



**RULE NO. 20
ELECTION OF DIRECTORS
FOR THE
MIDDLE RIO GRANDE CONSERVANCY DISTRICT
BOARD OF DIRECTORS**

INCLUDES (SMALLER TEXT) NEW MEXICO STATUTES 1978 ANNOTATED CHAPTER 73 SPECIAL DISTRICTS, 1999 CUMULATIVE SUPPLEMENT WHICH INCLUDES LAWS ENACTED SINCE THE 1978 ORIGINAL PAMPHLET THROUGH THE FIRST SPECIAL SESSION OF THE FORTY-FOURTH LEGISLATURE.

----AND----

(LARGER TEXT) APPROVED POLICY OF THE MIDDLE RIO GRANDE CONSERVANCY BOARD OF DIRECTORS

1. Abolition of boards of directors of districts having more than one hundred thousand acres and created prior to 1930.

§73-14-18. As the same are now constituted, any conservancy district organized under the provisions of the Conservancy Act of New Mexico and such conservancy district being created prior to 1930, embracing land situated in four or more counties and having an appointed board of directors, shall, after the election and qualification of the board of directors cease to have an appointed board of directors and in lieu thereof shall have an elected board of directors as provided in Sections 73-14-18 through 73-14-32 NMSA 1978, which board of directors shall bear the name "Board of Directors of the Conservancy District" and shall be a body corporate, may sue and be sued, and which shall succeed to, have, exercise, enjoy, assume and perform all of the rights, powers, obligations and duties now by law vested in, conferred upon, imposed upon or required of, the boards hereby abolished.

2. Boards of directors; membership, qualifications.

§73-14-19. The boards of directors created by Sections 73-14-18 through 73-14-32 NMSA 1978 shall consist of three directors from and representing that portion of the most populous county within the conservancy district, one director each from and representing those portions of each of the remaining counties within the conservancy district and one director from and representing the district at large; provided that each director:

- A. is a qualified elector of the conservancy district; and
- B. resides within the conservancy district and the county from which he is elected or, if representing the district at large, resides within one of the four counties of the conservancy district.
- C. as of the date the candidate completes the Declaration of Candidacy, the candidate is qualified to hold office.

3. Definitions.

§73-14-20. As used in Section 73-14-18 through 73-14-32 NMSA 1978:

- A. "absent voter" means a qualified elector who has requested an absentee ballot forty days prior to an election;
- B. "absentee-early voter" means a qualified elector who has voted early, prior to election day, on an electronic voting machine at a designated absentee-early voter precinct;
- C. "benefited area" means that area described by a property appraisal that received a benefit as a result of the creation of a district for any of the purposes specified in Section 73-14-4 NMSA 1978;
- D. "election director" means the person whom the board of directors may request to provide election services by a contract approved by the secretary of state;
- E. "election officer" means a person appointed by the board of directors to conduct the election in the absence of an election director and who performs all election services required by statute;
- F. "list compiler" means a contractor approved by the board of directors to compile and produce a qualified elector list for a conservancy district;
- G. "qualified elector" means an individual who owns real property within the benefited area of the conservancy district and who has provided proof of an ownership interest to one of the sources specified in Subsection B of Section 73-14-20.1 NMSA 1978 within the required time period, or who resides on and owns legal or equitable title in tribal lands and who is over the age of majority;
- H. "qualified elector's list" means the list compiled before each election that contains the individual names of all qualified electors; and

- I. "residence" means a dwelling that lies partially or completely within the benefited area.
- J. "Voter Identification Documents" means a government-issued photo ID, or proof of being a currently-enrolled member in a tribe, or two other forms of ID including, but not limited to utility bills, current year tax bill, or a voter ID.
- K. "Electronic Voting Machine" means a vote tabulator or any other state certified tabulating voting machine that is consistent with the NM State Election Code.

4. Qualified elector list.

§73-14-20.1.

- A. The board of directors of the conservancy district may contract for a list compiler before each election to compile and produce a qualified elector's list for the district. The list compiler shall deliver the completed list to the election director no later than forty-five days prior to a district election. An individual who purchases property ninety days prior to an election may become certified to vote in a future election by filing his deed of title with the appropriate county clerk at least ninety days before the next conservancy district election.
- B. Names of qualified electors shall be obtained from the records of the county clerk of the appropriate county, the appropriate county assessor of the appropriate country, records of the conservancy district or from the census bureau and enrollment records provided by the pueblos. The county assessor of the appropriate county, the county clerk of the appropriate county and the tribal representatives of the appropriate pueblos shall deliver to the election director all records regarding qualified electors of the benefited area no later than the last day of each March before a district election.
- C. Updating the qualified elector's list shall consist of adding, for any new qualified elector who has purchased property in the district, the name, address and description of all property owned by the qualified elector in the benefited area and removing the name of any elector who is deceased or is no longer a qualified elector because he no longer owns property within the benefited area.
- D. Proof of ownership of land within the benefited area requires one of the following:
 - 1) A recorded deed or real estate contract indicating current ownership of land within the benefited area;
 - 2) An individual's name on county clerk records indicating a description of property the individual owns within the benefited area;
 - 3) An individual's name on a list compiled by the governing body of a pueblo within the benefited area indicating that the individual named is residing on and has legal or equitable title in the pueblo; or
 - 4) A current property tax bill indicating ownership of land within the benefited area.
- E. The election officer or the election director shall distribute to each polling place a current qualified elector's list for the appropriate county. The election officer or the election director shall distribute the qualified elector's list to each polling place within a pueblo located within the benefited area. A qualified elector may vote at any one polling place in the pueblo or county where he owns land. An individual who seeks to cast his vote but finds his name is not on the qualified elector's list shall not be allowed to vote in that election, but may vote on a provisional ballot pursuant to Section 13.7.

