

**MINUTES OF THE
2,153rd REGULAR MEETING
OF THE
BOARD OF DIRECTORS OF THE
MIDDLE RIO GRANDE CONSERVANCY DISTRICT
AUGUST 12, 2019**

Directors having been duly notified, Madam Chair Dunning called the regular meeting to order at 3:08 pm at the MRGCD General Office. The following Directors and Staff were present:

DIRECTORS		STAFF	
Karen Dunning, Madam Chair		Mike Hamman	Chief Engineer/CEO
Joaquin Baca, Vice-Chair	Absent	Dr. Chuck DuMars	Chief Water Counsel
John Kelly, Director		Lorna Wiggins	General Counsel
Valerie Moore, Director		David M. Fergeson	Secretary-Treasurer
Michael T. Sandoval, Director		David Gensler	Water Operations Manager
<i>*excused himself at 5:15pm</i>		Becky Burnham	Budget Analyst
Barbara Baca, Director		DeAnna Phillips	GIS Tech/Board Liaison
Stephanie Russo Baca, Director		John Thompson	District Lobbyist
		Yasmeen Najmi	Planner/RRA
		Christina Nardi	Human Resources Director
		Steve Kinberger	HR Generalist I
		Jason Casuga	Engineering Division Manager
		Alicia Lopez	Engineer I
		Adrienne Martinez	Engineer I
		Matt Martinez	License & Land Sale Coordinator
		Michael Padilla	Conservation Specialist
		Tony Tafoya	Conservation Specialist
		Willie West	Asst. Division Manager
		Sandy Ontiveros	Records Specialist

The following names of individuals were interested viewers and/or participants:

Larry Blair, ESCAFCA	Dan Sosa III, San Isidro Holy Family
Nicole Friedt, AMAFCA	Maria Tillie Garcia, San Isidro Holy Family
Jeff Willis, AMAFCA	Lita & Joe Pino, San Isidro Holy Family
Jerry Lovato, AMAFCA	Diana Pino, San Isidro Holy Family
State Rep. Miguel P. Garcia	Frances Cruz, San Isidro Holy Family
Eugene Pickett, Natl. Latino Farms & Ranchers Trade Association	Joseph Cuellar
Cody B. Walker, Pueblo of Isleta	Katy Hammel
Sonja Schroeder, NMCA	Jose Perea
Viola Sanchez, BIA	Dora Pacias
Jaime Chavez, Atrisco Land Grant	Lorenzo Candelaria

AGENDA ITEM NO. 1 – PLEDGE OF ALLEGIANCE

Rep. Miguel Garcia led the Pledge of Allegiance.

Madam Chair Dunning declared a quorum and welcomed guests, as well as noted that the meeting was publicly noticed.

Madam Chair Dunning noted that Vice-Chair Baca may not be able to attend the meeting today due to a family obligation.

AGENDA ITEM NO. 2 – APPROVAL OF THE MRGCD BOARD MEETING AGENDA

Mike Hamman asked to add the following:

- Item 8.l., Isleta Diversion Dam Settlement (Mike Hamman)
- Item 9.c., Proposal of Legal Services to Advance Title Transfer and Other Projects (by Michael Connor).
- Item 10.d., Possible Appointment to the Open Space Advisory Board for the City of Albuquerque (Director Baca)

Director Kelly made the **MOTION TO APPROVE THE MEETING AGENDA WITH THE ABOVE NOTED ADDITIONS**. Director Moore seconded the motion. The **MOTION CARRIED unanimously**.

AGENDA ITEM NO. 3 – RATIFY REVISED OPEN MEETINGS ACT RESOLUTION, BD-08-12-19-38.14 - Mike Hamman, CE/CEO

Madam Chair Dunning pointed out that in Item 8 (required federal language) if a person with a disability requires special services, the request must be made a week in advance of the meeting. She voiced concern that the Agenda is not posted until 72 hours prior to the meeting. Therefore, she felt that a conflicting timeline. Lorna Wiggins, MRGCD general counsel, suggested that the language be left as is.

