



**SB 46/HB 121 Acequia and Community Ditch Fund  
Appropriation Bill (Gonzales/Herrera)**

New Mexico Acequia Association  
February 2, 2022

**Purpose of SB 46/HB 121, Acequia and Community Ditch Fund Appropriation Bill:**

SB 46/HB 121 appropriates \$400,000 from the general fund to the Acequia and Community Ditch Fund (ACDF) for expenditure in fiscal year 2023 and subsequent fiscal years to carry out the purposes of the ACDF, which is to provide financial assistance to acequias and community ditch systems to develop hydrological studies, acquire technical and legal research, and other information and services necessary to conserve and protect water for New Mexico's future through the adjudication of water rights. NMSA 1978, Section 73-2A-2. HB 121's intent is to fully fund the ACDF's purpose and provide equitable access to legal and technical resources for acequias statewide, furthering water sharing and water conservation, as well as meaningful water management statewide. HB 121 does this by closing the gap between current ACDF funding levels and the unmet need supported by FYs '21 and '22 acequia regional association funding requests and actual ACDF fund awards.

**Background:**

The ACDF was established in 1988 to ensure that acequias have legal representation and technical assistance in the adjudication process, which includes both settlement negotiations and settlement implementation. Water rights settlements are complex, and acequias need legal representation and technical assistance to both effectively negotiate settlement terms and implement settlement agreements. Acequias also need assistance to ensure that they and other parties to a settlement agreement are complying with the agreement's terms and conditions. The ACDF helps fund technical services related to the adjudication process including the hiring of attorneys, hydrologists, and historians.

**Increased Recurring Funding for ACDF will Result in:**

- Equitable access to critical legal and technical assistance for acequias and community ditches during settlement negotiations and implementation.
- Successful compliance with settlement agreements and avoidance of non-compliance enforcement actions.
- Moving adjudications forward toward completion, enabling more meaningful water management statewide.
- Furthering water sharing and water conservation statewide.

## Frequently Asked Questions About ACDF:

**1. *ACDF Amount:***

- The ACDF has approximately \$600,000 and is administered by the New Mexico Department of Agriculture (NMDA).

**2. *Who is eligible for ACDF Grants:***

- In order to be eligible for this fund, acequias have to be organized into a regional acequia association that represents the majority of acequias in a stream basin. For example, 54 acequias have organized as the Taos Valley Acequia Association (TVAA). The TVAA is then the entity eligible for funding under the ACDF.

**3. *Can the ACDF be used to represent individual members of ditches?***

- Generally, no. The NMDA has established strict guidelines on the use of the fund. Those guidelines prohibit the use of the fund for legal representation of an individual.

**4. *What are some examples of allowable expenses?***

- Issues common to all members on the acequia, for example, establishing priority dates, FDR, PDR, etc., including negotiations with the state and other parties on these issues.
- The NMDA also provides training sessions for grantees so that they can better understand what types of expenditures are allowed.

**5. *What are some specific examples of funding requests for settlement implementation?***

- The Pojoaque Valley Regional Acequia Association (PVRAA) requested funds to hold field offices at which they would provide education to acequia officers and parciantes on the various aspects of settlement compliance. Many parciantes are not aware of the obligations of the settlement and there are many new commissioners and mayordomos that will benefit from this outreach. In addition, the TVAA is involved settlement implementation including 1) locating and constructing mutual benefit projects, 2) implementation of administrative provisions of settlement agreement, and 3) implementation of shortage sharing provisions of settlement agreement.

**6. *ACDF Funding Process:***

- This funding is allocated through an annual grant making process. NMDA manages that whole process by notifying current grantees to complete an application prior to the beginning of the next state fiscal year.
- Regional acequia associations apply through that application process and a distribution meeting is held at which the ACDF committee, reviews and approves applications for funding and the amount of grant awards.
- The ACDF committee is comprised of 3 individuals: the chair of the Interstate Stream Commission (ISC), a representative from the New Mexico Acequia Commission

(NMAC), and the secretary of the New Mexico Department of Agriculture (NMDA), who sits as the chair of the committee.

- This committee receives recommendations from the Office of the State Engineer (OSE), who prepares a report on the status of adjudications in which applicants are involved. The report lists activities in each adjudication for which assistance is sought and ranks current adjudications based on low to high priority depending on pace and importance of adjudication in a particular area.
- The staff of the respective agencies (NMDA, ISC, and NMAC) provide recommendations to the committee which then decides how much to allocate to applicants after each applicant has had a chance to provide testimony in support of their respective applications.

**7. *ACDF Previous Grantees:***

- 14 regional acequia associations submitted applications, and 13 grants were awarded in FY 21, totaling just less than \$600,000; the Committee has reserved \$30,000 for a contingency fund. The contingency fund becomes available to current grantees and new grantees sometime in the middle of the FY through the same application process.
- The average amount of awards under the ACDF is around \$49,000. In no case, pursuant to the statute, may any one acequia association receive more than one fourth of the yearly appropriation. The current law also requires the committee to consider at least eight qualified associations in making its award determinations.

**8. *Number of Attorneys ACDF Funds:***

- Typically, there will be one or two attorneys for each regional acequia association. Those attorneys represent a large number of acequias. For example, the Taos Valley Regional Acequia Association is comprised of 54 acequias and contracts with two attorneys.
- Without the fund, each acequia would have to hire their own attorney to secure adequate representation and defense of acequia interests during adjudications.
- Acequia associations are also able to contract with technical experts, such as hydrologists, historians and anthropologists.

**9. *Status of Adjudications Around the State:***

- The following active adjudications involve acequias and community ditch associations: Chama Adjudication (Aragon); Jemez Adjudication (Abousleman); Nambe, Pojoaque, Tesuque Adjudication (Aamodt); Pecos Adjudication (Cow Creek Section); Pecos Adjudication (Gallinas River Section); San Jose Adjudication (Kerr-McGee); San Juan Adjudication; Santa Cruz/Truchas Adjudication (Abbott); Santa Fe Adjudication (Abeyta); and the Taos/Hondo Adjudication (Abeyta).
- OSE lists 16 active adjudications across the state, 14 of which involve acequias.

**10. *What is the number of acequias and ditch associations in an adjudication suit?***

- The OSE website states that 20% of the state has been adjudicated and 50% is in an active adjudication. Acequias are part of both of those numbers. There are approximately 700 acequias in the state. Approximately 400 acequias have been involved in an adjudication suit. There have been 14 adjudication suits involving acequias. 6 have final decrees, 8 are active.

***11. What is the number of acequias or ditches within an ongoing or completed adjudication suit in which a negotiated settlement was reached?***

Aamodt settlement (final decree), Navajo settlement (partial final decree), Abeyta (partial final decree), Lower Pecos (partial final decree), totaling 154 acequias.