

**REGULAR MEETING OF THE  
BREWSTER COUNTY COMMISSIONERS COURT  
MONDAY MARCH 14, 2011, AT 9:00 A.M.**

*Judge Beard called this meeting to order. Officers present are listed as follows:*

<b>VAL CLARK BEARD</b>	<b>COUNTY JUDGE</b>
<b>ASA STONE</b>	<b>COMMISSIONER PCT. 1</b>
<b>KATHY KILLINGSWORTH</b>	<b>COMMISSIONER PCT. 2</b>
<b>RUBEN ORTEGA</b>	<b>COMMISSIONER PCT. 3</b>
<b>MATILDE PALLANEZ</b>	<b>COMMISSIONER PCT. 4</b>
<b>JERRY SOTELLO</b>	<b>J.P., PCT. 1</b>
<b>STEVE HOUSTON</b>	<b>COUNTY ATTORNEY</b>
<b>BERTA RIOS MARTINEZ</b>	<b>COUNTY CLERK</b>
<b>CAROL OFENSTEIN</b>	<b>COUNTY TREASURER</b>
<b>BETTY JO ROONEY</b>	<b>TAX ASSESSOR</b>

*To discuss and take action as appropriate on the following:*

**1. Invocation and Pledge of Allegiance**

*Judge Beard led the invocation and Pledge of Allegiance.*

**2. Minutes / additions / corrections / approval**

*The minutes from the February 22, 2011, were presented for approval.  
Commissioner Ortega made a motion to approve the minutes, which was  
seconded by Commissioner Stone, and passed unanimously.*

**3. Treasurer**

**A. General Bills / Discussion and appropriate action**

*Treasurer Ofenstein said the bills are fairly normal. There is a \$70,000  
Stonegarden expenditure.*

*Commissioner Ortega made a motion to approve the general bills, which  
was seconded by Commissioner Killingsworth, and passed unanimously.*

**B. Infrastructure Projects Bills / Discussion and appropriate action**

*Treasurer Ofenstein said there is a \$22,259.48 bill for Dinosuar Valley,  
\$3,455 of which is for the library. The remainder is for the helipad in South  
County.*

*Commissioner Ortega made a motion to approve the bill, which was  
seconded by Commissioner Killingsworth, and passed unanimously.*

### ***C. Pending 2011 State Budget & Current Legislative Session***

#### ***1. Update & general discussion concerning State's practice of passing down responsibility for various State functions to local governments***

*Judge Beard noted a letter from Commissioner Larry Francell in Jeff Davis County. That County is equally as concerned as we are about the passing down of responsibility by the State.*

#### ***2. Judge's & Treasurer's remarks and discussion regarding sources of County Revenues, and absence of State funding for County Operations***

*Treasurer Ofenstein said we do not receive much from the state to begin with. We receive money from the state lateral roads fund, and money for indigent defense. State funding for indigent defense does not match our expenditures for court-appointed counsel. She also explained that the County only keeps about five percent of court costs; the remainder is sent to the State.*

#### ***D. Other administrative matters related to Treasurer's Office / Discussion and appropriate action for work of Treasurer's office to go forward***

*Treasurer Ofenstein said she forgot to mention at the last meeting that the big debt payments were made in February, and the I&S fund is still in good shape.*

#### ***4. Officials' Monthly Reports / Discussion and appropriate action***

*Commissioner Stone read the reports for the record.*

*Commissioner Ortega made a motion to approve the reports, which was seconded by Commissioner Killingsworth, and passed unanimously.*

#### ***5. Tax Assessor Collector***

##### ***A. General update on work of office, including reports on tax collections, delinquent tax collections, recent tax sales, sales tax collections and related matters***

*Betty Jo Rooney gave a spreadsheet to Commissioners. She said collections are going well. In February alone, her office collected over \$990,000. Through January, they collected 2.8% above the previous year.*

*About \$178,000 is delinquent, and Ms. Rooney said they are pursuing those funds. She said a mail-out will be done in May.*

*Tax sales for both the County and School District were held a couple of weeks ago; the School District is planning another in June.*

*In these tough economic times, Ms. Rooney said folks are doing a lot of payment plans. She said many people are paying by credit card, which became an option last year.*

