



March 7, 2025

Camino Real Regional Utility Authority Board of Directors

Juan Carlos Crosby
Executive Director
juancarlosc@donaanacounty.org

Javier Perea
Chair of Board of Directors
javier.perea@sunlandpark-nm.gov

Mario Juarez-Infante
Vice Chair of Board of Directors
mario.juarez-infante@sunlandpark-nm.gov

Shannon Reynolds
sreynolds@donaanacounty.org

Hector Rangel
hector.rangel@sunlandpark-nm.gov

Rene Molina
renem@donaanacounty.org

Carlos Escarcega
carlos.escarcega@molzencorbin.com

City of Sunland Park City Council

Mili Sandoval
mili.sandoval@sunlandpark-nm.gov

Daisy Lira
daisy.lira@sunlandpark-nm.gov

Jesus Soto
jesus.soto@sunlandpark-nm.gov

Alberto Jaramillo
alberto.jaramillo@sunlandpark-nm.gov

Maria Burciaga
maria.burciaga@sunlandpark-nm.gov

Susan Gomez
susan.gomez@sunlandpark-nm.gov

Doña Ana County Board of Commissioners

Christopher Schaljo-Hernandez
Chair of Board of Commissioners
schaljohernandez@donaanacounty.org

Susana Chaparro
Vice Chair of Board of Commissioners
schaparro@donaanacounty.org

Gloria Gameros
ggameros@donaanacounty.org

Manuel Sanchez
msanchez@donaanacounty.org

To the Camino Real Regional Utility Authority Board of Directors,

The New Mexico Environmental Law Center submits this comment on behalf of Sunland Park and Santa Teresa community members and Empowerment Congress of Doña Ana County (“Community”).

During the week of February 23, 2025, residents of Sunland Park, customers of the Camino Real Regional Utility Authority (“CRRUA”), and consumers began experiencing discolored water in both residences and businesses in the service area. Residents and Empowerment Congress reported these water quality issues directly to CRRUA, while NMELC, at Community’s request, also notified the New Mexico Environment Department (“NMED”) and the U.S. Environmental Protection Agency (“EPA”) of the discolored water and CRRUA’s lack of prompt notice and public response to the water crisis.

While it remains unclear whether CRRUA has adequately addressed and resolved these current water quality issues, Community notes that this is not an isolated incident, but yet another event in the larger, ongoing pattern of CRRUA failing to provide clean and safe drinking water to residents, as required under the federal Safe Drinking Water Act and New Mexico Drinking Water Regulations.¹ Accordingly, Community and NMELC demand the following recourse by CRRUA, to not only account for CRRUA’s historical failure to provide safe and clean drinking water to residents, but also to rebuild trust and create a working relationship with community members centered on ensuring CRRUA respects and protects residents’ inherent right to clean and safe drinking water.

The following demands are discussed in further detail below:

Demand 1: *Preventative Measures*: CRRUA must establish preventative and protective measures when an incident occurs that impacts water quality.

Demand 2: *Arsenic Test Strips*: CRRUA must provide arsenic testing strips to all households, allowing residents to independently verify the safety of their water. These strips should be mailed directly to each home serviced by CRRUA.

Demand 3: *Clean Water Supply*: CRRUA must supply clean third-party water to residents for a minimum of six months to compensate for the contaminated water previously supplied, as well as during events and incidents where residents’ water quality is impacted.

Demand 4: *Rate Increase Moratorium*: CRRUA must place a freeze on water rate increases for the next four years, beginning April 7, 2025. This moratorium is crucial to relieve the financial burden on residents paying for unsafe water they cannot use and the cost of buying water which is safe for them to use.

¹ 42 U.S.C. §300f *et seq.* (1974); 20.7.10 NMAC.

Demand 5: Accessible Public Meetings: CRRUA must change the time of the regularly-scheduled CRRUA Board meetings to 5:30 PM on the second Monday of each month, so as to ensure these meetings remain open and accessible to community members.