5. List Compiler.

The board of directors of the Middle Rio Grande Conservancy District may contract for a List Compiler before each election to compile and produce a qualified elector's list for the district or may request district staff to compile the qualified elector's list.

6. Voting.

- 6.1 A qualified elector may vote only once for candidate(s) representing the county wherein he or she is a qualified elector of the Middle Rio Grande Conservancy District. A qualified elector may only vote in one county even though they own land in two or more counties within the benefited area of the Middle Rio Grande Conservancy District. Only one vote may be cast by a qualified elector for the candidate representing the District at large.
- 6.2 The residents who own legal or equitable title in tribal lands and whose names appear on the Pueblo census from the U.S. Bureau of Indian Affairs or a Pueblo enrollment list and are over the age of majority (18 years) in Santa Ana, San Felipe, Santo Domingo and Cochiti Pueblos will vote for the Sandoval County candidate and for the candidate at large. Since Isleta Pueblo embraces Bernalillo County and Valencia County, the residents of Isleta

Pueblo will vote either for the Bernalillo County candidate(s) or the Valencia County candidate and the candidate at large. Since Sandia Pueblo embraces Bernalillo County and Sandoval County, the residents of Sandia Pueblo will vote either for the Bernalillo County candidate(s) or the Sandoval County candidate and the candidate at large.

- 6.3 Provisional Ballots. If an individual has failed to present Voter Identification Documents or feels that there has been an error and that he/she has been erroneously omitted from the qualified elector list, the Election Judges will immediately allow the individual to sign an affidavit certifying that they are a qualified elector as defined by state law and representing that they will provide proof of ownership as described in §73-14-20.1(D) and provide copies of his/her proper voter identification to the Election Director or Election Officer within two business days of the signing of the affidavit. The individual will proceed to vote by paper ballot on a Provisional Ballot (see 13.7 Voting).

The purpose of the provisional ballot is to allow a person not on the Qualified Electors List to vote on Election Day. The provisional ballot ensures this voter that his/her vote is secret and protects against fraud in the voting process.

- 6.4 Absentee Voting. Absentee ballots and their required envelopes may be mailed to the voter beginning on the fortieth day preceding the election (73-14-31(C) NMSA 1978).

- 6.5 Absentee/Early Voting in Person. Commencing at least two weeks prior to the election, an early voter may vote once in person on a voting system at an early voting location in Bernalillo, Socorro, Valencia, or Sandoval Counties. (73-14-31.3 NMSA 1978).

7. Board of directors; election; terms.

§73-14-21.

- A. Each member of the board of directors shall be elected for a term of four years and, unless, removed from office, shall serve until his successor is duly elected and has qualified; provided that in the first election immediately following the effective date of the provisions of this act (73-14-18 to 73-14-32 NMSA 1978), candidates for positions 1, 2, and 5 shall be elected for two-year terms each and candidates for positions 3, 4, 6 and 7 shall be elected for four-year terms each.
- B. Vacancies on the board of directors shall be filled by the remaining members of the board of directors for the unexpired term of the director whose office becomes vacant. The person appointed to fill the vacancy shall have the same qualifications as the member whose unexpired term he is completing.

8. Board of directors; apportionment.

§73-14-22. The representation on the board of directors of the conservancy district shall be apportioned as follows:

- A. three members shall be elected from and by the qualified electors of the most populous county within the conservancy district;
- B. one member each shall be elected from and by the qualified electors of those portions of each of the remaining counties in the conservancy district; and
- C. one member shall be elected from and by the qualified electors of the conservancy district at large.

9. Suspension or removal.

§73-14-23. A member of the conservancy district board may be suspended or removed in the same manner and for the same reasons that a county officer may be suspended or removed.

- 9.1 Causes for removal of local officers. The following shall be causes for removal of any officer belonging to the class mentioned in the preceding section:

- A. Conviction of any felony or of any misdemeanor involving moral turpitude;
- B. Failure, neglect or refusal to discharge the duties of the office, or failure, neglect or refusal to discharge any duty devolving upon the officer by virtue of this office;
- C. Knowingly demanding or receiving illegal fees as such officer;
- D. Failure to account for money coming into his hands as such officer;

- E. Gross incompetency or gross negligence in discharging the duties of the office;
- F. Any other act or acts, which in the opinion of the court or jury amount to corruption in office or gross immorality rendering the incumbent unfit to fill the office.