Director Kelly made the **MOTION TO APPROVE THE RATIFICATION OF REVISING THE OPEN MEETINGS ACT RESOLUTION, BD-08-12-19-38.14**. Director Baca seconded the motion. The **MOTION CARRIED unanimously**.

AGENDA ITEM NO. 4 – CONSENT AGENDA

- a. Consideration/Approval of Payment Ratification - August 12, 2019
- b. Consideration/Approval of July 2019 Invoice for Wiggins Williams & Wiggins
- c. Consideration/Approval of July 2019 Invoice for Law & Resource Planning Associates, PC
- d. Consideration/Approval of Minutes for Regular Board Meeting - July 22, 2019
- e. Memo on MRGCD Approved Licenses for July 2019 (For Informational Purposes Only)

No questions, comments, or discussion ensued regarding the Consent Agenda.

Director Moore made the **MOTION TO APPROVE THE CONSENT AGENDA**. Director Sandoval seconded the motion. The **MOTION CARRIED unanimously**.

AGENDA ITEM NO. 5 – ITEMS FROM THE FLOOR (Comments are held to six (6) minutes)

Joseph Cuellar

Mr. Cuellar owns property at 2540 Loma Larga in Corrales (Sandoval County). His family has been on that particular property for over 100 years. They have accessed their property through the ditch. Mr. Cuellar met with Matt Martinez and applied for a license to enter his property from the ditch (which his family has been doing for the past 60 years). He was told he could not get a license and would have to build a bridge (there is another bridge 100 feet away). The Village of Corrales denied the bridge because it's the only route the Village has for traffic. He is asking that MRGCD allow him to access his property as he has been.

Mike Hamman added that Mr. Cuellar is building a subdivision on the property, which requires a different plat and a different type of access requirements, and therein lays the problem. Mr. Cuellar responded that he is building a subdivision, but it is only four lots. He has access to the other two lots. The house and gate faces Loma Larga. Mr. Cuellar states it is a hardship for him to not be able to access his property at that particular point.

Jaime Chavez

Jaime Chavez is from the South Valley (a community called Atrisco and also Pajarito). He represents Holy Family Church, Town of Atrisco Grant, and the Holy Family Committee of San Ysidro (a traditional ceremony that is conducted once a year in the Atrisco community, as well as throughout many other communities throughout New Mexico and also throughout Latin America). It is basically the day that they bless their waters. He gave a very detailed history of the traditional cultural ceremonies (which have been taking place for the last 500 years). The ceremonies are conducted for good harvest, for rain, and for protection of the people in the community.

He reports that this is the first year that MRGCD has gotten involved with them, more than giving them the key to get onto the ditch to conduct the traditional ceremonies. He is extremely concerned that the Conservancy District interceded and caused them to place a contract with a million-dollar insurance policy. He cited the U.S. Constitution, Article I, of the freedom of religion and the freedom of assembly.

He reports they have no intention of stopping their ceremonies, and he is asking for non-interference by the MRGCD in the cultural or spiritual matters of the people in their communities. The current contract or special use license is null and void since it is only good for 90 days, but he wants to put it on everyone's radar. They would like to resolve the issue in an amicable manner; however, they are not here "to play bureaucratic games with our tradition or our cultural beliefs or our history."

Representative Miguel Garcia

Rep. Garcia gave a detailed history of the Atrisco Land Grant owners and the tradition that occurs annually on May 15th (feast day of San Isidro Labrador). He explained meticulously the procession through the South Valley of various landmarks and the rich cultural traditions that unfold during that procession. He believes that this is the first year that MRGCD has imposed a required license on them, and he believes it is unnecessary.

Jose Maria Perea

Mr. Perea's family is from the Valle de Atrisco, and he is also a *Hermano Penitente*. He described some of the traditions, and also discussed that the acequias are not bad (referring to *La Llorona*); the acequias are sacred, water is life. He believes the water comes from a higher power, not just the clouds. He believes they are the only group to have to deal with getting insurance. He is here to support Rep. Garcia and Mr. Chavez on their comments.