Demand 1: Preventative Measures: CRRUA must establish the following preventative and protective measures when an incident occurs that impacts water quality.

- (1) CRRUA must take any and all timely measures to prevent water quality and services from being impacted.

Community demands, in light of CRRUA’s most recent water service disruption in February 2025, that CRRUA develop and implement a policy and practice that requires CRRUA to promptly follow established safety and emergency protocols when an event or incident occurs that impacts CRRUA’s water quality. This includes CRRUA taking any and all preventative measures to protect water quality in advance of a scheduled event, like water hydrant testing or other construction activities. In the event of an unscheduled disruption to water services, like a water line breakage, CRRUA should have clearly established protocols to not only ensure the disruption is timely addressed and resolved, but also that customers and consumers² immediately receive notice of the issue and have access to clean and safe drinking water in the meantime. To accomplish the latter, CRRUA should provide free, clean third-party water to customers and consumers in the event of both predicted and unpredicted disruptions to CRRUA’s public water supply and water quality.

- (2) CRRUA must conduct all applicable water quality tests and provide the results to the public in a timely manner when an incident, like a water line breakage, fire department responses, or other water service interruptions, occurs.

When a disruption to CRRUA’s public water supply occurs that may potentially impact water quality, CRRUA should conduct all applicable water quality tests immediately and subsequently provide the results to the public as quickly as possible. Oftentimes, when CRRUA provides public notice of a disruption to the public water supply, CRRUA asserts the water is still “safe to consume,” while also advising customers to avoid doing laundry or using the water for other household purposes – raising considerable doubt into how water can be safe for human consumption, yet unfit for household uses like laundry and cooking.³ Moreover, CRRUA has a

² Community raises that CRRUA’s current notice practices tend to serve only account holders, and neglect to inform a broader range of community members who consume water provided by CRRUA – such as renters, visitors to the area consuming food at restaurants, people staying at hotels, visitors to the casino, students (youth and adults) attending school, and employees of local businesses. Thus, Community requests CRRUA, in satisfying the foregoing demands, do so in a manner that is inclusive of both customers and consumers.

³ See CRRUA Archive of Public Notices, <https://errua.org/notices>.

history of falsely asserting to residents that the water is safe for consumption, while also receiving repeated violation notices from both NMED and EPA for providing public water with dangerous levels of contaminants, like arsenic.⁴ Thus, CRRUA's assertions that residents' water is safe to consume during a disruption to the public water supply, without factual evidence and test results to support this assertion, reasonably call into question the veracity of CRRUA's assertion that the public water supply is safe for consumption.

In order to ensure residents are receiving clean and safe drinking water during an event disrupting the public water supply, as well as to rebuild the public's trust and confidence in CRRUA, CRRUA should conduct all applicable water quality tests and provide the results to the public in a timely manner. These results should be included alongside all CRRUA assertions that its water is safe to consume and use. Moreover, until those results are publicly available, CRRUA should not put forth any public statement asserting its water is safe for consumption. CRRUA should provide the public with the test results on the following platforms and in the following locations, at minimum: CRRUA website; social media platforms; public spaces in Sunland Park and Santa Teresa; local and mainstream media outlets; and any and all other locations and methods frequently used by residents. CRRUA should always provide these results in at least both English and Spanish, to ensure the highest level of transparency and accessibility.⁵

(3) CRRUA must provide timely notification, in all accessible manners and methods, to all customers, residents, and other users of water when water quality is impacted.

Finally, when an event or incident occurs that may potentially impact residents' water quality, CRRUA must provide timely notification to all customers, residents, and other users of water on platforms and in locations that are accessible to the public. Currently, CRRUA posts notices of potential water quality impacts and issues on its public website. CRRUA's typical practice has been to post these notices on its website's homepage, then archive the notice within a few hours or days so that it is less visible. Moreover, many residents of Sunland Park and Santa Teresa do not have access to, nor use, the Internet as their primary means of communication and information – meaning many residents, under CRRUA's current public notification practices, are not timely and adequately informed of potential and actual impacts to their water quality.