10. Time and procedure for election.

§73-14-24.

- A. On the first Tuesday after the first Monday in January prior to the middle Rio Grande conservancy district election, an election proclamation shall be published that includes a list of the offices for which a candidate may file, the date and place at which declaration of candidacy shall be filed and the date of the election. The election proclamation shall be published once in a newspaper of general circulation in the counties in which the election shall be held.
- B. The members of the boards of directors created pursuant to provisions of Sections 73-14-18 through 73-14-32 NMSA 1978 shall be elected at an election held on the first Tuesday after the first Monday in June in 2001 and in each odd-numbered year thereafter.
- C. The elections for the members of the board of directors of the conservancy district shall be conducted, counted and canvassed as provided in Sections 73-14-18 through 73-14-32 and 73-14-84 through 73-14-86 NMSA 1978. The polls may be opened and closed in the same manner as provided for the general election under the Election Code (Chapter 1 NMSA 1978).
- D. If only one candidate has filed a declaration of candidacy for a position to be filled at an election, no declared write-in candidate has filed for a position and there are no questions or bond issues on the ballot, only one polling place for the election may be designated. The one polling place may be located in the office of the election director or in the office of the middle Rio Grande conservancy district.

11. Declaration of candidacy; signatures of electors

§73-14-25. Declaration of candidacy; signatures of electors.

- A. Any person who desires to become a candidate for election as a member of the conservancy district board of directors shall file his written declaration of candidacy with the election director or with the election officer at least sixty days before the election. The election officer or the election director shall certify the candidates to the board of directors.
- B. The declaration of candidacy shall contain:
 - 1) A statement that the candidate is a qualified elector of the district and meets the qualifications of a director as required by law;
 - 2) The candidate's name, address, county of residence and date of declaration of candidacy;
 - 3) The numerical designation of the position on the board of directors for which he desires to be a candidate;
 - 4) If a candidate for a position representing a county in the conservancy district, a petition signed by at least seventy-five qualified electors of the district who reside in that county;
 - 5) If a candidate for the position at large in the conservancy district, a petition signed by at least one hundred twenty five qualified electors; and
 - 6) A statement that the candidate resides within the conservancy district and in the county for which he desires to be a candidate on the board of directors.
- C. Candidate to present identification showing physical address; i.e. driver's license, voter registration, current utility bill, and/or description of qualifying property, etc.

11.1 Becoming a Candidate

- A. Position on the ballot will be determined by lot fifty seven (57) days prior to the election when candidates draw from the numbers one through twenty-five. The candidate with the lowest number shall be first on the ballot with each following position being determined by the next lowest number. Drawing for lots will be done in order of the filing of the candidate's declaration of candidacy. The name of the candidate shall appear on the ballot in the same form as it appears on the deed to his or her property within the benefited area of the District, his or her New Mexico State driver's license, his or her voter registration at the County Clerk's office
- B. Only original signatures placed on official petitions established by the Board of Directors for the current election will be accepted.

- C. No employee of the Middle Rio Grande Conservancy District shall continue employment with the District upon becoming a candidate because a conflict of interest would exist. This section shall not apply to persons considered to be employees by virtue of their elected position.
- D. Must not have a felony conviction, or of any misdemeanor involving moral turpitude.

11.2 Write-In Candidates

Write-In Ballots – The Board of Director's power to regulate procedure at polling places, instructions to voters and determination of voter eligibility does not include the authority to deny the privilege of casting a write-in ballot to elect a board member. *Gonzales v. Middle Rio Grande Conservancy District* 106 N.M. 426, 744 P.2d 554 (Ct. App. 1987).

- A. A person desiring to be a write-in candidate shall file a written declaration of intent with the Election Officer at least fifty-five calendar days prior to the election. The declaration of intent shall be in the form established by the Board. At the time of filing the declaration of intent to be a write-in candidate, the write-in candidate shall be considered a candidate for all purposes and provisions relating to candidates in this Election Rule except that he/she shall not be entitled to have his/her name printed on the ballot.
- B. The Election Officer shall, fifty-three days prior to Election Day, certify the name(s) of the declared write-in candidate(s) to the Election Director. The Election Director shall instruct Election judges not to advise voters of write-in candidates.
- C. A vote for a write-in candidate shall be counted and canvassed only if:
 - 1) The name written in is the name of a declared write-in candidate, certified by the Election Officer and shows two initials and last name; first name, middle initial or name and last name; first and last name; or the full name as it appears on the declaration of intent and misspellings of the above combinations that can be reasonably determined by a majority of the election judges to identify a declared write-in candidate; and
 - 2) The name shall be written in as instructed per the approved voting system or on the proper line provided on an absentee ballot for write-in votes for the position for which the candidate has filed a declaration of intent.
 - 3) A write-in vote shall be cast by writing in the name; "write-in" does not include the imprinting of any name by rubber stamp or similar device or the use of preprinted stickers or labels and votes cast for any individuals whose names have been placed on the ballot by such means shall not be counted or canvassed.
- D. No unopposed write-in candidate shall have his election certified unless he has received at least the number of write-in votes as he would need signatures on a nominating petition pursuant to the requirements of Section 10 of the Election Rule.