Lita Pino

Ms. Pino is the Chairman of the Committee of San Ysidro in Atrisco. She has been involved since 1992 and has never had any problems with MRGCD. For years, she has picked up the key to the gates and would bring it back the next day after the ceremony and after the procession. This year, she called for the key and was told they needed a license and an insurance policy. She does not believe that they should need either item to hold their traditional ceremony and procession annually.

Dan Sosa III

Mr. Sosa has been a practicing attorney in the South Valley for over 30 years. He gave the history of his family. He reports he is very proud to be a member of the South Valley community. He does not believe that it is right to charge the group for ceremony and procession. He is asking for the District to reconsider.

Eugene Pickett

Mr. Pickett is from Pueblitos and a part of National Latino Farmers and Ranchers Trade Association. He discussed his history with the Conservancy with the flooding in Pueblitos thankful for Director Moore and others for their help afterwards. He noted that the Conservancy has always wanted to partner with the community in various ways. He believes that the Conservancy will support the Holy Family community with their ceremony and procession. He also congratulated the new Board Members.

Madam Chair Dunning noted that MRGCD is in a bit of a conundrum because while the Board wants this tradition to continue, there is a rule that everybody must be treated fairly (and meet the same requirements), and she believes there is a legal issue insofar as the insurance requirement. She asked Mike Hamman if he may have some ideas on how to handle this situation.

Mike Hamman reported that the District has been around since 1923. When the District was formed, it took on the centuries of traditions and activities and the melding of the communities into one system that would allow for the continued existence of the traditions of the agriculture and of the viability of the valley as a whole. Mr. Hamman believes something could be worked out that melds the needs of this community that would also meet the licensing requirement with a long-term agreement. Dr. Chuck DuMars agreed that there is a way to deal with this, and he would be happy to work with Lorna Wiggins and Dan Sosa. Jaime Chavez stood up to be the point of contact that MRGCD can work with to get everything into place.

AGENDA ITEM NO. 6 – AMAFCA PROJECT ON THREE DAM OUTLET PIPE IN THE SOUTHWEST VALLEY - Jerry Lovato, Executive Director, AMAFCA

Jerry Lovato presented to the Board and started with the history of the Raymac Dam and the Don Felipe Phase II Project. In 1998, there was concern of flooding in the South Valley. AMAFCA, Bureau of Reclamation, Bernalillo County, and MRGCD entered into an agreement in 2015. The agreement spelled out construction plans, maintenance, stormwater quality, monitoring, sampling, and liability (which spelled out right of ways and easements).

In 2016/2017, the Three Dam Outlet project begins. There are three dams on the west side: Don Felipe, McCoy and Raymac dams, that all drain into the Valley floor. The Raymac Road project was completed by the Corps of Engineers at a price tag of \$6M. AMAFCA then connected Raymac Road to Raymac Dam, which has recently been completed. They are next going to run Don Felipe Dam to the north and then run pipe further south to McCoy. They will not get to McCoy because MRGCD put a time limit on how the work can be done. About \$4M worth of work has been done in four to five months.

Nicole Friedt gave a picture and video presentation of the project that has occurred thus far. She noted that Phases 1 and 2 are complete. Phase 3 will go from Dominica to the north and connect Don Felipe Dam. Phase 4 will take from the south end; gets us halfway to McCoy Dam running in the winter of 2020. Phase 5, the final phase, will be in the winter of 2020 and will actually connect McCoy Dam.

Director Kelly asked if the gates would be reinstalled. Nicole responded that when the system is fully completed, the gates will be removed. Director Kelly noted that this is the type of partnering that would need to occur to make this type of work successful in Valencia and Socorro Counties. Nicole noted that the contractor has been AUI, who has also been selected for Phases 3 and 4.

Viola Sanchez asked if there would be any water quality issues or adverse effects for Isleta. Nicole responded no, and Jerry Lovato responded that the water will actually be better for Isleta since it is taking all of the sediment prior to it arriving at Isleta.