Because potential disruptions to residents' water quality is a matter of significant concern for the protection of public health, it is critical that CRRUA's public notices be both timely and visible in many manners, at various locations, and on several platforms. Timely notice is as soon

⁴ See Community Request for DOJ and State Auditor Investigation of CRRUA, at 8-14 (August 2, 2024), <https://nmelc.org/wp-content/uploads/2024/06/Community-Request-for-DOJ-and-State-Auditor-Investigation-of-CRRUA.pdf> (detailing several repeated occasions, from 2016 to 2024, in which CRRUA falsely asserted its public water was safe for consumption, while failing to notify residents or properly test the water for dangerously high arsenic contamination levels).

⁵ Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d; 1978 NMSA § 9-1-5(B)(11)(a-d).

as, and no later than 24 hours after, CRRUA becomes aware of a potential disruption to residents' water quality. At minimum, visibility and accessibility should include providing public notice on the following platforms and locations: CRRUA website; social media platforms; public spaces in Sunland Park and Santa Teresa; local and mainstream media outlets; and any and all other locations and methods frequently used by residents. CRRUA should also establish a telephone line and messaging system that sends out public messages and alerts to all customers of CRRUA and consumers in the region, so they are timely informed of water quality issues. CRRUA should always provide these public notices in at least both English and Spanish.

Demand 2: Arsenic Test Strips: CRRUA must provide arsenic testing strips to all households, allowing residents to independently verify the safety of their water. These strips should be mailed directly to each home serviced by CRRUA.

On July 15, 2024, Empowerment Congress first demanded that CRRUA provide arsenic testing strips to all households, as a result of CRRUA's decades-long history of providing residents with water testing well-above the federal health standards for arsenic; failing to provide residents with timely public notifications of dangerous contaminations to the public water supply; and failing to address and resolve arsenic treatment facility and other operational failures causing extremely high levels of arsenic in the public water supply, thereby consistently jeopardizing public health.

In response, on August 13, 2024, CRRUA incorrectly stated it could not provide households with arsenic testing strips due to restrictions under Article IX, Section 14 of the Constitution of New Mexico, or the "Anti-Donation Clause." CRRUA further responded that it does not recommend the general public use arsenic testing strips because "testing strips are known to contain chemicals that are hazardous to the touch." Notably, however, the Anti-Donation Clause of the New Mexico Constitution does not restrict CRRUA from providing arsenic testing strips to its users, nor are these strips known to present any hazard to the public.

1. The Anti-Donation Clause Does Not Restrict CRRUA from Providing Arsenic Testing Strips to Residents.

Article IX, Section 14 of the Constitution of New Mexico, or the "Anti-Donation Clause," prohibits state, county, school district, and municipal governments from making donations or pledging credit to individuals, associations, or corporations.⁶ The purpose of New Mexico's Anti-Donation Clause is to prevent governments and their public entities from providing public funds for private purposes – specifically, to aid private businesses and enterprises. The New Mexico Supreme Court thus emphasized that, when interpreting and determining whether the Anti-Donation Clause applies, "it should be construed with reference to the evils it was intended

⁶ N.M. Const. Art. IX § 14.

to correct.”⁷ Thus, the Anti-Donation Clause does not apply to, nor was it intended to affect, governmental services to the public or the accomplishment of government functions.⁸

The residents of Sunland Park and Santa Teresa are requesting CRRUA provide arsenic testing strips to CRRUA customers and consumers as part of CRRUA’s government service to the public. As a public utility, CRRUA is responsible for providing consistently clean and safe drinking water to the public. However, CRRUA has historically failed, and continues to fail to do so. Instead, CRRUA has engaged in a pattern and practice of failing to monitor its arsenic treatment facilities; bypassing its monitoring and treatment processes necessary to ensure a safe public water supply, despite CRRUA operators “lack[ing] an understanding on how to operate the bypass or recycle systems, along with needed adjustments to chemical feed rates when bypass or recycling occurs;”⁹ failing to remedy contaminations once discovered; failing to timely notify residents of contaminations; and ultimately, failing to provide its customers and consumers with clean and safe public water. The provision of arsenic testing strips, at no additional cost to the public, is in furtherance of CRRUA’s accomplishment of its government functions and is in direct alignment with CRRUA’s government service to the public.