12. Designation of positions for purposes of election.

§73-14-26. For purposes of election to the board of directors of the conservancy district, each office on the board shall be assigned a position number in numerical sequence beginning with the at-large position, and then next those positions with the most populous county. At all elections, the same position numbers shall be used to designate the same offices.

13. Election; location of polling places; notice of election; creation of early voting precincts / polling places, creation of absentee voter precincts and creation of election day voting convenience centers.

§73-14-27.

- A. For every conservancy district election, the board of directors shall provide for adequate polling places within the boundaries of the conservancy district. In addition, the board of directors shall provide a polling place at the main office of the conservancy district and may provide such other locations as it deems necessary. The board of directors may also create absentee, early voter and absent voter precincts.
- B. Notice of the election shall be published three times in a newspaper of general circulation within each county of the district. Each notice shall state the time, place and purpose of the election and shall be published twenty, ten, and five days before the election.

14. Election judges.

§73-14-28. The election officer or the election director shall select two or more election judges for each polling place established within the conservancy district. The election officer or the election director shall also appoint absentee-early voter and absent voter precinct boards.

- 14.1 The judges shall have the authority to preserve order within the polling place and to call in a peace officer if, in their judgment, his presence is necessary. The Election Director will also select such alternate judges as they deem advisable in each county. In the absence of sufficient alternates to have two or more judges present at each polling place, the judges present shall have the authority to appoint a qualified elector as judge to serve as such upon filing the oath of such judge as required herein.
- 14.2 Election judges shall take an oath to conduct the election to the best of their ability and to fairly and impartially discharge the duties of their office and to recognize and preserve the rights of electors to secrecy of the ballot.
- 14.3 Judges shall be responsible for prominent display of sample ballots in the polling place, along with the Rules and Regulations for Election as promulgated by the Board of Directors, the definition of a qualified elector and the penalties for violating any provisions of the act.
- 14.4 Election judges shall take all action necessary to open the polling places promptly at 7:00 a.m. and to close the polls promptly at 7:00 p.m. Any qualified elector already standing in line to vote at closing time will be allowed to vote.
- 14.5 Judges will require electors to show proper Voter Identification Documentation and sign their name on the designated signature pad signifying that he or she is a qualified elector of the Conservancy District in the county in which he or she is voting and is voting only once in this election. The signature of an elector signing with an "X" will be verified by an election judge.
- 14.6 Judges shall not be present in the voting booth at the time a qualified elector is voting unless the elector is unable to perform the voting procedure without assistance for reasons of physical disability or illiteracy and only when the elector requests such assistance on the form approved by the Board of Directors. The elector may request the assistance of the Election Judges or any other person on such form. In the event the assistance of Election Judges is requested, two (2) judges must assist.
- 14.7 Provisional Ballots. An error or omission may occur whereby a qualified elector's name is inadvertently not included on the list of qualified electors, or if the elector fails to provide proper voter identification. If an individual qualified elector declares that s/he is indeed a qualified elector as defined under the law and an error has occurred resulting in his/her name not being included on the list, s/he may vote by paper ballot on a "Provisional Ballot". The Election Judges shall not allow the individual to sign the signature pad nor shall the Election Judges allow the individual to vote on the Middle Rio Grande Conservancy District Board approved voting

system, but will allow the individual to immediately sign and print his/her name in the "Provisional Ballot" Poll Book and proceed to vote by paper ballot through the Provisional Ballot process. The Election Judges may ask for identification to insure that the qualified elector is of the age of majority (18 years). An Election Judge will write the number of the Provisional ballot in the "Provisional Ballot Poll Book" next to the voter name. The voter will then be furnished the "Provisional" paper ballot, an inner envelope to seal the ballot and an outer envelope that includes an affidavit for the voter to sign that s/he is a qualified elector of the Conservancy District and that s/he will provide proof of ownership and voter identification to the Election Director or Election Officer by the Thursday immediately following the election day, no later than 4:00 p.m. on that date. The individual voting by Provisional Ballot shall secretly mark his/her ballot, place it in the official inner envelope and securely seal the envelope. The voter will then place the inner envelope inside the outer affidavit envelope and securely seal the envelope. The voter shall then read the affidavit on the outer envelope and sign his/her name, full address and qualifying property description on the outer envelope and hand it to the Election Judge designated for handling Provisional Ballots. The Election Judge receiving the completed ballot shall then deposit the Provisional Ballot into a sealed ballot bag or pouch designated for Provisional Ballots. At the close of polls, the Election Judge delivering the voting materials shall also deliver the Provisional Ballot sealed ballot bag or pouch to the Election Director or the Election Officer.

