

Hackman Lateral - An Acequia (irrigation ditch) Tierra Viva Homeowners Obligation General Explanation

WHERE DO THINGS STAND WITH THE ACEQUIA?
UPDATED JANUARY 2020.

Let's begin with some "givens." When you purchase a home in Tierra Viva ("TV") subdivision, , three things attached to your purchase:

- (1) You immediately became a member in good standing of the Tierra Viva Homeowners Association ("TV-HOA," or "HOA"), a nonprofit corporation under New Mexico law. You will remain so, with full voting rights, so long as you pay assessments for your lot when they are due and comply with requirements in the covenants, bylaws, and rules and regulations. Please note failure to timely pay annual dues or assessments results in a lien on your property and notice to your mortgage holder, the most intransigent will face a foreclosure action.
- (2) With purchase of a lot in the subdivision, each of us acquired and became responsible for our share of maintenance and repair of 2200 feet of the Hackman Lateral (a/k/a, the "ditch") under an agreement with the Middle Rio Grande Conservancy District ("MRGCD"). MRGCD in return ceded to the subdivision land that included the ditch, but enabling the subdivision's successful creation. The ditch lies at the eastern boundary of the subdivision. It may be seen by crossing the bulkhead between 5716 and 5800 Tierra Viva Place, where the ditch runs through a culvert.
- (3) The principal financial obligation in the HOA's annual assessment is the cost of repair and maintenance of the ditch – managing both its unwanted vegetation and the walls that confine it, so that MRGCD may deliver contracted water from its system to recipients from about March 1 to November 1 each year. This means that ditch maintenance is a vital HOA obligation, as failure to do the job properly could result in ditch failure, with potentially adverse consequences for HOA members.

A statement of expenses for ditch repair and maintenance over the last several years is available at the link below. [Hackman Lateral Expense History](#)

As an excellent paper prepared by Lawrence Barela, TV-HOA member, shows the hydrology and maintenance of the ditch is a complex matter. The paper is available at the link below. [Hackman Lateral](#)

The paper came about after an exhaustive effort had been undertaken to explore completely replacing the portion of the Hackman Lateral that Tierra Viva Subdivision is obligated to maintain in its existing routing or rerouting the ditch to the western border of the subdivision with the expectation that MRGDC would become the sole responsible party for the ditch.

Re-routing / relocating the ditch was ultimately deemed impractical / unworkable due to the extraordinary cost (estimated in 2019 to be between \$600,000 & \$675,000 dollars. That cost would have to be born by the 36 lot owners in the subdivision. It also lacked the support of

many of the homeowners on the west side of the subdivision and would have made a vote to approve problematic.

Replacing the ditch in place was also ultimately deemed impractical / unworkable due to the high cost and extensive complications of trying to access the ditch in its present routing with equipment and machinery necessary to accomplish it. The cost estimate in 2018 was between \$425,000 & \$475,000 and we were unable to secure a firm commitment from MRGCD to take back the obligation to maintain ditch and release the subdivision from the obligation. In a oversimplification the easement is not wide enough to allow mechanical maintenance and MRGCD made that a precondition of taking the obligation back.

Where we are at the present, January 2020.

The Board of Directors proposed and the neighborhood voted approval in April 2019 to undertake a plan of **Ongoing Ditch Maintenance by the HOA**. It requires continued HOA expenditures for maintenance and repair. The owners in Tierra Viva Subdivision believe we are no longer facing a potential catastrophic failure of a portion of the ditch. Recent repairs in the last 5 years have greatly reduced the potential for a large leak or failure. That work has been costlier in part because it aims for a sturdier and longer-term solution for replacing the ditch's confining walls – one that should be less costly in the long run. It involves replacing the many failed and failing portions of Gunite and shot-crete walls with water resistant concrete. Our contractor, a builder who has been on the job for some six years, has moved from applying waterproof materials to the concrete surface to mixing the waterproofing in with the concrete. Given the lack of heavy equipment access to the ditch, the contractor must mix concrete in the ditch, using a mixer that's smaller than optimal as the concrete replacement process moves along the ditch's many curves and sharp turns, obtaining water for mixing from helpful HOA members as needed. It literally is the definition of "By Hand"

Total maintenance costs are estimated to be about \$14,000 to \$21,000 a year until 2025. At that time the board feels a substantial portion of the ditch will have been resurfaced/replaced and annual maintenance will begin decreasing. The board does not anticipate the HOA Obligation will attain a cost lower than \$6,000 to \$10,000 annually even after the aggressive program begins tapering down. Other problems remain to be solved, many of them stemming from the suboptimal design of the ditch as we inherited it. Its width is suboptimal, according to Barela, and the wall height is often lower than it should be. Potential flooding / seeping onto HOA members' property can occur with even the smallest leak and requires reserve funding be maintained by the HOA.

Finally, there is evidence of animal tunneling around the ditch, which if left unchecked could undermine the ditch and cause partial collapse. The Board continues to focus on these challenges. A hopeful element: We hope and expect that replacing the failing or failed wall sections aggressively with waterproofed concrete will reduce repair work that must be done in future. That could in time lead to a reduction in the annual HOA assessment.

Barring an unforeseen circumstance the Board of Directors does not anticipate an increase in the annual dues and assessment of \$535 per lot in the subdivision. A much hoped for reduction in 2026 is a definite possibility.

The following images and comments are meant to give HOA members a better understanding of the ditch work that's being done, and why we think that being aggressive with replacement should give us better performance and reduce the chance of ditch collapse. In addition, in future this we expect that may give us a ditch that requires less maintenance and repair than now – perhaps even lower annual assessments.

—Submitted for the Board by Robert Marritz, Ken Adams



Repaired sidewall in foreground, original gunnite downstream



Example of sidewall failure, previous patch. Area inside orange line Replaced entirely.



Sample of failure between patches, under more aggressive repair program areas between patches when a failure is discovered entire area between patches is replaced.





Example of a large repair replacing piecemeal patching



Example of original gunfire application still in serviceable condition. Below is an example of a burrowing animal undermining the ditch. Seasonal changes are animal control and weed abatement.