Further, New Mexico courts have generally found the Anti-Donation Clause to be violated whenever state or local governments have made outright gifts of money or property, or have effectively relieved private persons and entities from obligations they would otherwise have to meet.¹⁰ The provision of arsenic testing strips to CRRUA customers and consumers, in furtherance of CRRUA’s government service and duty to the public, does not qualify as an outright gift of money or property, nor does CRRUA’s provision of arsenic testing strips to residents constitute inappropriate aid to private businesses and enterprises. CRRUA’s provision of arsenic testing strips is for the sole purpose of protecting public health and welfare, building trust with the public and, ultimately, ensuring customers and consumers are receiving clean and safe drinking water. Moreover, this would not relieve private persons from obligations they would otherwise have to meet because as a public utility, it is CRRUA’s obligation to provide clean and safe drinking water to its customers and the overall general public in the region. Thus,

⁷ *City of Clovis v. Southwestern Pub. Serv. Co.*, 49 N.M. 270, ¶ 23, 161 P.2d 878 (1945).

⁸ *Id.* at ¶ 48.

⁹ See Results of the Comprehensive Performance Evaluation of Camino Real Rural Utility Authority Four Arsenic Treatment Facilities at 16, Eastern Research Group (August 2024), <https://crrua.org/sites/default/files/ERG%20Final%20Report.pdf>; see also Community Evaluation and Public Comment on the Comprehensive Performance Evaluation of the Camino Real Regional Utility Authority Four Arsenic Treatment Facilities (Sept. 16, 2024), https://nmelc.org/wp-content/uploads/2024/08/ERG-Report_-_Public-Findings-Recommendations.pdf.

¹⁰ See, e.g., *Chronis v. State ex rel. Rodriguez*, 100 N.M. 342, 670 P.2d 953 (1983) (tax credit to liquor licensees against taxes owed was an unconstitutional subsidy of the liquor industry); *State ex rel. Mechem v. Hannah*, 63 N.M. 110, 314 P.2d 714 (1957) (appropriation to pay state’s share of emergency feed certificates issued to livestock owners for the purchase of hay was an unconstitutional subsidy of the livestock industry); *Hutcheson v. Atherton*, 44 N.M. 144, 99 P.2d 462 (1940) (finding unconstitutional a statute authorizing counties to issue bonds (repaid by taxes) to fund the building of public auditoriums to be used by a private corporation during a celebration of the 400th anniversary of Coronado’s exploration).

the Anti-Donation Clause is not implicated, nor does it apply to or in any way restrict CRRUA from providing customers and consumers with arsenic testing strips.

2. Arsenic Testing Strips Do Not Present a Hazard to the General Public.

In its refusal to consider providing arsenic testing strips to customers and consumers, CRRUA baselessly claimed that the general public avoid using arsenic testing strips because “testing strips are known to contain chemicals that are hazardous to the touch.”

While this assertion is not only not grounded in fact, even if the use of these testing strips was known to create a health hazard, almost certainly, any hazards associated with using arsenic testing strips do not surpass the immediate and long-term health effects implicated by consuming water contaminated with arsenic. The U.S. Environmental Protection Agency (“EPA”) lists arsenic as a Primary Drinking Water Contaminant¹¹ due to its broad and severe range of adverse health effects, which include: “[t]hickening and discoloration of the skin; stomach pain, nausea, vomiting, diarrhea, and liver effects; [c]ardiovascular, pulmonary, immunological, neurological (e.g., numbness and partial paralysis), reproductive, and endocrine (e.g., diabetes) effects; [and] [c]ancer of the bladder, lungs, skin, kidney, nasal passages, liver, and prostate.”¹²