AGENDA ITEM NO. 7 – REPORT(S) FROM THE DEPARTMENT OF THE INTERIOR

a. Bureau of Reclamation - Jennifer Faler, Area Manager

Jennifer Faler was not in attendance of today's meeting.

b. Bureau of Indian Affairs - Viola Sanchez, Designated Engineer

Viola Sanchez reported that things are going well with a nice water supply this year.

On water operations, Ms. Sanchez wanted to know if MRGCD is getting a full waiver to leave this year's allocation in Heron or move it to Abiquiu. She is hopeful that we can store it somewhere else. Depending on how the rainfall works, maybe El Vado does not have to be emptied as much, and some can be carried over. Mike Hamman responded that it is still being worked out. Ms. Sanchez was under the impression that construction would begin in November 2021. Mr. Hamman reported that the schedule is still the same. They will start in November 2021 for the spillway and various things. The operating year of 2022, El Vado will still be available to MRGCD to operate. During the spring of 2023, they will be asking MRGCD to bypass the majority of the water at El Vado that year. Ms. Sanchez just asked to be kept in the loop so that she can keep the pueblos informed.

Ms. Sanchez also wanted to check on proof of beneficial use. She understands that it is still on hold while the new State Engineer gets his feet on the ground. Dr. DuMars asked that Ms. Sanchez call him to discuss.

On title transfer, Ms. Sanchez did have a discussion with the solicitor a couple of days ago. She suggested keeping the solicitor in the loop as the plans are being formulated for title transfer. She does not want any roadblock to pop up at the last minute, after plans have been made. She thinks it would be a good idea to include the BIA but especially the Department of the Interior.

Ms. Sanchez attended a meeting at Cochiti Pueblo last week, put on by the NRCS, and it sounds like there will be a new farm bill. So, there could be some new funding opportunities which would include facilities of the Conservancy District. She suggested that maybe MRGCD and BIA could get with the NRCS and see if there are any projects that can commence. She would like to improve the Augustine Lateral on Santo Domingo Pueblo, which has been a problem for a long time. Of course, other ditches can be improved as well.

Ms. Sanchez also reported that she is almost successful in being able to log into Dropbox, where Jason Casuga is setting up the O&M spreadsheets.

AGENDA ITEM NO. 8 – REPORT(S) FROM THE MRGCD CHIEF ENGINEER - Mike Hamman, CE/CEO

a. Approval of Cost Share Agreement for Professional Service for the Alameda Drain Storm Water Management Model - Jason Casuga, Engineering Division Manager

Jason Casuga reviewed the cost share agreement that is bringing Bernalillo County, City of Albuquerque, MRGCD, AMAFCA, and Los Ranchos together to pick up where work was left off in finishing hydraulic modeling (a swim model) to find out how much water is going into the Alameda Drain and then how we're going to deal with that. The Alameda Drain historically operated as an agricultural return drain. Now, we collect significant amounts of stormwater in it, and it is also the primary outlet for AMAFCA to drain the area of the North Diversion Channel.

There is a broader agreement to come; however, this agreement covers the technical piece of the modeling to help us identify the work that we need to do in the future. MRGCD is one of the last of the five agencies to get approval. MRGCD's share of the project will not exceed \$100,000. City of Albuquerque's, AMAFCA's and Bernalillo County's shares are \$130,000 each. Los Ranchos will bring in \$10,000.

Mr. Casuga is asking for approval, so that we can get our money in earnest to Bernalillo County, who will serve as the project manager.

Madam Chair Dunning asked if this money was already set up in bonds. Jason Casuga responded that the money is there, and it has been programmed in MRGCD's budget.

Director Kelly reminded everyone of the master plan for the Alameda Drain and noted they had a nice grand opening. As part of that master plan, the recommendations included finishing up this hydrology and hydraulic model of the drain to be sure we don't overwhelm the drain by putting too much water in the top. Director Kelly supports this agreement.

