Thousand Dollars allocation to the NM Environment Department for Administrative Costs resulting in a
Total to the ENMWUA in the Amount of Fourteen Million, Eight Hundred Thousand, and Zero Cents
(\$14,800,000.00). – Ortega, Bowens

Mr. Ortega explained this is a 2023 Legislative Capital Outlay Grant Agreement ready for consideration of approval from the ENMWUA Board. This funding amount of \$14,800, 000.00 has been granted to the ENMWUA as part of the state's 15% match to the ENMRWS. Mr. Ortega then as Ms. Bowens to provide some details involving the Grant Agreement. Ms. Bowens reported the SAP 23-H5146-HB2 award amount is \$15,000,000.00 with a \$200,000.00 dollar deduction from the New Mexico Environment Department for administrative costs which leaves a balance of \$14,800,000.00. The reversion date on this agreement will be June 30, 2024. The project description is as follows, for the Eastern New Mexico Water Utility Authority for the Eastern New Mexico Rural Water System. The Authority's project Administrator will be Bertha Aragon with the New Mexico Environment Department Construction Programs Bureau. The Authority's project Manager will be Judy Kale with the New Mexico Environment Department Construction Programs Bureau. Database reporting will be on a quarterly basis and spend down requirements are 100% expenditure before the reversion date is required.

A motion was made for approval, and a roll call vote took place.

Result: Approved by Vote (4-0)

Motion:
Garza

Second:
Bryant

Ayes: 4

Nays: 0

d) Resolution 2023-08 Authorizing the Assignment of Authorized Officer(s) and Agent Regarding the State of New Mexico Environment Department Capital Appropriation Project Eastern New Mexico Rural Water System SAP 23-H5146-HB2. – Ortega, Bowens.

Mr. Ortega shared as part of the above grant agreement, this Resolution authorizes assignment of authorized officers and agent to the grant agreement. It is a requirement for identifying and approving the Authorized Officer(s) and agent(s) for authorization to sign Grant Agreements. Mr. Ortega then asked Ms. Bowens to provide further details. Ms. Bowens stated Resolution 2023-08 authorizes the signature of the grant agreement to be, Mr. Chairman, Michael A. Morris official Representative #1 and Mr. Vice-Chairman Ronald Jackson official Representative #2. Alternate official Representative will be ENMWUA Administrator Orlando Ortega, and the Capital Projects Monitoring Systems Representative will also be the ENMWUA Administrator Orlando Ortega.

A motion was made for approval, and a roll call vote took place.

Result:	Approved by Vote (4-0)	
Motion: Garza		

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Second:
Bryant

Ayes: 4

Nays: 0

e) Adoption of Resolution 2023-09 Pledging Matching Funds to the WTB WPF-5952 fund involving the ENMRWS Design and Construction of Raw Water 3, Raw Water 2, and Raw Water 1 Pipeline Phases. —

138 Ortega, Bowens

Mr. Ortega informed the Board members as part of the WTB WPF-5952 "Readiness to Proceed" items, the ENMWUA must demonstrate and pledge through a Board resolution that it will meet the match for this WTB funding as required. The ENMWUA has committed to pledge a minimum of \$2,780,000.00 in non-state matching funds toward the design and construction of ENMRWS Raw Water projects as match to the WPF-5952 Water Trust Board funds awarded. Mr. Ortega asked Chief Procurement Officer Jacquelynn Bowens to provide further details. Ms. Bowens reported the Readiness to Proceed items are due September 29, 2023. The Authority's internal due date to submit readiness to proceed items will be August 7, 2023.

A motion was made for approval, and a roll call vote took place.

Result:	Approved by Vote (4-0)
Motion: Bryant	
Second: Lucero	
Ayes: 4	
Nays: 0	

f) Engineer Recommendation of Award for the Eastern New Mexico Rural Water System Finished Water Three B (FW3B) Pipeline Construction to Smithco Construction Inc. – Ortega, Jacobs

Mr. Ortega stated the FW3B bids were opened on June 7, 2023, at 3:00 pm in Portales. 7 bids were submitted, bids were read out loud publicly. The ENMWUA and Jacobs Engineering have completed the canvassing of the FW3B bid submissions and will now present their findings and make a recommendation of award based on lowest bid and qualification required. Mr. Ortega explained, as contracted by the ENMWUA Jacobs Engineering assists with the canvassing of bids. He advised Mr. Honea will present the engineers' recommendation of award of FW3B. Chief Procurement Officer Jacquelynn Bowens will also present the procurement involved with this bidding process. Mr. Honea reported there were 7 bids received and unfortunately 5 of the 7 bids were deemed nonresponsive due to various things such as submitting the qualifications, forms not filled out, etc. He stated the range between the two alternatives was 16.7 million and 17.2 million. Mr. Honea advised Jacobs Engineering recommendation of award is to Smithco Construction based on being the lowest responsive bidder. At this time a member of the public spoke and advised his name was Jim Mitchell, owner of J&H Services. He stated that his company was the second bidder and was 300 thousand dollars under Smithco's bid. Mr. Mitchell explained that his company did not meet the requirements. He expressed that the requirements are stringent for the State of New

