Water Rights Declaration Tutorial in the Middle Rio Grande

Written by Angelina Lopez-Brody, AFSC New Mexico Program

This document will guide you through the process of finding the information for and filling out a declaration for pre-1907 surface (acequia) water rights with the New Mexico Office of the State Engineer (OSE) within the area served by Middle Rio Grande Conservancy District (MRGCD). This is OSE form #WR-21-MRG “Declaration of Ownership of Water Right of Surface Waters Perfected Prior to March 19, 1907 in the Middle Rio Grande Conservancy District.”

AFSC New Mexico is here to support community members through this process and offer general guidance. The South Valley Regional Association of Acequias can also support you. The Office of the State Engineer (OSE) can also provide general guidance. The OSE can also provide a list of water rights consultants who charge fees to support you with water rights concerns.

Community Organizations Which Can Support You

AFSC New Mexico:
NewMexico@afsc.org
505-842-7343 (leave a message, please)
https://www.afsc.org/NewMexico

South Valley Regional Assn. of Acequias:
maestasy@netzero.net
505-877-8200 (leave a message)
https://www.svraa.org/

Office of the State Engineer:
Where to File and Which Can Offer General Support

Water Rights District 1 Office
5550 San Antonio Dr., NE
Albuquerque, NM 87109-4127
(505) 383-4000
https://www.ose.state.nm.us/
Requirements to file:

1) **Two copies of declaration form:** Fill out two original forms OR fill the form out on a computer and print it twice. AFSC has a printer and copier available for FREE for this purpose. You can get the form from the OSE, AFSC, or find the form here: [https://www.ose.state.nm.us/WR/forms.php](https://www.ose.state.nm.us/WR/forms.php)

2) **Filing Fee:** $10 as a check or money order (AFSC New Mexico may be able to cover this fee – talk with our staff)

3) **Notarization:** The form will need to be signed in the presence of a notary public to be notarized. If it is not fully filled out, do NOT have it notarized. Notarization is a FREE service at the NM Office of the State Engineer or at AFSC New Mexico by Angelina Lopez-Brody.

4) **Deed and other relevant documents:**
   a. **Deed:** One copy of a deed for the land where the water will be used to irrigate is needed. If you do not have a copy, we will discuss where you can get a copy in Appendix C (pg. 16). This deed can be a warranty deed, quitclaim deed, transfer on death deed, or other legal deed that is recorded with the appropriate county.
   b. **Relevant documents:** You may also need any relevant documents such as a death certificate, a probate document, a will stating the name of the executor, a power of attorney, a letter of incorporation, etc.
   c. **Map:** You may also submit a copy of the map that the OSE will send you if they invite you to refile after a rejection.
Section 1. Owner of Declared Water Right

<table>
<thead>
<tr>
<th>1. OWNER OF DECLARED WATER RIGHT</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Name:</strong></td>
<td>Day Tel:</td>
</tr>
<tr>
<td><strong>Contact:</strong></td>
<td>Evening Tel:</td>
</tr>
<tr>
<td><strong>Address:</strong></td>
<td>Email:</td>
</tr>
<tr>
<td><strong>City:</strong></td>
<td>State:</td>
</tr>
</tbody>
</table>

Section 1 has the contact information for the owner of the declared water right and, if needed, another contact person.

*Name* – name(s) of the owner(s) of the water right [which are also likely the name(s) of the property owner(s)]

*Contact* – name of contact person, only needed if the contact person is another person than the owner(s)

*Address/City/State/Zip* – best address for mail to be received.

*Day Tel/Evening Tel* – telephone numbers at which to be contacted, if needed

*Email* – email address at which to be contacted, if needed

**Example of Section 1:**

<table>
<thead>
<tr>
<th>Name:</th>
<th>Day Tel:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Juan del Valle</td>
<td>505-123-4567</td>
</tr>
<tr>
<td>Contact:</td>
<td>Evening Tel:</td>
</tr>
<tr>
<td>n/a</td>
<td>505-123-4568</td>
</tr>
<tr>
<td>Address:</td>
<td>Email:</td>
</tr>
<tr>
<td>1234 Valle de Atrisco SW</td>
<td><a href="mailto:juandelvalle@afsc.com">juandelvalle@afsc.com</a></td>
</tr>
<tr>
<td>City:</td>
<td>State:</td>
</tr>
<tr>
<td>Albuquerque</td>
<td>NM</td>
</tr>
</tbody>
</table>
Section 2. Location of Water Point of Diversion

