

SIERRA COUNTY
BOARD OF COUNTY COMMISSIONERS
RESOLUTION NO. 110-238

RESOLUTION SUPPORTING CREATION OF SIERRA COUNTY ARROYO FLOOD DISTRICT

WHEREAS, the Board of County Commissioners of Sierra County, met in a regular meeting on April 16, 2024, at 10:00 A.M. in the Sierra County Administration Office, 1712 N. Date Street, Truth or Consequences, NM 87901; and,

WHEREAS, the Board of County Commissioners of the County of Sierra exercises the powers of the County as a body politic and corporate pursuant to NMSA 1978, Section 4-38-1 (1884); and,

WHEREAS, the Board of County Commissioners of Sierra County recognizes the increasing risk and impact of arroyo-related flooding within the county, as reflected by the 2022 floods that precipitated the Governor's Emergency Flood Declaration, and the disastrous 2020 floods that caused extensive damage in the City of Truth or Consequences, and the Village of Williamsburg; and

WHEREAS, the establishment of a Sierra County Arroyo Flood District would provide the necessary framework to address these challenges and protect the interests of the public, as authorized by the Flood Control District Act, NMSA 1978, Section 72-18-1 et seq.; and

WHEREAS, the creation of a Sierra County Arroyo Flood District would empower the District to undertake projects aimed at mitigating flood risks, ensuring the health, safety, prosperity, security, and general welfare of the inhabitants of the district; and

WHEREAS, the Board of County Commissioners deems it necessary and beneficial to seek the establishment of the Sierra County Arroyo Flood District to effectively address arroyo-related flood control and management in the incorporated and unincorporated areas of the County; and

WHEREAS, pursuant to NMSA 1978, Section 72-18-5 (2019), the Board of County Commissioners is empowered to petition the District Court for an Order to Direct that the Question of the Creation of the Sierra County Arroyo Flood Control District be presented to the voters of Sierra County for consideration at the upcoming General Election;

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Sierra County that:

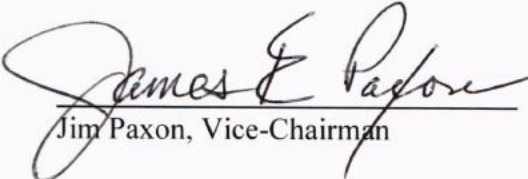
1. The Board fully supports the creation of a Sierra County Arroyo Flood District in accordance with the provisions of the Flood Control District Act, NMSA 1978, Section 72-18-1 et seq., subject to approval of the voters of Sierra County.
2. The County Attorneys are hereby directed to petition the District Court pursuant to NMSA 1978, Section 72-18-5, to seek an Order to Direct that the Question of the Creation of the Sierra County Arroyo Flood Control District be presented to the voters of Sierra County for consideration at the upcoming General Election.
3. The County Attorneys and staff are further directed to provide all necessary legal assistance and support in the establishment of the Sierra County Arroyo Flood District, including but not limited to drafting necessary documents, attending court proceedings, and ensuring compliance with relevant laws and regulations.
4. The County Clerk is directed to take all necessary actions to ensure that the question of the creation of the Sierra County Arroyo Flood Control District is included on the ballot for the upcoming General Election and to facilitate the voting process accordingly upon receipt of an Order from the District Court directing the same.

APPROVED, ADOPTED AND RESOLVED this 16th day of April, 2024.

BOARD OF COUNTY COMMISSIONERS OF SIERRA COUNTY



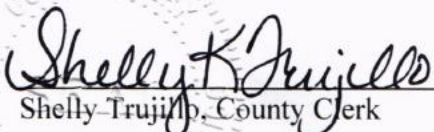
Travis Day, Chairman



Jim Paxon, Vice-Chairman

Hank Hopkins, Commissioner

ATTEST



Shelly Trujillo, County Clerk

STATE OF NEW MEXICO
COUNTY OF SIERRA
SEVENTH JUDICIAL DISTRICT COURT

**THE BOARD OF COUNTY COMMISSIONERS OF THE
COUNTY OF SIERRA,**

PETITIONER

**IN RE EMERGENCY PETITION FOR AN ORDER
DIRECTING THE SUBMISSION OF THE QUESTION OF
THE ORGANIZATION OF THE SIERRA COUNTY
ARROYO FLOOD CONTROL DISTRICT TO THE
QUALIFIED ELECTORS OF SIERRA COUNTY AND TO
DECLARE THE DISTRICT ORGANIZED IF
APPROVED BY THE VOTERS OF SIERRA COUNTY**