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Mexico. Mr. Mitchell shared that by going the route that the Authority did, they precluded the majority of the bidders who were certainly qualified. He expressed that J&S Services did not meet the criteria to the \$5 million dollar minimum due to the fact that until recently a couple miles of 24-inch pipe did not equal \$5 million dollars. With that being said Mr. Mitchell stated that he did not feel like his company, J&H Services were getting a fair shake on this deal being \$300,00.00 lower than the perspective winner. Mr. Mitchell said if the bid gets awarded to Smithco his company will be filing a lawsuit against the ENMWUA and Jacobs. Chief Procurement Officer Jacquelynn Bowens spoke on behalf of the Authority's procurement policy and advised the ENMWUA received 7 bids on June 7, 2023. Ms. Bowens explained the Authority has a weighted criteria which is evaluated on a pass, fail basis. Responsive bids that were received were two. Non-responsive bids received were five. Ms. Bowens reported the evaluation process was conducted in strict accordance with the bid specifications outlined in the invitation to Bid (ITB) document. Qualifications are weighted on a pass/fail basis as allowable in accordance with the New Mexico Procurement Code section 13-1-105 and 13-1-84. Ms. Bowens further reported based on the bids received and there strictly clearance with the bid specifications outlined within the invitation to bid document and as allowable under state statue 13-1-105. The evaluation process was conducted by Jacobs Engineering and Chief Procurement Officer Jacquelynn Bowens. After careful assessment of the documents that were received within the bids, it is determined that two bids met the responsive criteria while five bids were deemed non-responsive. Ms. Bowens stated as the Chief Procurement Officer of the Eastern New Mexico Water Utility Authority based on thorough evaluation process the recommendation is to award the Finished Water 3B Construction contract to Smithco Construction.

A motion was made for approval, and a roll call vote took place.

Result: Approved by Vote (4-0)

Motion:
Lucero

Second:
Garza

Ayes: 4

Nays: 0

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g) Request for Approval Authorizing ENMWUA Administrator to Sign Notice of Award for Finished Water Three B (FW3B) Pipeline Construction. — Ortega

Mr. Ortega informed the Board Members as a next step to awarding the FW3B contract for constructing the FW3B pipeline, the ENMWUA will need to provide a "Notice of Award" to the contractor, Smithco Construction, Inc. This Board action will give the administrator the authority to sign the Notice of Award for FW3B Pipeline construction and allow the Authority to move to the next step of this process which is completing the due diligence of the contractor. Mr. Ortega explained those items as outlined in the Notice of Award letter include verifying the required bonding of the project and providing proof of the required insurance coverage for themselves, their employees, and anyone under them during this project. From the time of the Notice of Award to the execution of the agreement, the contractor uses that time to secure the required bonding and insurance documents for verification from the ENMWUA, ENMWUA Attorney, and ENMWUA's Engineering firm.

A motion was made for approval, and a roll call vote took place.

Result:	Approved by Vote (4-0)
Motion: Bryant	
Second: Garza	
Ayes: 4	
Nays: 0	

h) Recommendation for Approval Authorizing the ENMWUA Chairman and Secretary of the Execution of Agreement between the ENMWUA and Smithco Construction Inc. for the Construction of Finished Water Three B (FW3B) Pipeline. – Ortega, Bowens, Barnett

Mr. Ortega stated approval of this item will allow the ENMWUA Chairman and Secretary to execute the agreement once all appropriate documents are provided to the ENMWUA. Mr. Ortega asked Chief Procurement Officer Jacquelynn Bowens to provide further details. Ms. Bowens shared the Finished Water Three B construction contract between the Authority and Smithco is a standard construction agreement prepared by Jacobs Engineering. This agreement will be fully executed on the date of the last signature. This agreement has been reviewed by ENMWUA staff and administration, Jacobs Engineering, and all contractors during the bidding of FW3B. At this time no changes have been or suggested the total contract price will be \$15, 725,742.46 excluding gross receipts tax.