The Election Judge shall ensure that the information on the outer envelope is complete. The Election Judge shall ensure provisional voters are not subject to challenge at the time of voting. The Election Judge shall ensure the provisional ballots are deposited in a special sealed provisional ballot bag or pouch as designated by the Election Director for that purpose.

- 14.8 Judges will be paid a reasonable sum for their services, as determined by the Board of Directors of the District, and the judge transporting the voting materials with final tally to the Election Director shall be paid mileage as prescribed by law.
- 14.9 The District will provide training for all judges and alternate judges. A sum may be paid to Judges for attendance at training sessions, as determined by the Board of Directors of the District. Failure to attend training sessions may result in that individual not being selected. All judges and alternate judges shall receive a copy of the "Instruction to Judges".

15. Election.

§73-14-28.1. The board of directors of the conservancy district shall conduct the election pursuant to Chapter 73, Article 14 NMSA 1978 and other applicable election laws or shall select an election director as defined in Section 73-14-20 NMSA 1978 to provide election services. The election director shall operate pursuant to a contract approved by the secretary of state. The election may be conducted by paper ballot or electronic voting machines.

16. Form of ballot.

§73-14-29. The election officer or the election director shall oversee the preparation and printing of the ballots for a conservancy district election. Ballots shall be prepared and printed at the expense of the conservancy district. The election officer or the election director shall oversee the preparation of a separate ballot for each county within the conservancy district or the preparation of one ballot for use within the entire conservancy district. The board of directors shall approve the form of the ballot. The ballot shall contain the

numbered position or positions, as the case may be, to which directors are to be elected at the election, with the names of all candidates for each position listed under that designation.

16.1 The ballots shall include the at-large candidate(s) where appropriate. Each ballot shall have the Middle Rio Grande Conservancy District logo. Paper ballots shall be pre-numbered. All ballots shall be printed in English and Spanish.

16.2 All persons in any way connected with the election shall be pledged to make every effort to preserve the secrecy of the ballot.

17. Election expenses.

§73-14-30. The conservancy district board shall pay out of the district's treasury those sums necessary to meet the actual expenses of elections. The board may levy a tax or assessment sufficient to meet election expenses on all property that is subject to direct assessment or taxation with the district.

18. Absentee voting by ballot permitted; procedure.

§73-14-31.

- A. In any election of officers of the conservancy district, a qualified elector shall be entitled to vote by absentee ballot. An absentee ballot shall be furnished by the election director in a form prescribed by the board of directors. The election director shall also furnish to each qualified elector requesting an absentee ballot an official inner envelope for use in sealing the completed absentee ballot and an official outer envelope for use in returning the inner envelope to the election director. No absentee ballot shall be delivered or mailed to any person other than the applicant for the ballot.
- B. A qualified elector voting by absentee ballot shall secretly mark his/her ballot, place it in the official inner envelope and securely seal the envelope. The qualified elector shall place the inner envelope inside the outer envelope and securely seal the envelope. The qualified elector shall then sign his/her name and address on the outer envelope and deliver or mail to the election director or the election officer.
- C. Absentee ballots shall be distributed by the election director or the election officer during the regular hours and days of business from the fortieth day preceding the election up until 4:30 p.m. on the Saturday immediately prior to the date of the election.
- D. No absentee ballot shall be counted unless it is received the election director or the election officer prior to the closing of the polls.
- E. An absentee ballot received after the closing of the polls on the day of the election shall not be collected by the absent voter precinct board, but shall be preserved by the election director or the election officer until the time for election contests has expired. In the absence of a court order after expiration of the time for election contests, the election director or the election officer shall destroy all late official mailing envelopes without opening them or permitting the contents to be examined, cast, counted or canvassed. Before their destruction, the election director or election officer shall count the number of late ballots from voters of the conservancy district and report the number to the election officer and the secretary of state.
- F. Prior to the delivery of the absentee ballots to the absentee-early voter and absent voter precinct board, the absentee ballots shall be held unopened at the absentee voter precinct in a locked ballot box. At the close of the polls on Election Day, the absentee-early voter and absent voter precinct board shall obtain the absentee ballot box from the election director or election officer and tally the absentee ballots. The presiding judge shall have the authority to unlock the absentee ballot box.
- G. Absentee ballots shall be counted and tallied as are other ballots for the conservancy district election.

19. Absentee ballot application.

§73-14-31.1.

- A. Application by a qualified elector for an absentee ballot shall be made on the official form prescribed by the board of directors and printed and furnished by the election director. The form shall identify the applicant and contain information to establish his qualifications as a qualified elector for issuance of an absentee ballot. Each application for an absentee ballot shall be signed by the applicant.
- B. The election director shall mark each completed absentee ballot application with the date and time of receipt and enter the required information in the absentee ballot qualified elector list. The election director shall then determine if the applicant is a qualified elector.