If CRRUA remains concerned about the potential hazards associated with physical contact with arsenic testing strips, CRRUA should provide customers and consumers with gloves, at no additional cost to the public, alongside the arsenic testing strips. The use of gloves would eliminate any potential risk of contact and associated harms, alleviating CRRUA’s remaining concerns around arsenic testing strips’ potential impacts to its customers’ and consumers’ health and safety.¹³

3. CRRUA’s provision of arsenic testing strips is necessary to rebuild trust with residents and to ensure residents receive clean and safe drinking water.

For years, CRRUA has provided public water with arsenic contamination levels well above federal health standards, while also failing to timely notify residents of the contamination so that they may take steps to protect their health and wellbeing. Instead, CRRUA has ignored consumer complaints alerting it to water quality issues, like CRRUA did in November and December 2023, all the while also continuing to assert that the water is safe to consume and use, despite CRRUA continuing to provide residents with discolored water.

¹¹ See *National Primary Drinking Water Regulations*, U.S. EPA, <https://www.epa.gov/ground-water-and-drinking-water/national-primary-drinking-water-regulations> (last updated Jan. 2, 2024).

¹² See *EPA Arsenic Consumer Fact Sheet*, U.S. EPA, <https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=60000E1E.txt> (March 2007).

¹³ Moreover, arsenic testing strips are available for general public purchase and use in several mainstream stores, like Amazon and Walmart, suggesting that the hazards related to using arsenic testing strips are so minimal that they do not impede, nor restrict, general public access and use.

It is thus no wonder why the public cannot, and does not, trust CRRUA's statements that it "provides safe water to its customers." CRRUA cannot reasonably expect community members to trust in a public utility that has historically and consistently placed residents' safety and health at risk, without effectively remediating the harm that remains ongoing. Providing all households with arsenic testing strips, so that residents may independently verify the safety of their water, would be a meaningful method for CRRUA to acknowledge and address CRRUA's historical and ongoing failure to provide residents with consistently clean and safe drinking water, as well as a way for CRRUA to begin to rebuild its relationship with Sunland Park and Santa Teresa community members and earn their trust.

Demand 3: Clean Water Supply: CRRUA must supply clean third-party water to residents for a minimum of six months to compensate for the contaminated water previously supplied, as well as during events and incidents where residents' water quality is impacted.

On July 15, 2024, Empowerment Congress also demanded that CRRUA provide clean third-party water to residents to compensate for the contaminated water previously supplied by CRRUA. In CRRUA's August 13, 2024, response letter, CRRUA similarly asserted that it could not provide clean third-party water to residents due to Anti-Donation Clause restrictions. As discussed above, the Anti-Donation Clause does not apply, nor restrict, CRRUA from providing residents with clean third-party water because doing so is in furtherance of CRRUA's government functions and is in direct alignment with CRRUA's government service to the public.

Moving forward, Community demands CRRUA not only provide residents with clean third-party water for a minimum of six months to compensate for the contaminated water previously supplied, but also that CRRUA create and implement a policy requiring CRRUA to immediately provide residents with clean third-party water during events and incidents where residents' water quality is impacted. Providing public notices during events impacting the public water supply, as CRRUA continues to do, where CRRUA states that "Although the water is safe to drink, CRRUA recommends waiting until the water clears before doing laundry,"¹⁴ creates not only public confusion, but also brings into question the veracity of CRRUA's assertions that the public water supply is safe for consumption, yet not for household uses like laundry. Thus, in events and incidents where CRRUA's public water supply is impacted, affecting residents' water quality, Community demands CRRUA implement a policy in which CRRUA provides residents with reliably clean and safe drinking water, from a third-party source, unless and until CRRUA can confirm, through publicly available water test results, that its water quality is safe for consumption and use.

¹⁴ See, e.g., February 2025 Notices, CRRUA (Feb. 21, 2025), <https://crrua.org/notices/2025>.