<table>
<thead>
<tr>
<th>2. LOCATION OF WATER POINT OF DIVERSION</th>
</tr>
</thead>
<tbody>
<tr>
<td>MRGCD Diversion Dam</td>
</tr>
<tr>
<td>----------------------</td>
</tr>
<tr>
<td>Cochiti</td>
</tr>
<tr>
<td>Angostura</td>
</tr>
<tr>
<td>Isleta</td>
</tr>
<tr>
<td>San Acacia</td>
</tr>
<tr>
<td>Name of ditch or acequia:</td>
</tr>
</tbody>
</table>

Section 2 describes where the water comes from and has two parts:

1) Choosing the diversion dam that your acequia water comes from
2) Entering the name if the ditch or acequia that you irrigate from

Section 2, Part 1: Diversion Dam

**NOTE** The South Valley of Albuquerque (with it’s Southern border where I-25 crosses the Rio Grande north of Isleta Pueblo) all falls under the Angostura diversion dam.

If you are not sure which diversion dam that you fall under, Appendix A will walk you through how to find which MRGCD map shows your property.

Write your MRGCD map number here to remember it for the next section: ________

Look at the table on the declaration form and find column marked “MRGCD Maps.” The map number that you find associated with the property will guide which Diversion Dam you select.

Section 2, Part 2: Name of ditch or acequia

Write in the name of your ditch/acequia/lateral. If you are not sure, try asking your neighbors, looking at an online map, or looking at https://www.svraa.org/acequia-maps. There are individual acequia maps on the SVRAA website, as well as a link to an ArcGIS map.

Example of Section 2:
Section 3: Place of Use

Section 3 describes where the water will be used. It has four parts:

1) Description of the land from the property deed
2) Total acreage of land receiving irrigation water
3) The owner of the land where the water is used
4) Whether there are other sources of water for the land

Section 3, Part 1: Description of the land from the property deed

*MRGCD Map #*: Please see “Section 2, Part 1: Diversion Dam” above or [Appendix A: How to Find Your MRGCD Map Number](#).

*Tract/Lot number(s) and Description (e.g. Lands of)*: This description comes from the deed for the property. Deeds are available from the County Clerk's Office if you do not have a copy of it. You can either go in person or request to get mailed the document online. Please see [Appendix C: How to Get a Deed from the Bernalillo County Clerk](#).

*Section, Township & Range*: You can enter this information if it is on your deed, but otherwise you can leave it blank.

Section 3, Part 2: Total acreage of land receiving irrigation water

Enter the total acreage of the lot. This can often be found on the *property warranty deed (see above)* or from the *county assessor*. Please see [Appendix B: How to Find Acreage from the Bernalillo County Assessor's Property Record Search](#).
You can also go in person to the OSE if you are unsure about the acreage – leave the acreage line blank and they can support you.

The Office of the State Engineer may edit this acreage down in their resubmittal request if there are buildings, driveways, etc. For now, enter the total acreage of the property lot.

Section 3, Part 3: The owner of the land where the water is used

Write the name of the owner(s) of the land where the water is used. This should match the name(s) on the deed provided.

Section 3, Part 4: Whether there are other sources of water for the land

Answer the yes/no question if there are other sources of water for the land. These sources may be a domestic or commercial well(s) or city water. If you know the OSE file number, write it as well. These may start with two letters and then be followed by five numbers. For example: RG-12345. It is fine if there is not another source, just select the “No” box. If you are unsure, leave it blank.

Example of Section 3:

3. PLACE OF USE

<table>
<thead>
<tr>
<th>MRGCD</th>
<th>Map #</th>
<th>Tract/Lot number(s) and Description (e.g. Lands of)</th>
<th>Acres in each tract</th>
<th>Section</th>
<th>Township</th>
<th>Range</th>
</tr>
</thead>
<tbody>
<tr>
<td>46</td>
<td></td>
<td>Tract 1917 of Lands of del Valle</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Example

Place of use is on land owned by: Juan del Valle

Are there other sources of water for these lands? Yes □ / No □

If yes, describe by OSE file number: ____________
Section 4: Quantity

Section 4 describes how much water will be used.

Both lines multiply the total acreage by a specified number. This section may be changed after the OSE reviews your declaration, if there are changes in the amount of acreage that is irrigable. The consumptive amount is lower than the diversion amount because some of the water drains back into the water table and/or drains back to the river.

Example of Section 4:

For our fictional Juan de la Valle, he would multiply his 1 acre by 3.0 for the Diversion Amount:

\[ 1 \times 3.0 = 3.0 \text{ acre-feet per year} \]

Then he would multiply it by 2.1 for the Consumptive Use Amount:

\[ 1 \times 2.1 = 2.1 \text{ acre-feet per year} \]

Leave the following blanks empty at the bottom of page 1:

File Number: ___________________________  Trn Number: ________________
Form: wr-21-mrg  (Revised April 2016)
Page 2: Sections 5-7 & Notarization

Leave the following blanks empty at the top of page 2:

Fee:______ Receipt No. HC 1-___________ File Number: _____________

Section 5: Purpose of Use

5. PURPOSE OF USE

Irrigation: □ If any other purpose, specify: ________________

Section 5 asks about what the water will be used for. In most cases, you will just check the box for “Irrigation.” Other purposes could include a livestock pond. Please speak with the OSE if you are unsure if you have other purposes.