- C. If the applicant is not listed on the qualified elector list, an absentee ballot shall not be issued and the election director shall mark the application “rejected” and file the application in a separate file from those accepted.
- D. The election director shall notify in writing each applicant of the fact of acceptance or rejection of his application and, if rejected, shall state the reason for rejection.
- E. If the election director determine that the applicant is a qualified elector, the election director shall mark the application “accepted” and deliver or mail to the applicant an absentee ballot and the required envelopes for use in returning the ballot to the absent voter precinct.

19.1 If the Election Director notified the applicant of the fact that he is not listed in the qualified elector list and is therefore, “rejected”, the Election Director will also include a notice informing the applicant that he may resubmit his application if he provides proof of ownership as described in §73-14-20.1(D) to the Election Director within the time period that absentee applications may be accepted by law.

19.2 If the applicant’s proof of ownership is accepted by the election director, the Election Director shall mark the application “accepted” and deliver or mail to the applicant an “Absentee Ballot” and the required envelopes for use in returning the ballot to the absent voter precinct.

19.3 The Election Director, Election Officer or the MRGCD may report any discovered election fraud to the District Attorney’s office for prosecution.

20. Handling of absentee ballots by absent voter precinct board.

§73-14-31.2.

- A. The absent voter precinct board shall select one member to serve as presiding judge. The election director shall appoint a special deputy to serve at the absent voter precinct.
- B. Upon receipt of the absentee ballots by the absent voter precinct board, the special deputy shall remain in the polling place of the absent voter precinct until he has observed the opening of the official mailing envelope, the deposit of the ballot in the locked ballot box marked for the conservancy district election and the listing of the names on the official mailing envelope in the signature rosters. Upon delivery of the absentee ballots, the special deputy shall obtain a receipt executed by the presiding judge and each election judge appointed to the absent voter precinct board. The special deputy shall return the receipt to the election director for filing. The receipts shall specify the number of envelopes received by the special deputy for each absent voter precinct of the conservancy district and the number of envelopes received by the absent voter precinct board from the special deputy.
- C. Before opening any official mailing envelope, the presiding judge and the election judges shall determine if the required information has been completed on the reverse side of the official mailing envelope.
- D. If the voter’s signature is missing, the presiding judge shall write “rejected” on the front of the official mailing envelope. The election judges shall enter the voter’s name in the signature roster and shall write the notation “rejected-missing signature” in the notations column of the signature rosters. The presiding judge shall place the official mailing envelope unopened in an envelope provided for rejected ballots for the conservancy district, seal the envelope and write the voter’s name on the front of the envelope and deposit it in the locked ballot box.
- E. At 5:00 p.m. on the Monday immediately preceding the date of election, the election officer or election director shall record the numbers of the unused absentee ballots for the conservancy district and shall publicly destroy in the conservancy office all of the unused ballots. The election officer or election director shall execute a certificate of destruction, which shall include the numbers on the ballots destroyed. A copy of the certificate of destruction shall be sent to the board of directors of the conservancy district and the Secretary of State.

20.1 Given the amount of time required to process absentee ballots, the Election Director shall report the total number of received absentee ballots and the total number of accepted absentee ballots to the MRGCD once a week on a Monday. This information shall be provided by the MRGCD to any individual who requests it.

21. Absentee-early; electioneering.

§73-14-31.3.

- A. A voter may apply to vote absentee-early by completing an absentee-early ballot application on the official form prescribed by the board of directors and printed and furnished by the election director. The form shall identify the applicant and contain information to establish his qualifications as a qualified elector for issuance of an affidavit for absentee-early voting. Each application shall be signed by the applicant.
- B. Once it is determined that the application form is complete, the election director shall mark the application with the date and time or receipt and enter the required information in the absentee ballot register.
- C. If the voter is determined to be a qualified elector, the election director shall inform the voter that his application has been accepted and instruct the voter on how to vote.
- D. For the purpose of absentee-early voting, electioneering is not permitted in the election director's office, the middle Rio Grande conservancy district offices or designated satellite locations.
- E. For the purpose of the section, "electioneering" means any form of campaigning within one hundred feet of the election director's office, the Middle Rio Grande Conservancy District office or designated satellite locations and includes the display of signs or distribution of campaign literature.

22. Election; procedure.

§73-14-84. The board of directors shall promulgate necessary and reasonable rules for the procedure to be followed at the polling places, instructions to voters, methods to allow for write-in candidates and methods of determining voter eligibility.

- 22.1 There may be one poll watcher for each candidate at each polling location at the candidate's expense on Election Day. Notification of the name of the watcher shall be given to the presiding judge of the polling location at the opening of the polls.

There may be one poll watcher for each candidate at the candidate's expense on the day of the Provisional Ballot Canvass. Notification, in writing, of the name of the watcher shall be given to the Election Director at least one week prior to the Provisional Ballot Canvass.