Demand 4: Rate Increase Moratorium: CRRUA must place a freeze on water rate increases for the next four years, beginning April 7, 2025. This moratorium is crucial to relieve the financial burden on residents already paying for unsafe water.

On July 15, 2024, Empowerment Congress also demanded that CRRUA freeze water rate increases for the next four years to relieve the financial burden on residents who have and continue to pay for unsafe and unusable water. On August 13, 2024, CRRUA, in part, responded to and denied this demand by stating that CRRUA had been operating under a rate structure that had not been updated in over 15 years; CRRUA's lack of regular rate increases have caused CRRUA's operational revenues to "have not kept up with the demands for infrastructure improvement, operations, and maintenance;" and "[f]or CRRUA to continue making positive headway in providing consistent and reliable service, it must increase revenues, which will necessitate regular rate increases.

CRRUA, however, fails to acknowledge and take accountability for its historical provision of unsafe water; wrongful overcharging of residents; its ability to apply for more government funding to pay for the necessary infrastructure repairs and improvements; and the financial impact and burden increasing residential utility rates has on Sunland Park and Santa Teresa residents who have historically borne the cost of CRRUA's failure to consistently provide clean and safe public water.

1. CRRUA has historically provided consumers with unsafe water, while failing to provide notice to the public that the water supply is not safe for consumption.

CRRUA continues to assert that the water it provides to the public is safe for consumption, without acknowledging the fact that CRRUA has historically provided consumers with unsafe water for years, often without providing timely and adequate notice to the public of any contamination. This historic and ongoing pattern and practice has understandably created a widespread distrust of CRRUA, its assertions, and ultimately, the safety of its public water supply.

CRRUA cannot continuously assert its public water supply is safe and expect customers and consumers to believe and trust these claims without taking further action and making meaningful efforts to repair and regain the public's trust. Meaningful actions to rebuild residents' trust in CRRUA can and should include the recognition of the financial burden customers have unfairly borne because of CRRUA's historical failure to comply with federal and state drinking water laws and regulations and ultimately, provide residents with consistently clean and safe drinking water. To address and account for the longstanding financial impacts and burdens CRRUA has placed on its customers, CRRUA should implement a rate freeze moratorium, at its next regularly scheduled Board meeting on April 7, 2025, that would remain in place for the next four years.

2. CRRUA has been wrongfully overcharging customers for years.

While CRRUA claims that it has been operating under the same rate structure for the last fifteen years, this does not negate the fact that CRRUA has also been wrongfully and significantly overcharging customers for years, and continues to do so. CRRUA has continuously charged consumers for thousands of gallons of water they are not using, leading to incorrect and high water bills well over one-thousand dollars, in some instances. In 2018, for example, a resident received a \$500 water bill from CRRUA, despite her monthly bill typically amounting to \$70. Meanwhile, a separate resident received a monthly water bill for \$10,000, to which the CRRUA Board at the time responded by lowering it to \$275.¹⁵ Most recently, Empowerment Congress was made aware of a resident's water bill of over \$1,500 at a residence that has not been occupied in the last three years. CRRUA, however, continues to not answer its phone line when overcharged residents call to address these issues, much less readjust residents' water bills; instead, in some instances, CRRUA disconnects its services to residents until residents provide a payment in full.

This historic and ongoing trend of CRRUA significantly overcharging consumers for their water usage, without addressing or correcting mistakes to residents' bills, places many residents in a position where they are paying for water they did not and/or cannot use; or, in the alternative, are without water and wastewater services, unless they pay in full water bills that they did not incur. This especially impacts and harms low-income residents, elderly residents, residents with limited English proficiency, and other residents who may not have the resources and access necessary to dispute such charges. Notably, in Sunland Park, nearly one-third of households are below the federal poverty line.¹⁶

For CRRUA to state that it has not updated its rate structure in fifteen years as justification for the raising of residential utility rates, without acknowledging or considering CRRUA's historical and ongoing overcharging of residents for years, is thus only a partial telling of the truth.