***B. Brewster County's role as tax collector for other County entities / Discussion and appropriate action***

*Ms. Rooney explained the property Tax Code, which states that for any entity which does not have the means to collect its own tax, the responsibility falls upon the County Tax Collector. Judge Beard corrected her and said that the County has no choice; if another entity asks us to collect for it, we're required to. The County Tax Collector must collect taxes for any entity which asks.*

***C. Discussion between Tax Assessor Collector, Judge, County Staff & Officials concerning AISD's Tax Collection Firm, Ray, Wood & Bonilla and it's Interactions with County Personnel as related to delinquent tax collections / Discussion and appropriate action***

*Jo Ann Salgado, the District Clerk, explained her role in tax suits. She said her biggest concern now is a lack of communication between AISD, its tax firm and her office. Very often, the taxpayer will be given a different amount due from the tax firm.*

*The bookkeeper from the Clerk's Office, Betse Esparza, agreed that communication is the largest issue. It can be helped by a phone call from Ray, Wood & Bonilla to her to find out what the court costs actually are before a check is issued.*

*Judy Stokes, who assists the Sheriff's Office, explained some organizational issues with the most recent Tax Sale. She thinks a larger space for coordinating Tax Sale payments would be helpful.*

*Department heads and employees spoke with Commissioners about several issues, mostly including communication and logistics.*

*Judge Beard asked folks from the Treasurer's Office, Clerks' Office, Sheriff's Office and Tax Collector's Office to work together on a proposal for coordinating Tax Sales. Commissioners concurred that this should be done.*

***D. Discussion and appropriate action for work of Tax Assessor Collector to go forward***

***6. Road & Bridge Department / Community Facilities***

***A. Road & Bridge Superintendent's Report***

***General updates on maintenance and repairs for all county roads; road materials including, fuel, supplies including usage & inventories & future needs; equipment including heavy equipment, (maintenance repairs, future needs, replacement and additions), pickups, trailers and other light vehicles and accessories, and small equipment, (usage,***

***future needs), equipment rentals; facilities (yards in Alpine, Marathon and S. County) and community facilities (assistance with maintenance and other related issues); assistance to other governmental entities and emergency responders; personnel issues, (vacancies, new hires, performance and safety); permits for boring or trenching for utilities across County Roads / Discussion and appropriate action***

*Supt. Frenchie Causey said most of the crew has been hanging sheetrock at the library. He and one other man have been handling road complaints, mostly due to dryness. They also checked the levels on the dry hydrants in North County. The one in Sunny Glen needs a new valve. They have also worked a little at Pena Park, mowed the area around the Big Bend Events Center, and have changed the oil in two Sheriff's vehicles this month. (That "in house" maintenance program is off to a good start.)*

*Commissioner Stone made a motion to approve a trenching permit request from Big Bend Telephone, which was seconded by Commissioner Killingsworth, and passed unanimously.*

***B. TxDot Border Colonia Access Paving Grant / General Update / Discussion and appropriate action to go forward with and complete project***

*Commissioner Ortega said they have finished 7<sup>th</sup> and 8<sup>th</sup> Streets, and are working along the railroad tracks. He said he thinks they'll be finished in about two weeks.*

*Commissioner Killingsworth said they are still waiting on the environmental study for the South County portion of the project. She said they are getting very close to deadlines. She will contact Mr. Carvajal about speeding up the process. Judge Beard urged the other Commissioners to do the same.*

***C. Funds for Used Tire Collection through Texas Association of Resource Conservation & Development Areas, Inc. (RC&D) / Discussion and appropriate action concerning participating in program***

*Judge Beard said they don't have a lot of information about this project, but she will continue to seek more details. Tire pick-up and recycling is costly.*

***D. Request to facilitate transfer of Caliche / Road Materials from Alpine TxDot Facility to DPS Building on Hwy 118 / Discussion and appropriate action***

*Judge Beard said the DPS facility needs caliche to expand its parking lot. TxDOT has the materials available, but cannot transfer them directly to DPS. DPS has asked that the County serve as the conduit.*

*Commissioner Ortega made a motion approving the participation of the County and the use of County crews for the transfer, which was seconded by Commissioner Stone, and passed unanimously.*

***E. Community Facilities (Marathon Community Center / Pattillo Community Center, Peña Park)***

***1. Update including recent improvements and maintenance***

*Commissioner Ortega said they have started painting. He said some schools are going to come out and use the facility for different activities. Rice University is coming to do a track clinic.*