Poll watchers will take no active part in the conduct of the election nor interfere with its orderly progress.

- 22.2 If a qualified elector in the Conservancy District is married, both husband and wife are entitled to vote.
- 22.3 Natural persons who are buyers and in possession of real estate located within the benefited area of the Middle Rio Grande Conservancy District under a recorded real estate contract shall be eligible to vote and not the seller of the real estate under said contract.
- 22.4 A person may vote in only one county in the Conservancy District in which such person is qualified as an elector. Only one vote may be cast by each qualified elector for one candidate for each position representing that county.
- 22.5 Only one vote may be cast by each qualified elector for the at-large position of Director of the Conservancy District regardless of the number of counties in which a voter is a qualified elector.
- 22.6 A voter will be required to sign an affidavit stating that he or she is a qualified elector as defined herein, and also to present Voter Identification Documents. A person failing to present proper Voter Identification Documents shall, at his or her option, either decline to vote or vote by a Provisional Ballot as provided in Section 21.8.

- 22.7 A person whose property is in a Trust must be a beneficial owner of the property named on the Certificate of Trust ninety days before a district election to vote in that election.
- 22.8 An individual who finds his/her name is not listed or found in the qualified elector's listing may vote immediately on a Provisional Ballot (Sec. 13.7). The individual must sign an affidavit that s/he is a qualified elector and must provide one of the proofs of ownership of property as described in §73-14-20.1(D) to the Election Director or the Election Officer by the Thursday following the election day by 4:00 p.m. An individual who has failed to present proper Voter Identification Documents may also vote immediately on a Provisional Ballot, in which case he or she must present proper Voter Identification Documents to the Election Director or the Election Officer by the Thursday following the Election Day by 4:00 p.m.
- 22.9 The Election Judges will return all voted ballots sealed in the transfer case provided, election materials and the sealed Provisional Ballot bag or pouch to the MRGCD General Office to the Election Director, Election Officer or the designated appointee after the close of polls and all procedures have been completed as per the *"Instructions to Judges Close of Polls"*.
- 22.10 After return to the MRGCD General Office after the close of polls, the sealed Provisional Ballot bag or pouch will remain sealed and be placed in a designated secure area. The Election Director will ensure the secrecy of the provisional ballot and protect against fraud. The Election Director will govern and allow procedures for reviewing the qualifications of provisional ballot envelopes, absentee and other paper ballots in case of a contest recount or recheck of election results.
- 22.11 On the morning of the next business day following the Election Day, the Election Director or the Election Officer will total the number of sealed Provisional Ballots from the totals certified by the Election Judges on the Provisional Ballots Poll Books. The Election Director or Election Officer will transfer the Provisional Ballot totals to a "Provisional Ballot Final Tally" sheet and will add totals by polling location and position.
- 22.12 The Election Director or Election Officer will designate a "Provisional Ballot Precinct Board".
- 22.13 The Provisional Ballots will not be counted until a Provisional Ballot voter provides one proof of ownership of property as described in §73-14-21.1(D) to the Election Director or Election Officer. The Election Director or Election Officer will confirm the individual's name in the Provisional Ballot Poll Book and shall initial in the notations column that proof has been received. The Election Director or Election Officer will verify or reject the proof of ownership provided within two business days of the Election Day. The Election Director or Election Officer will initial in the notations column of the Provisional Ballot Poll Book "ACCEPTED" or "REJECTED" A provisional ballot shall be rejected if the voter has not provided one proof of ownership of property as described in §73-14-21.1(D) to the Election Director or Election Officer. Unqualified ballots shall not be opened and shall be deposited in an envelope marked "unqualified provisional ballots" and retained twenty-two (22) months.
- 22.14 If the Election Director or Election Officer find that the proof of ownership and Voter Identification Documentation provided by the Provisional Ballot voter is "ACCEPTED", the Election Director or Election Officer will unseal the Provisional Ballot bag or pouch of the polling location where the Provisional Ballot voter voted and retrieve only the unopened Provisional Ballot of the voter and reseal the

Provisional Ballot bag or pouch. The Election Director or Election Officer will then write in red on the outer envelope "ACCEPTED", take off the outer envelope and attach it to the proof of ownership and deposit the unopened ballot in a single sealed "Provisional QUALIFIED Ballot bag or pouch". The outer provisional ballot envelope for qualified voters shall be deposited in an envelope marked "qualified provisional ballot outer envelopes" and retained for twenty-two (22) months.

- 22.15 On the Thursday following the Election day beginning at 8:00 a.m. the Provisional Ballot Precinct Board shall obtain the Provisional QUALIFIED Ballot bag or pouch from the Election Director or Election Officer and tally the qualified Provisional Ballots. The presiding judge shall have the authority to unseal the Provisional QUALIFIED Ballot bag or pouch.
- 22.16 Qualified Provisional Ballots shall be counted and tallied as are other ballots for the Conservancy District election. After the tally of qualified provisional ballots, the Election Director or Election Officer will deposit the counted provisional ballots in an envelope marked "counted provisional ballots" and be retained for twenty-two (22) months.