3. CRRUA has received, and has the ability to apply for more, state and federal funding for operational, infrastructure, and maintenance costs.

As a public utility, CRRUA may apply for and receive state and federal funding for operational, infrastructure, and maintenance costs. In fact, CRRUA has already received state and federal funding to invest in the operation and maintenance of its facilities – yet, the problems

¹⁵ See David Crowder, *\$10,000 Water Bill? New Mexico Residents Expose Problems at CRRUA*, El Paso Inc. (April 19, 2021), https://www.elpasoinc.com/news/local_news/10-000-water-bill-new-mexico-residents-expose-problems-at-crrua/article_78cf6bfc-a076-11eb-9d6c-f3ac72bab086.html.

¹⁶ See U.S. Census Bureau *American Community Survey 5-year estimates, Census Reporter Profile Page for Sunland Park, NM*, (2022) <http://censusreporter.org/profiles/16000US3575640-sunland-park-nm/>; see also Diana Alba Soular, *Food Insecurity Soars in Sunland Park*, Las Cruces Bulletin (Nov. 17, 2023), <https://www.lascrucesbulletin.com/stories/food-insecurity-soars-in-sunland-park,65125>.

persist. CRRUA may also seek funding support from local government bodies, the City of Sunland Park and Doña Ana County, that are responsible for ensuring CRRUA carries out its primary purpose and role: to provide consistently and reliably clean and safe public water to the communities of Sunland Park and Santa Teresa, New Mexico.

Moreover, the funds CRRUA has already received should be focused on and allocated to such operational, infrastructure, and maintenance costs that CRRUA has shifted onto the residents of Sunland Park and Santa Teresa. Instead of using such funds to combat negative publicity about CRRUA's ongoing customer service and water quality issues, to increase executive salaries into the triple digits, and to purchase new office spaces, CRRUA should prioritize all funds towards the operational, infrastructure, and maintenance costs necessary to bring and keep CRRUA in compliance with all state and federal laws and ultimately, provide residents with consistently safe and accessible public water.

To place the financial burden on consumers to fund the necessary repairs, maintenance, operational, and infrastructure costs by raising residential water and wastewater rates, while continuing to provide water that is unsuitable for use or consumption, is an inappropriate shift of CRRUA's responsibility to ensure it provides clean and safe water to the communities it serves – especially when, as a public utility, CRRUA has ample access to, and has received, government funding.

4. CRRUA's increased rates further harm residents who have already been bearing the financial and health costs of CRRUA's mistakes.

Finally, CRRUA asserts that it cannot meet the demand of “a freeze on water rate increases for the next four years, effective from July 1, 2024,” because CRRUA's increased rates are similar to other utilities' rates in the region. CRRUA, however, misunderstands the reason behind and demand for a freeze on water rate increases for the next four years. As discussed above, CRRUA has shifted the financial burden of operating and maintaining its facilities onto the residents of Sunland Park and Santa Teresa, while also, for years, overcharging residents and consistently providing them with public water that is unsafe for use and consumption. This historical trend by CRRUA has placed, or has contributed to placing, several residents into financial hardship.

Increasing residential rates, while the safety and quality of CRRUA's public water supply remains in question, further burdens residents already enduring financial hardship, and who have been without safe public water for years. Community and NMELC thus request a freeze on the increasing of residential rates for the next four years so that residents can financially recover and prepare for a rate increase, while CRRUA also can consistently display its compliance with federal health standards, state law, and actively rebuild its reputation and earn trust with residents. To move forward in such a manner would be a meaningful step in CRRUA's efforts to

regain trust with the communities of Sunland Park and Santa Teresa, as CRRUA would be centering the needs, concerns, and lives of residents first, in its service to the public.

Demand 5: Accessible Public Meetings: CRRUA must change the time of the regularly-scheduled CRRUA Board meetings back to 5:30 PM on the second Monday of each month, so as to ensure these meetings remain open and accessible to community members.