*Commissioner Killingsworth said the water fountain hose froze in the big storm. There was a mess in the building, but it's been cleaned up.*

***2. Discussion and appropriate action to maintain facilities***

***F. Discussion and appropriate action for general work of Road & Bridge Department to go forward***

***7. Sheriff's Office / County Jail***

***A. Renewal of Contract for Sheriff's Office Copier / Discussion and appropriate action***

*Commissioner Ortega made a motion to approve a 60-month contract, which was seconded by Commissioner Killingsworth, and passed unanimously.*

***B. Citation Racial Profiling Report / Discussion and appropriate action***

*Judy Stokes gave the report to Commissioners, and said she no longer has to count citations by hand. The new CopSync system does it for her.*

***8. Volunteer Big Bend Luncheon / Designate County Volunteers to be recognized at luncheon***

*Judge Beard suggested honoring the members of the Brewster County Groundwater Conservation District.*

*Commissioner Ortega made a motion to approve the suggestion, which was seconded by Commissioner Stone, and passed unanimously.*

***9. Pending Infrastructure Grant Matters***

***A. Colonia Construction Fund Application / (2<sup>nd</sup> Septic Tank Replacement Grant Application for S. Brewster County)***

***1. Update on Project & Application Process***

*Commissioner Killingsworth said the eleventh of twelve is being installed today. A.J. Hays and Virgil Clark did some site visits last week.*

***2. Approval of Additional Applicants for Program / Discussion and appropriate action***

***3. General and administrative matters related to going forward with program including approval of additional applicants, bids & proposals & other matters / Discussion and appropriate action to go forward with grant project***

***B. 2009/2010 Texas Department of Rural Affairs Community Grant Program (Study Butte Water Tank Project)***

***1. Update on Project***

*Commissioner Killingsworth said that as of last Thursday, the tank was constructed and the liner installed. She thinks it could be online by the end of the month.*

***2. Discussion and appropriate action to go forward with grant program***

***C. Upcoming 2011 / 2012 Texas Department of Rural Affairs Grant Program / Discussion and appropriate action to go forward with grant application***

***D. State Comptroller's Energy Efficiency Grant (Energy efficient upgrade of Annex HVAC System)***

***1. Update by Conrad Arriola, Project Coordinator***

*Judge Beard said the units are installed and the project is virtually complete.*

***2. Discussion and appropriate action to complete project***

***10. IT Department Report and Update***

***A. Commissioner Pct. II, IT Committee Chair / Update on Off Site Storage of County Electronic data / Discussion and appropriate action***

*Mr. Ofenstein said the off-site storage is in place.*

***B. Infrastructure Projects / Installation & Wiring for Computers / Networking and related issues / Update / Discussion and appropriate action***

*Mr. Ofenstein said that as far as he knows, everything is complete at the new facilities.*

***C. Networking / Jail and Law Enforcement Update / Discussion and appropriate action***

*Mr. Ofenstein said they are waiting on some grant funding to finish the networking. CopSync and the DPS ticket downloader have both been installed.*

***D. County Road Map Project / Update on Digitizing County Road Map / Discussion and appropriate action***

*There are no currently pending map requests, and he is waiting on Commissioners' review of the map book. He is waiting on some GPS data, as well.*

***E. Update on development of schedule for replacement of County owned hardware / Discussion and appropriate action***

*Two computers will be replaced in the County Clerk's office, and will be installed in the next couple of weeks, as will a computer which is shared by both Clerks' Offices and the Treasurer's Office.*

***F. Discussion and appropriate action for general work of I.T. Department to go forward***

***11. New County Public Safety Infrastructure Facilities / (Alpine Volunteer Fire Department Station & Emergency Operations Center, South County Emergency Response Center, Marathon Justice Center)***

***A. Update, including matters related to management, landscaping, grounds paving, punch lists, telecommunication, utilities, maintenance and other costs related to facilities, equipment and furnishings***

*Mr. Santry said that everything at the AVFD is up and running, except for the radio at the EOC.*

*Commissioner Killingsworth said they have installed the lockers and benches in the South County ERC.*