Example of Section 5:

5. PURPOSE OF USE

Irrigation: [X] If any other purpose, specify: ________________

Example
Section 6: Water was first applied to beneficial use on:

6. WATER WAS FIRST APPLIED TO BENEFICIAL USE ON: ________________
   and since that time has been used fully and continuously for the above
   described purpose(s) except as follows:

Section 6 asks when water was first applied to the land for beneficial use, which includes using it for agricultural irrigation. A common answer is “Prior to 1907.” Don’t leave this blank empty.

The OSE may edit this date if they have a record of when the acequia was first put into use. The answer to this will depend on what is represented on surveys made on the early 20th Century or if you know when your acequia was first put into use.

If there was a period when you were away for military service or if there was another reason why the water was not applied for a period of several years, you can put that information in the box.

Example of Section 6:

6. WATER WAS FIRST APPLIED TO BENEFICIAL USE ON: Before 1907
   and since that time has been used fully and continuously for the above
   described purpose(s) except as follows:

Example
Section 7: Additional statements or explanations:

Section 7 offers a space for any other notes. You can usually just write N/A or not applicable in this box.

Notarization:

*** DO NOT SIGN until you are in the presence of a notary. ***

If there is more than one landowner, only one landowner will need to sign in person in the presence of a notary. Everyone on the list at the beginning of the acknowledgement will be an owner or record. The notary will fill out the Notary section and stamp it with their official stamp. The OSE & AFSC both offer this as a free service, as do many credit unions if you are a member. Banks also often offer notary services for a fee. Other notary services exist.
Do not fill in the following blank – it is for the OSE.

**ACCEPTANCE OF STATE ENGINEER**

This Declaration form is hereby accepted for filing in accordance with NMSA-1978 (1985), as amended. The acceptance by the State Engineer Office does not constitute validation of the right claimed.

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**IMPORTANT: Request for Refile from the OSE**

After the OSE reviews your declaration, which may take over a year due to low staffing levels, they are likely to send you a letter which says it has rejected your declaration. **DON’T PANIC!**

If you have been determined to be eligible for any water rights, they will also enclose an edited declaration with “Refile” at the top. You need to have this notarized (see Notarization section above) and resubmit it to the OSE within 30 days. There is no additional fee if you file within 30 days. If you wait for more than 30 days, you will have to pay the filing fee again.

See **Appendix D: Example of Rejected Declaration with Invitation to Refile** for how this letter might look.
Appendix A: How to Find Your MRGCD Map Number

Go to https://www.mrgcd.com/mapping-gis/ and click “MRGCD Data Viewer.” This will take you to a map website where you can type the address of the water right into the search bar (see image below). The search function works better if you include your zip code.

Close the “About” box by clicking the “X” in the upper right corner.

Then you will see something like this:

The property that you searched for will be in the center of the screen. The MRGCD Map number that that address is a part of shows up in green letters (circled in green) and there are green boundary lines to show where the map numbers change (green arrow is pointing at one).

Note that if you don’t see a map number, you can click on a spot on the same side of the boundary line and it will show the correct map number:
Appendix B: How to Find Acreage from the Bernalillo County Assessor’s Property Record Search

Assessor’s website: Property Record Search - Assessor (bernco.gov)
https://www.bernco.gov/assessor/find-a-property/assessor-property-record-search-portal/

Click ‘Agree’ on the disclaimer to acknowledge that there may be errors or omissions in the portal.

On the next page, enter only the number of the address and the street name without “Rd.,” “St.,” “Blvd.,” etc…. For example of the property was at 1234 Alphabet Rd., I would put “1234” in the Number box and “Alphabet” in the Street box.
Then click “Search.” If you get more than one option, click the one that has a “RP” under the column Roll Type. RP stands for Real Property. (MH stands for Mobile Home)

Once you click that entry, you will see a table describing the property. Scroll down to “Real Property Attributes” section near the bottom. There is a line in this section that will give you the “Lot Size (Acres).”
Appendix C: How to Get a Deed from the Bernalillo County Clerk.