Despite CRRUA’s 2020 Resolution “Establishing the Open Meetings Policy of the Camino Real Regional Utility Authority,” which sets forth CRRUA’s public policy that “regular meetings of the Board shall be held on the second Monday of each month at 5:30 p.m.”¹⁷ CRRUA has changed the time of their regular monthly public meeting to 9 AM on the second Monday of every month, rather than 5:30 PM. CRRUA changed its regular meeting time without reasonable and adequate public notice and without public consultation to discern what meeting date and time would be most accessible for Sunland Park and Santa Teresa community members, in violation of the New Mexico Open Meetings Act, NMSA 1978 §§ 10-15-1 to 10-15-4. In interpreting the New Mexico Open Meetings Act, the New Mexico Office of the Attorney General states that ten days advance notice for regular meetings is not required for “reasonable notice” if the public body meets regularly on a specific date, time and place, and has such information set forth in the public body’s notice resolution and makes the resolution available to the public.¹⁸ CRRUA’s only publicly available resolution, as noted above, states the CRRUA Board’s regular meetings will be held at 5:30 PM, not 9:00 AM. Thus, to give “reasonable notice” and comply with the OMA, CRRUA should have provided the public with ten days advance notice of the regular meeting time change. Instead, CRRUA provided two business days notice in an inconspicuous location.¹⁹

The current meeting time of 9 AM limits the public’s ability to attend and participate in CRRUA Board meetings, as many community members are at work or in school at 9 AM, creating a conflict. Holding regular meetings at a largely inaccessible time effectively limits public participation and CRRUA’s interactions with community members, which does nothing to rebuild the community’s trust with CRRUA or its Board members. Moreover, a majority of community members are unable to meaningfully participate in and remain informed of the policies, operations, and practices of their public utility. Therefore, NMELC and Community demand CRRUA change its regular meeting times back to 5:30 PM on the second Monday of each month, so as to ensure CRRUA’s public meetings remain accessible to the public and encourage, rather than inhibit, meaningful public participation.

¹⁷ See CRRUA Resolution 2020-01, “Resolution Establishing the Open Meetings Policy of the Camino Real Regional Utility Authority (‘Authority’),” https://www.crrua.org/sites/default/files/RESOLUTION_2020-01.pdf.

¹⁸ See Office of the New Mexico Attorney General, *New Mexico Open Meetings Act Compliance Guide* at 13 (8th ed., 2015), <https://www.nmag.gov/wp-content/uploads/Open-Meetings-Act-Compliance-Guide.pdf>.

¹⁹ See *id.*; see CRRUA Meeting Agenda (Jan. 13, 2025), <https://crrua.org/sites/default/files/Jan.%2013%2C%202025%20Bilingual.pdf> (the only place CRRUA publicly announced its changed meeting time, only a few days before its January 2025 monthly public meeting – with the change of time only noted within the hyperlinked meeting agenda).

We strongly recommend CRRUA take these demands into consideration, and while doing so, keep in mind who CRRUA was created to serve and for what purposes. As a public utility, CRRUA cannot continue to ignore the public's voices, experiences, health, and needs in a manner that directly works against serving the public's best interests. We look forward to further discussions regarding these demands and this ongoing matter.

Respectfully,

EMPOWERMENT CONGRESS
OF DOÑA ANA COUNTY

/s/ Daisy A. Maldonado

Daisy A. Maldonado
Director of Empowerment Congress
3880 Foothills Rd Ste A
Las Cruces, NM 88001
Tel.: (575) 268-3377
Tel.: (575) 642-5683
daisy@empowernm.org

NEW MEXICO ENVIRONMENTAL
LAW CENTER

/s/ Kacey J. Hovden

Kacey J. Hovden
Maslyn K. Locke
P.O. Box 12931
Albuquerque, NM 87195
Tel.: (505) 989-9022
Fax.: (505) 629-4769
khovden@nmelc.org
mlocke@nmelc.org