*Commissioner Ortega said things are good in Marathon.*

***B. Discussion and appropriate action concerning management and operation of these facilities***

***12. Appointments / Request for approval of Board Members of County Historical Commission and Child Welfare Board/ Discussion and appropriate action***

*Commissioner Ortega made a motion to approve the Child Welfare Board appointees, which was seconded by Commissioner Stone, and passed unanimously.*

*Commissioner Stone made a motion to approve the County Historical Commission appointees, which was seconded by Commissioner Killingsworth, and passed unanimously.*

*An executive session was unnecessary.*

*Historical Commission members include: Melleeta Bell, Paul Olsen, Kathleen Olsen, Judith Parsons, Dr. Paul Wright, Ike Roberts, Robert Mallouf, Pete Salas, Jim Bones, Travis Roberts, Bill Ivey, Alberto Garcia, Raymond Skiles, Andy Cloud, Jodye Stone, Ralph LaForge, Kay LaForge, Valynda Henington, Barney Nelson, Bill Roberts, Thomas Mangrem, Saul Garza and Julia Moss.*

*Child Welfare Board members include: Emily Seale Buescher and Marsha Kiel.*

- A. Executive Session Pursuant to Section § 551.074, Government Code, VTCA, to discuss the appointment, employment, evaluation, reassignment, duties, compensation, or dismissal of a public officer or employee***

***Reconvene in Open Session***

- B. Discussion and appropriate action resulting from Executive Session regarding appointments***

***13. Resolution in opposition to State unfunded mandates and in support of HJR 56 by Representative Burt Solomons and SJR 17 by Senator John Carona / Discussion and appropriate action***

*Judge Beard said TAC has requested a resolution in opposition to unfunded mandates.*

*Commissioner Stone made a motion to adopt the resolution, which was seconded by Commissioner Killingsworth, and passed unanimously.*

***14. Resolution in Support of Commissioner Pct. 2 Kathy Killingsworth serving on the governing Board of the West Texas County Judges and Commissioners Association / Discussion and appropriate action***

*Commissioner Ortega made a motion to adopt the resolution, which was seconded by Commissioner Stone, and passed unanimously.*

***15. Proposed Municipal Utility District for Lajitas (previously discussed in Commissioners Court on January 31, 2011)***

- A. Update & Comments concerning modifications made to proposed bill***

*Judge Beard said they left the Jan. 31 meeting with the understanding that Lajitas representatives would coordinate with the County's outside counsel, Greg Hudson. She said the bill has not been through the Legislative Council yet, so they are not, at this time, addressing the final bill.*

*Commissioner Killingsworth reviewed what the bill includes at this time related to roads, fees, taxes and the Groundwater Conservation District, and what the Commissioners' concerns had been.*

***B. Opportunity for comment regarding changes in the proposed bill by interested parties***

*Patricia Kearns asked for clarification about private landowners. Commissioner Killingsworth said the landowner would have to petition the District for inclusion.*

***C. Discussion and appropriate action, if any***

*Commissioner Ortega made a motion to approve contact with Senator Uresti's office to let them know that the County's issues have been addressed. Commissioner Stone seconded the motion, which passed unanimously.*

***16. Alpine Public Library Project***

***A. Update on drywall for interior and next phases of project***

*Nolan Fowler said they have hung the last of the drywall, but they still need to cut out the windows. Fowler said he had been told directly by Paige Delaney, the APL director, to order doors. Judge Beard indicated that this was inappropriate. (Decisions must be made and instructions given through proper channels, by proper persons.)*

***B. Personnel Matters re County's Representative on APL Board***

***1. Executive Session Pursuant to Section § 551.074, Government Code, VTCA, to discuss the appointment, employment, evaluation, reassignment, duties, compensation, or dismissal of a public officer or employee***

*At 11:40 a.m., Judge Beard announced that Commissioners Court was going into Executive Session pursuant to Section §551.074, Government Code, to discuss the appointment, employment, evaluation, reassignment, duties, compensation, or dismissal of a public officer or employee. The courtroom was cleared of all but Commissioners Court.*

***Reconvene in Open Session***

***2. Discussion and appropriate action resulting from Executive Session***

*At 12:10 p.m., the Commissioners Court reconvened in open session. Judge Beard said that the Court had been in Executive Session pursuant to Section §551.074 of the Government Code.*