23. Compliance with the Federal Voting Rights Act.

- 23.1 All election information and material for the use of the qualified elector will be printed in English and Spanish in compliance with the Federal Voting Rights Act. Where necessary, assistance in the form of translators will be provided.

24. Electioneering Too Close to the Polling Place

- 24.1 Electioneering too close to the polling place consists of any form of campaigning on election day within one hundred (100) feet of the building in which the polling place is located, and includes the display of signs or distribution of campaign literature.
- 24.2 Whoever commits electioneering too close to the polling place is guilty of a petty misdemeanor.

25. Unlawful Possession of Alcoholic Liquors

- 25.1 Unlawful possession of alcoholic liquors consists of the use or possession of any alcoholic liquor by any member of the precinct Board while performing his/her official duties on Election Day. Unlawful possession also consists of the use, possession or carrying of alcoholic liquor within two hundred (200) feet of the polling place during any election.
- 25.2 Whoever commits unlawful possession of alcoholic liquors is guilty of a petty misdemeanor.

26. Election Centers

- 26.1 Election judges may call election information centers if the same are provided by the Election Director or the Election Officer to verify current ownership of land within the benefited area of the District and within the county in which the qualified elector wishes to vote.

27. Election for certain districts; counting ballots; certification of results to the board.

- §73-14-85.1. For conservancy districts having more than one hundred thousand acres within the district, the presiding judge of each polling place within that district shall, not more than six hours after the polls have

closed, deliver to the election director a certified copy of the certificate of returns. Not more than twenty four hours after the polls have closed, the election director shall deliver a certified copy of the certificate of returns to the board of directors.

28. Election; canvass; certificates of election.

§73-14-86.

- A. On the morning of the first Friday following the election, the board of directors shall meet and canvass the returns certified to it by the election judges.
- B. After canvassing the returns, the board shall issue election certificates to the candidate or candidates receiving the highest number of votes for each position on the ballot. The board shall declare the results of the election in writing and forward a copy of the declaration to the secretary of state and to the state engineer.

29. Recounts, Rechecks, Cost of Proceedings

- A. The District shall post the recount and recheck cost determinations on the District's website when the District issues its cost determinations. The District shall determine the likely cost of a recount per polling location and a recheck per voting machine no later than fifteen (15) days following a request for a recount. An applicant for a recount shall deposit with the District sufficient cash, or a sufficient surety bond, to cover the cost of a recount for each polling location for which a recount is demanded at the time the demand is made. An applicant for a recheck shall deposit with the District sufficient cash, or a sufficient surety bond, to cover the cost of the recheck for each voting machine to be rechecked. The deposit or surety bond shall be security for the payment of the costs and expenses of the recount or recheck in case the results of the recount or recheck are not sufficient to change the results of the election.
- B. If an error or fraud changes the winner of the election, the costs and expenses of the recount or recheck shall be paid by the District.
- C. If no error or fraud changes the winner, the costs and expenses for the recount or recheck shall be paid by the applicant. Costs shall include, if any, docket fees, mileage of the sheriff in serving summons and fees and mileage at the same rate paid to District employees.

30. Voluntary campaign finance reporting.

- 30.1 The board of directors shall establish a voluntary campaign finance reporting system for all board of director candidates including designating an election director that shall specify the form, method and provide for the collection and posting of the reports on the District website. Each report will be on a form prescribed by the board and shall include:
 - A. the name of the candidate;
 - B. the office sought;
 - C. all expenditures made and contributions received by the candidate (as those terms are defined in NMSA 1978, § 1-19-26 (2003)), including:
 - 1. the name and address of the person or entity to whom an expenditure was made or from whom a contribution was received;
 - 2. the occupation or type of business of any person or entity making contributions of two hundred fifty dollars (\$250) or more in the aggregate per election;
 - 3. the amount of the expenditure or contribution or value thereof;
 - 4. the purpose of the expenditure; and
 - 5. the date the expenditure was made, or the contribution was received.

- 30.2 Candidates choosing to file campaign finance reports shall:
- A. File with the election director by 5:00 p.m. on April 25th, May 24th, and July 1st a report of all contributions and expenditures not previously reported. Any contribution or pledge to contribute that is received after May 24th at 5:00 p.m. and that is for five hundred dollars (\$500) or more shall be reported to the proper filing officer on a prescribed form within twenty-four hours of receipt except that any such contribution or pledge to contribute that is received after 5:00 p.m. on the Friday before the election may be reported by 12:00 noon on the Monday before the election.
- 30.3 Candidates choosing to file campaign finance reports need not report anonymous contributions; provided that, each individual anonymous contribution does not exceed one hundred dollars and the aggregate amount of anonymous contributions received during an election cycle does not exceed five hundred dollars (\$500).

[END OF RULE NO. 20]