A motion was made for approval, and a roll call vote took place.

Result:	Approved by Vote (4-0)
Motion: Lucero	
Second: Bryant	
Ayes: 4	
Nays: 0	

i) Request for Approval Authorizing ENMWUA Administrator to Sign Notice to Proceed for Finished Water Three B (FW3B) Pipeline Construction. - Ortega

Mr. Ortega shared with the execution of the agreement; the Authority can then provide an official Notice to Proceed on the construction of FW3B. This action by the Board will allow your administrator to sign the Notice to Proceed letter. Mr. Ortega explained the goal is to get the letter out by late August, Notice to Proceed will likely be mid-September. The Authority is requesting that the contractor not disturb soil until 30 days prior to delivery of the pipe. A letter from the pipe manufacturer is required stating the pipe delivery date. Setting up the staging area/storage yard will be allowed.

A motion was made for approval, and a roll call vote took place.

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Result:	Approved by Vote (4-0)
Motion: Garza	
Second: Bryant	
Ayes: 4	
Nays: 0	

i) Request for Approval Authorizing ENMWUA Administrator to Approve Change Orders for Finished Water Three B (FW3B) Pipeline Project in the amount of \$50,000.00 and less. – Ortega

Mr. Ortega advised that this item would allow your Administrator to approve change orders of \$50,000.00 or less. This approval will allow the Authority to work in an efficient manner and not cause delays in construction for potential minor changes. Mr. Ortega stated the Administrator works closely with the Finance Committee and reports any potential change orders of \$50,000.00 or less. Any change order in the amount larger than \$50,000.00 will go to the full Board for approval.

A motion was made for approval, and a roll call vote took place.

Result:	Approved by Vote (4-0)
Motion: Bryant	
Second: Lucero	
Ayes: 4	
Nays: 0	

k) Request for Approval of a Professional Services Agreement between ENMWUA and Agenda, LLC in providing Consultation, Information, and Assistance regarding Public Affairs and Related Matters on an as Needed Basis. — Ortega, Bowens

Mr. Ortega reported this is for professional services for assistance with "Progress Messaging" of the project. As the ENMWUA ramps up its activities for completion, the Authority feels it is necessary to bring awareness to our members of the public. This contract is on an "as needed" basis with a \$20,000.00 annual limit directed by the ENMWUA. Mr. Ortega then asked Chief Procurement Officer Jacquelynn Bowens to provide further details. Ms. Bowens shared the procurement type on Agenda Professional Service agreement was a statewide professional agreement under \$20,000.00 the contract type is a one-year renewable contract. Compensation rates is a preset hourly rate based on the statewide purchasing improvement. This procurement meets state statue 13-1-125 subsection C.

A motion was made for approval, and a roll call vote took place.

Result:	Approved by Vote (4-0)	3
Motion:		
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Second: Garza			
Garza			
Ayes: 4			
Nays: 0			

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I) Request for Approval of Easement Agreements with Randall Lee, Jimmy Lee Baca, Cain Lee, and Syncere Baca and the ENMWUA for FW3B Pipeline Phase. – Ortega

257 Parcel 4 000 000 003 199 00 (Parcel K)

Mr. Ortega informed the Board members that this is a Permanent and Temporary Construction easement for the FW3B pipeline project. The property owners have accepted the easements purchase offer and have signed both agreements. The Authority makes a recommendation for the Board to approve both easement agreements. Mr. Ortega reported this is the last easement for FW3B to be secured.

A motion was made for approval, and a roll call vote took place.

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Result:	Approved by Vote (4-0)
Motion: Garza	
Second: Bryant	
Ayes: 4	
Nays: 0	

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m) Request for Approval of Easement Agreements with William Lee Smith and Donna K. Smith, Co-Trustees of The William L. Smith and Donna K. Smith Revocable Trust and the ENMWUA for RW3 Pipeline

267 <u>Phase. – Ortega</u>

Parcel 1 203 038 188 198 00 (Parcel AJ)

Mr. Ortega stated This is a Permanent and Temporary Construction easement for the RW3 pipeline project. The property owners have accepted the easements purchase offer and have signed both agreements. The Authority makes a recommendation for the Board to approve both easement agreements.

A motion was made for approval, and a roll call vote took place.

Result:	Approved by Vote (4-0)
Motion: Garza	
Second: Bryant	
Ayes: 4	
Nays: 0	

276 <u>n) Request for Approval of Easement Agreements with the Kindred Double G. Ranching, LLC and the</u>

277 ENMWUA for RW3 Pipeline Phase. – Ortega

278 Parcel 1 203 039 110 122 00 (Parcel AG)

Mr. Ortega explained this is a Permanent and Temporary Construction easement for the RW3 pipeline project. The property owners have accepted the easements purchase offer and have signed both agreements. The Authority makes a recommendation for the Board to approve both easement

282 agreements.