*Judge Beard said that the County has contributed nearly \$120,000 of in-kind work to the new library. She said that, in her position as the County's representative on the APL board, and as the County has been acting as the Construction Manager for the new library, the County's input through her as the County's representative and proper role in the project is being disregarded. As the County's representative, this is not acceptable. Communications have become very bad.*

***C. Discussion concerning issues, terms & conditions for further County participation in APL building project / Appropriate action***

*Commissioner Killingsworth made a motion to authorize Judge Beard to notify the APL Board of the county's intent to terminate the construction management agreement if the County's and County's representatives concerns are not immediately rectified. Commissioner Ortega seconded the motion, which passed unanimously.*

*Commissioner Ortega made a motion to cease all work until issues can be resolved, which was seconded by Commissioner Stone, and passed unanimously.*

***17. Emergency Management Department***

***A. General Report including:***

***Recent emergency responses; emergency planning update; recent work with cooperating emergency responders: (ESD #1, all VFD's and EMS); update on needs, programs, training, recent work with other governmental entities; equipment for emergency response and updates regarding needs, maintenance, repairs, replacement and additions; emergency management issues related to public and private insurance coverage, personnel issues related to emergency response, matters related to pending & future Homeland Security Grants / Discussion and appropriate action***

*Mr. Santry gave Commissioners a written report concerning the condition of the AVFD's brush trucks. Two are working, two are down. He said he would like to suggest that the VFD have a fundraiser.*

*Judge Beard suggested selling the old equipment; there is a lot.*

*She also said that if trucks need to be serviced, the County needs to be notified so that they can be repaired quickly and efficiently.*

*Commissioner Killingsworth asked how many brush trucks should be operational. Mr. Santry said that at least three are needed.*

***B. Big Bend Amateur Radio Club / Report on & Discussion concerning***

***proposed Federal action which would impede the Club's ability to provide Emergency Services in Far West Texas / Discussion and appropriate action***

*Judge Beard said the BBARC is a critical part of our emergency management team. She said we rely on them, and there is a federal issue which could negatively affect their ability to respond.*

*Dr. Dave Cockrum of the BBARC explained that there is a bill, H.R. 607, which would allow for the sale of the frequencies which ham radio operators use.*

*Dr. Cockrum said he is asking Commissioners to pen a letter to Rep. Canseco opposing H.R. 607.*

*Commissioner Killingsworth made a motion approve a letter, which was seconded by Commissioner Ortega, and passed unanimously.*

***C. Insurance Service Office (ISO) rating for North Brewster County & Alpine / Update on ISO inspection which took place on February 24, 2011***

*Mr. Santry said the survey was held Feb. 24, after a year of postponements.*

*Mr. Santry reviewed the steps taken to get access to survey which began in July 2009. (The last survey was made in 1987.) Mr. Santry had no help from the City staff. In fact, he was put off by the City Staff over and over.*

*It will be four or five months before we hear anything back. Judge Beard noted that this still wouldn't be done if Mr. Santry hadn't taken charge and gotten things taken care of.*

***D. Personnel / Executive Session Concerning Duties and Responsibilities of Emergency Management Coordinator in working with other governmental entities and volunteer organizations***

- 1. Executive Session Pursuant to Section § 551.074, Government Code, VTCA, to discuss the appointment, employment, evaluation, reassignment, duties, compensation, or dismissal of a public officer or employee***

***Reconvene in Open Session***

- 2. Discussion and appropriate action resulting from Executive Session***

- 18. Mills Road Case / (Cause No. 2007-03-B8551-CV, Michael J. McCulloch, Kathleen and Alice McCullum, Individually and d/b/a/ Osoba Ranch Company VS Brewster County, Texas) / Request to reaffirm that Commissioner, Pct. 1, is fully authorized to conduct negotiations and make appropriate decisions on behalf of Commissioners Court regarding this litigation***

*Judge Beard said this case is going to trial on March 28. Steve Houston contested the last motion for continuance and prevailed. Judge Beard asked for Commissioners' approval to allow Commissioner Stone to act on the County's behalf during the trial as the road in question is in Precinct 1 and he is the supervising Commissioner of the Road and Bridge Department.*

*Commissioner Killingsworth made a motion to approve the request, which was seconded by Commissioner Ortega, and passed unanimously.*