To go in person in Bernalillo County: The County offices are located downtown at 415 Silver Ave SW Albuquerque, NM 87102. There is FREE parking caddy corner to the offices, or you may pay for other parking at other lots or street spaces. After you go through the security check point, ask the greeter for directions to the County Clerks office to get a copy of a property deed. You may need to wait in a lobby, but if it’s been longer than 15 minutes, ask someone to assist you. The Clerk staff can help you find your deed and print it out for you for $1 per page. You will need to submit a copy of the deed with the water rights declaration forms.

To get the document online: Go to https://www.bernoclerk.gov/recording-and-filing/public-document-search/ and click the green letters that say “Public Documents Search.”
Read the disclaimer and if you choose to continue click “I Acknowledge” at the bottom of the next page.

Then click “Public Login”

Then in the “Both Names” box, enter the property owner’s last name, then a space, then a first name. Do NOT add punctuation.
You will see an entry or entries like this:

```
Warranty Deed Joint TENANTS
Grantor
Notes:
```

You can click on an entry to verify that it is the correct one. [If you aren’t sure, you can contact the Bernalillo County clerk at clerk@bernco.gov or (505) 243-VOTE (8683). You can also go to their offices in person, see above.]

If you have determined that it is the correct entry, you can click the box next to “Purchase.” Then scroll down to the bottom and select “Purchase Selected.”
For most deeds, you can purchase either a Standard Copy, which would be emailed to you, or a Certified Copy, which would be mailed to you. The OSE accepts both and can make a copy for you if you need to keep the original.

You will be asked to log in, but you may press “Proceed as Guest.”

Then you can confirm what it is you want to purchase. There is information at the bottom of the page about how to get documents from the Clerk without paying the credit card fee. If you wish to continue, press continue.
Then you will be prompted to read and accept the terms and conditions. Then you can press continue.

In the next page you can change your shipping method if you wish (Email is only available for standard, not certified, copies). You can also delete or add documents to your shopping baskets. Once you are ready to proceed, press “Continue.”

You will then enter your billing information and then click “Submit Payment.” Then review the next box and press “Confirm” if it is correct. If you need to correct anything press “Edit Information.”

In our test purchases, it took one business day for an email with a standard (uncertified) document to arrive and 3 days for the mailed certified copy to arrive.
Appendix D: Sample Rejection Letter with Invitation to Refile

STATE OF NEW MEXICO
OFFICE OF THE STATE ENGINEER

DISTRICT I

MIKE HAMMAN, P.E.
STATE ENGINEER

5550 San Antonio Dr., NE
Albuquerque, NM 87109-4127
(505) 383-4000

Month Day, Year

Rejected Declaration SD-XXXXX

CERTIFIED RETURN RECEIPT REQUESTED

XXXX XXXX XXXX XXXX XXXX XXXX

Person who declared water right
Address
City, State Zip Code

RE: Declaration of Ownership of Water Right of Surface Waters Perfected Prior to March 19, 1907 in the Middle Rio Grande Conservancy District

Dear Declarant:

The Water Rights Division (WRD) has rejected the enclosed Declaration for the reason that XXX acres out of XXX acres total declared, was determined to not have a valid pre-1907 water right. The WRD findings may be viewed at the District 1 Office. All original declarations are hereby returned to you.

The declaration will remain under a rejected status until you take one of the following actions within 30 days:

1) You may file a new declaration under the above-said file number for only the land (XXX acres) determined to have pre-1907 water rights, as shown on the attached map. No additional filing fee will be required. If you would like to refile for the determined amount, please use the included declaration forms that will need to be notarized. The information on the refiled declarations will read as follows:

<table>
<thead>
<tr>
<th>File No.</th>
<th>SD-XXXXX</th>
</tr>
</thead>
<tbody>
<tr>
<td>Priority:</td>
<td>Date of priority (first use), Acreia Name</td>
</tr>
<tr>
<td>Place of Use:</td>
<td>XXX acres of land described as [Legal Description], MRGCD Map [XX]</td>
</tr>
<tr>
<td>Amount</td>
<td>Consumptive Use of XXX acre-feet per annum (XXX ac. x 3)</td>
</tr>
</tbody>
</table>

2) If you are aggrieved by this decision and wish to have the State Engineer schedule a hearing on the rejection of your declaration, you must request a hearing, in writing, no later than thirty (30) days after your receipt of this decision, pursuant to NMSA 1978, Section 72-2-16. If you request a hearing, a reasonable time will be allowed for you to prepare your case, and a hearing will be scheduled. Prior to our submittal of your declaration and hearing request to our Administrative Litigation Unit (ALU), we will schedule a meeting with you to review our decision. If a mutual understanding cannot be reached, we will forward your hearing request.
The rejection/refile letter from the OSE will also likely include:

1. Your old declaration
2. A map of the area determined eligible for water rights
3. A paragraph describing the acreage that is eligible OR an edited version of the declaration with the eligible acreage entered