No. _____

**ORDER FIXING TIME AND PLACE FOR HEARING REGARDING DIRECTING THE SUBMISSION OF
THE QUESTION OF THE ORGANIZATION OF THE SIERRA COUNTY ARROYO FLOOD CONTROL
DISTRICT TO THE QUALIFIED ELECTORS OF SIERRA COUNTY, DIRECTING THE COURT CLERK
TO CAUSE NOTICE TO BE MADE BY PUBLICATION OF SUCH HEARING, AND WAIVING SECURITY
REQUIREMENT**

THIS MATTER having come before the Court on the Board of County Commissioners of Sierra County's Petition to Direct the Submission of the Question of the Organization of the Sierra County Arroyo Flood Control District to the Qualified Electors of Sierra County and to Declare the District Organized if Approved by the Voters of Sierra County, and the Court having considered the argument presented and being otherwise fully advised in the premises, finds the petition is well taken.

IT IS THEREFORE ORDERED that the Board of County Commissioners of the County of Sierra's Petition For an Order fixing the time and place for hearing is GRANTED, which hearing is to be held at the Sierra County Courthouse, 311 North Date Street, on [or after] Monday, June 17, 2024, at [time], that the Clerk of the Court is to cause notice to be made by publication of the pendency of the petition and of the time and place of the hearing, and that the security requirement provide by NMSA 1978, Section 72-18-6 (1981) is waived.

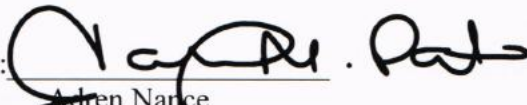
IT IS SO ORDERED.

Seventh Judicial District Court

Respectfully Submitted,

NANCE, PATO & STOUT, LLC

By:



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STATE OF NEW MEXICO
COUNTY OF SIERRA
SEVENTH JUDICIAL DISTRICT COURT

**THE BOARD OF COUNTY COMMISSIONERS OF THE
COUNTY OF SIERRA,**

PETITIONER

**IN RE EMERGENCY PETITION FOR AN ORDER
DIRECTING THE SUBMISSION OF THE QUESTION OF
THE ORGANIZATION OF THE SIERRA COUNTY
ARROYO FLOOD CONTROL DISTRICT TO THE
QUALIFIED ELECTORS OF SIERRA COUNTY AND TO
DECLARE THE DISTRICT ORGANIZED IF
APPROVED BY THE VOTERS OF SIERRA COUNTY**

No. _____

**EMERGENCY PETITION FOR AN ORDER DIRECTING THE SUBMISSION OF THE QUESTION OF THE
ORGANIZATION OF THE SIERRA COUNTY ARROYO FLOOD CONTROL DISTRICT TO THE
QUALIFIED ELECTORS OF SIERRA COUNTY AND TO DECLARE THE DISTRICT ORGANIZED IF
APPROVED BY THE VOTERS OF SIERRA COUNTY**

COMES NOW Petitioner, the Board of County Commissioners of the County of Sierra (“Sierra County”), through the Sierra County Attorneys, Adren R. Nance and David M. Pato, and, pursuant to NMSA 1978, Section 72-18-4 (2019), hereby petitions the Court for an Order directing that the question of the organization of the Sierra County Arroyo Flood Control District be submitted to the qualified electors of Sierra County. As a basis for this petition, Petitioner states:

GENERAL ALLEGATIONS, JURISDICTION AND VENUE

1. Sierra County is a New Mexico County, the boundaries of which were established pursuant to NMSA 1978, § 4-27-1 (1884).

2. The Board of County Commissioners of the County of Sierra exercises the powers of the County as a body politic and corporate pursuant to NMSA 1978, Section 4-38-1 (1884).

3. Section 72-18-4 (1981) of the Flood Control District Act, NMSA 1978, Section 72-18-1 et seq., authorizes the District Court for any county in the state to establish a Flood Control District that may be entirely within or partly within the County in which the Court is located.

4. Section 4-37-1 (1995) provides that Counties have the power to “provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of any county or its inhabitants.”

5. Sierra County is highly susceptible to flooding due to its arid climate and the presence of numerous arroyos.

6. Arroyos throughout the County have quickly transformed into raging torrents during heavy rainfall, posing significant risks to life, property, and infrastructure.

7. The frequency and intensity of these flooding events, such as the disastrous 2022 floods that resulted in the Governor’s Emergency Flood Declaration and the 2020 floods in Truth or Consequences and Williamsburg, underscore the urgent need for comprehensive flood control measures.