## **19. 2010 Census & Redistricting**

### **A. Commissioner, Pct. 2, Killingsworth's report on undercount in Brewster County / Discussion and appropriate action**

*Commissioner Killingsworth started by saying that we still don't know how many people live in Brewster County.*

*For two years prior to the Census, we worked with the Midland office and they were sensitive to the County's concerns. They did a fly-over and found, not surprisingly, that there were 450 buildings outside of the city limits.*

*Despite Commissioner Killingsworth's repeated requests, the Census Bureau would not mail out the forms to all of the P.O. boxes. She said she knows there were many people who worked very hard to get an accurate count.*

*Commissioner Killingsworth said the whole system and the way it's conducted needs to be re-vamped before 2020.*

*Tom Beard asked if there are provision to allow the County to hire its own demographer.*

*Judge Beard said the attorney, Greg Hudson, is doing some research, but there doesn't seem to be any remedy for undercounting.*

### **B. Judge's Recommendation for Commissioners to appoint a Citizens Advisory Committee to assist Commissioners in Redistricting Process**

*Judge Beard said she has spoken with Mr. Hudson about having an advisory board. They would not be decisional, but would be partners in the process. She would like Commissioners to start thinking about some people to serve. She proposed that each Commissioner selected three citizens from his or her precinct. She will select three, at large.*

*Commissioner Ortega made a motion to adjourn, which was seconded by Commissioner Stone, and passed unanimously.*

***Recess If Necessary***

***Joint Meeting with Brewster County Groundwater Conservation District, as***

***Posted for 11:00 A.M. Commissioners will remain in Commissioners Courtroom with the Agenda to be as follows:***

*Chairman Chachi Hawkins called the meeting to order.*

***A. Update on issues related to Fort Stockton Holdings (“FSH”) L.P.’s pending application for Production and Authorization to Transport as made to the Middle Pecos Groundwater Conservation District / Discussion***

*Ms. Hawkins said things haven’t changed much since the last meeting. The Fort Stockton Holdings hearings begin April 7. Mr. Arriola said right now, the District is working with its attorney to strategize what role the District will have during the hearings. He said he believes Brewster County will speak toward the beginning of the hearings.*

*Judge Beard asked if there’s been any support from any other governmental entities in Brewster County for our Water District. Ms. Hawkins and Mr. Arriola agreed that they’ve had none.*

***B. General discussion identifying issues between the District and the City that would correct Section 36.121, Texas Water Code, VTCA, currently affecting the District / Limitation on Rulemaking Power of Districts over Wells in certain Counties (Midland Exemption) Discussion and appropriate action to move forward concerning the inclusion of the City of Alpine’s water wells in the Brewster County Groundwater Conservation District***

*Ms. Hawkins said the City of Alpine agreed to support introduction of the legislation with a couple of additions. One, that the City would be represented on the District board, and two, that the District would not assess fees to the City, or anyone else.*

*Two weeks ago, the District received an agreement from its attorney, and found that it is much more cumbersome than anyone expected. It caused some uneasiness on both parts.*

*They met again today, and District Board member Tom Beard came up with a two-page agreement. The District Board accepted that agreement, and the City is looking for a third party attorney qualified in water law through the TML to review the agreement.*

*The next meeting will be held April 6, and at that time, the Board expects an agreement from the City. By that point, the Board believes that the City should be able to come to agreement, and if not, they will have to move forward without them.*

*Mr. Beard said he thinks it would be appropriate to ask Commissioners to adopt a resolution encouraging the City of Alpine to join with the GCD in this legislation.*

*Commissioner Ortega made a motion approving a resolution, which was seconded by Commissioner Killingsworth, and passed unanimously.*

***C. Discussion & consideration of County's Role in Protecting Groundwater Resources and appropriate action by Commissioners Court concerning § 36.121, Texas Water Code, VTCA, & Midland Exemption***

*Judge Beard asked Ms. Hawkins what else they might need from the County.*

*Ms. Hawkins said they may need additional funding, especially as they are working with an attorney now to help with the strategy for the Fort Stockton Holdings hearings.*

*Mr. Ike Roberts made a motion to adjourn the joint meeting, which was seconded by Tom Santry, and passed uanimously.*

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***VAL CLARK BEARD, COUNTY JUDGE***

***ATTEST:***

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***BERTA RIOS MARTINEZ, COUNTY CLERK***