A motion was made for approval, and a roll call vote took place.

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Result:	Approved by Vote (4-0)
Motion: Garza	
Second: Bryant	
Ayes: 4	
Nays: 0	

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8. Unfinished Business - N/A

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9. Reports from Board Members and Staff

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a) Project Development Activities – Jacobs

FW1 – Mr. Honea advised clearing and grubbing has begun as well as work limit fencing. Pipe delivery is scheduled for early September.

<u>RW3</u> – Mr. Honea stated Jacobs is progressing 100% design getting ready to submit to the permitting agencies in September. Easement acquisition is progressing, all appraisals and review appraisals are complete.

296 <u>FW3B</u> – Discussed earlier in meeting.

297 <u>Texico Lateral</u> – Mr. Honea informed the Board Members Jacobs is progressing the 100% drawings and specifications. Draft legal descriptions are ready Mr. Honea explained Title Reports are causing some delays. Permitting is also ongoing.

RW1/RW2 — Mr. Honea reported Jacobs design team is progressing the 60% design on RW1. Ms. Christofferson reported on RW2 and stated that Jacobs did an alignment study of several alignments at the Caprock as it one of the most challenging technical pieces of the pipeline project. Ms. Christofferson advised there was four alternatives that had a shaft and tunnel, which basically would not be an open cut type situation. Jacobs also looked at a couple of different open cuts situations. Ms. Christofferson described in detail red alternative one and yellow alternative two were the best open cuts situations. Ms. Christofferson shared Jacobs is recommending to proceed with alternative two as it received the highest weighted scare.

weighted score.
 Elida Lateral – Mr. Honea shared the design team is progressing the 60% design.

308 <u>Elida Lateral</u> – Mr. Honea shared the design team is progressing the 60% design.
309 <u>Intake Pump Station</u> – Mr. Honea explained Jacobs is progressing the 60% design.

310 <u>Caprock Pump Station</u> – Mr. Honea advised Jacobs is progressing the 60% design.

311 <u>Water Treatment Plant</u> – Mr. Honea stated the Water Treatment Plant is currently on hold waiting on some discussions with the Bureau of Reclamation in relation to the changes to membrane and reverse osmosis.

b) Ute Reservoir USGS Report - Bowens

Currently the Ute Reservoir Storage in ac/ft as of June 27, 2023, the Reservoir was at 174,700 ac/ft and as of today July 27, 2023, was reported at 175,700 ac/ft for an increase of 1,000 ac/ft. The Ute Reservoir Water Surface Elevation in ac/ft as of June 27, 2023, was reported at 3,784.01 ft and as of today July 27, 2023, was reported at 3,784.16 ft for an increase 1.80 inches.

c) State Activities - Thompson

Mr. Thompson reported he attended a meeting earlier in the week that consisted of the Legislative Finance Committee, The Capital Team, and a couple of Legislators. He advised they have changed the revenue estimates just in the last week. They believe the State is going to have about \$800 million more than the consensus revenue estimates from the beginning of the year.

d) Federal Activities - Ryan

328 Absent

e) Report from the Chair - Morris

Chairman Morris expressed his gratitude for all our member communities as well as the leaders of our member communities that have hung around through the years. He stated how excited he is to see this vital and transformative project be completed in 2031.

f) Report from the Administrator - Ortega

Mr. Ortega reported the Authority has committed to a Finished Water 1 Gound Breaking ceremony on August 22, 2023, from 9:00 am to 11:00 am. Mr. Ortega explained the plan is for the Authority to host an early morning event with pastries, coffee, and refreshments. He advised after the announcements all in attendance will drive out to the actual extraction site to break ground for the Finished Water 1 Pipeline Phase. Mr. Ortega stated he sent an email earlier this week to the Chamber of Commerce in both Clovis and Portales offering a presentation on the progress of the ENMWUA Pipeline Project to their groups.

10. Future Agenda Items

a) Next Regular Meeting, Date, Time, and Location: Thursday, September 28, 2023, at 3:00 p.m. at the Clovis Carver
 Library (Ingram Room), 701 N. Main Street, Clovis NM, 88101.

11. Public Input

12. For the Good of the Order

13. Adjournment

356 Meeting adjourned officially at 4:36 pm

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Michael A. Morris

359 Chairman

Chris Bryant

Secretary