8. The establishment of the Sierra County Arroyo Flood Control District aims to address this urgent need.

**DESCRIPTION OF PURPOSE, BOUNDARIES OF DISTRICT, AND FACILITIES
TO BE ACQUIRED WITHIN AND FOR THE DISTRICT**

9. The allegations contained in the preceding paragraphs 1 through 8 are incorporated herein by reference.

10. NMSA 1978, Section 72-18-5(A) (2019) authorizes a County in which all or a portion of the proposed district is located to file a petition with the District Court to seek an Order directing that the question of the organization of the Flood Control District be submitted to the qualified electors of the County.

11. The Petition is statutorily required to set forth (1) the name of the proposed district, consisting of a chosen name preceding the words "flood control district"; (2) a general description of the facilities to be acquired or improved within and for the district; (3) a general description of the boundaries of the district, with such certainty as to enable a property owner to determine whether the owner's property is within the proposed district; and (4) a prayer for the organization of the district. NMSA 1978 § 72-18-5 (B)(2019).

12. The purpose of the Sierra County Arroyo Flood Control is District is to (a) mitigate the risks associated with arroyo flooding, (b) implement proactive flood control measures to protect lives, property, and infrastructure, (c) foster sustainable development and economic growth by reducing flood-related damages, and (d) enhance public safety and emergency preparedness within Sierra County.

13. The geographic boundaries of the Sierra County Arroyo Flood Control District will include all properties within both the incorporated and unincorporated areas of Sierra County.

14. Subject to available funding, the Sierra County Arroyo Flood Control District will (a) conduct comprehensive studies to assess flood risks, hydrological patterns, and vulnerable areas within Sierra County; (b) develop and implement flood control infrastructure, such as levees, channels, retention basins, and stormwater management systems, tailored to the unique characteristics of the arroyos in the County; (c) establish early warning systems and emergency response protocols to effectively alert and evacuate residents during flood events; (d) collaborate with relevant governmental agencies, community organizations, and stakeholders to ensure coordinated efforts and maximize resources for flood control initiatives; (e) provide public education and outreach programs to raise awareness about flood risks, preparedness measures, and sustainable land use practices; and (f) take such additional actions as statutorily permitted.

15. The Sierra County Arroyo Flood Control District will be funded through a combination of sources, including grants from federal, state, and regional agencies dedicated to flood control and emergency management, special assessments or fees levied on properties within the district boundaries as provided by the Flood Control District Act, NMSA 1978, Section 72-18-1 et seq., public-private partnerships and collaborations with local businesses, developers, and other stakeholders, and bond issuances, where applicable, to finance capital projects and infrastructure investments.

WAIVER OF SECURITY REQUIREMENTS

16. The allegations contained in the preceding paragraphs 1 through 15 are incorporated herein by reference.

16. Although NMSA 1978, Section 72-18-6 (1981) contemplates the filing of a bond with security approved by the court sufficient to pay all expenses connected with the proceedings in case the organization of the district is not effected, the New Mexico Supreme Court has held that the provision of security is not mandatory but rather vested in the sound discretion of the Court. Rhodes v. State ex rel. Bliss, 58 N.M. 579, 273 P.2d 852 (1954).

17. The purpose of this petition is to secure an Order to direct the submission of the creation of the Sierra County Arroyo Flood Control District to the qualified electors of the County for consideration so that they may decide whether a Flood Control District is needed in the County, and to declare such District organized if approved by the voters of the County.

18. Sierra County will bear all costs attendant to the election for which it seeks the Order of this Court.

19. Other than the notice by publication that is statutorily required by the Flood District Act, Sierra County does not anticipate any other expenses in conjunction with these proceedings should the district not be organized.

PRAYER FOR RELIEF

WHEREFORE, Petition prays for the following relief:

- A. For an Order, pursuant to NMSA 1978, Section 72-18-7 (1981), fixing the time and place for hearing not less than sixty days after this petition is filed;
- B. For an Order directing that the Clerk of the Court cause notice by publication be made of the pendency of the petition and of the time and place of the hearing pursuant to NMSA 1978, Section 72-18-7(B) (1981);

- C. For an Order directing the submission of the creation of the Sierra County Arroyo Flood Control District to the qualified electors of Sierra County for consideration, provided the Court determines this petition to have been presented in conformity with the requirements of the Flood Control District Act and that the allegations of the petition are true;
- D. For an Order Declaring the Organization of the Sierra County Arroyo Flood Control District provided the majority of the votes cast at the election are in favor of the organization, that it give the Flood Control District its corporate name, and designate the first board of directors elected;
- E. A waiver of the security requirement provided by NMSA 1978, Section 72-18-6 (1981); and,
- F. For such other and further relief as the Court deems just and proper.

Respectfully Submitted,

NANCE, PATO & STOUT, LLC

By: 

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