Director Baca noted she is also in support of the agreement. She is always happy to see partnerships and multijurisdictional sharing of resources. She asked how the amount of each agency's contribution was determined. Jason Casuga responded that the drain is owned by MRGCD. Originally, when this started, Mr. Casuga believes the District was looking at approximately \$50,000 contribution. After discussion and meetings, Mike Hamman decided to kick up MRGCD's share to \$100,000, just to get it done quickly. Mike Hamman added to the discussion that originally the City of Albuquerque did not have the funds available. MRGCD agreed to leverage the County and AMAFCA funds with MRGCD's with the understanding that the City of Albuquerque would come in on the tail end with funding and close out the whole project. The City of Albuquerque was able to find the money, so it was decided on a 26% split between the three agencies that have benefitted from this project of additional drainage. Los Ranchos is contributing what they can.

Director Kelly made the **MOTION TO APPROVE THE COST SHARE AGREEMENT FOR PROFESSIONAL SERVICE FOR THE ALAMEDA DRAIN STORM WATER MANAGEMENT MODEL WITH THE CITY OF ALBUQUERQUE, BERNALILLO COUNTY, VILLAGE OF LOS RANCHOS, AND AMAFCA.** Director Baca seconded the motion. The **MOTION CARRIED** unanimously.

b. Presentation and Recommendation for Sponsorship for the New Mexico Chile Taste-Off - Mike Hamman, CE/CEO, and Sonya Schroeder, Executive Director, NM Chile Association

Mike Hamman reported that MRGCD has been working a while now with Sonya Schroeder from New Mexico Chile Association. Mr. Hamman and Ms. Schroeder met several months back to pull together knowledge and understanding of the whole effort to bring New Mexico True under a true certification program that would verify and assure the community that products purchased containing the New Mexico label have a definite certification associated with that. Ms. Schroeder is here today to discuss a fundraising effort.

Sonya Schroeder reported that the first New Mexico Chile Taste-Off will be held at the new rodeo arena in Socorro on September 21st. She gave a history of how the Taste-Off came to be. It will be a friendly competition with Lemitar against Hatch, Chimayo against Isleta, etc. They are anticipating this event becoming an annual event and would like to add many more activities as it grows. This year, they are planning a "Roasting of the Green Chile" similar to the Burning of Zozobra. The School of Mines has offered to do a firework show. She is asking for the support of MRGCD as a sponsor of the event. The number being discussed prior to today with Mike Hamman was \$5,000 (which includes a booth).

Director Moore is extremely happy with the New Mexico Certified program, as she has witnessed herself in states outside of New Mexico of chile grown in Mexico being passed as being grown in New Mexico. She noted that she would help in whatever capacity necessary.

Director Russo Baca questioned if they are working with the New Mexico True tourism department and Ms. Schroeder responded yes they do work with them.

Director Kelly made the **MOTION TO APPROVE \$5,000 SPONSORSHIP, OR MATCH THE EBID CONTRIBUTION, WHICHEVER IS GREATER FOR THE NEW MEXICO CHILE TASTE-OFF**. Director Moore seconded the motion. The **MOTION CARRIED unanimously**.

c. Water Operations and River Flow Outlook - David Gensler, Water Operations Division Manager

David Gensler was not in attendance of today's meeting, so Mike Hamman gave a short report.

Not a drop of water has been released from El Vado for agricultural purposes this year (last year, we released in April). Colorado keeps saying that they are going to trim back the amount of water crossing the border at Lobatos Gauge; however, Lobatos continues to creep up due to rains in the northern basin.

The medium-term forecast over the next 60-90 days is a little bit drier conditions in August and early September, but then it is supposed to transition into a wetter period sometime in mid-September into November and December.

We are hopeful that we get a significant amount of moisture below Otowi Gauge because the way things are going currently, and the efficiency that we are now seeing for deliveries to Elephant Butte, we will have a significant deficit to release in November/December timeframe in order to stay out of Compact debit situations. Currently, we are estimating 30,000-50,000 might be a release we have to make, in addition to the 14,000 or so that is already destined for Elephant Butte that has the P&P label on it.

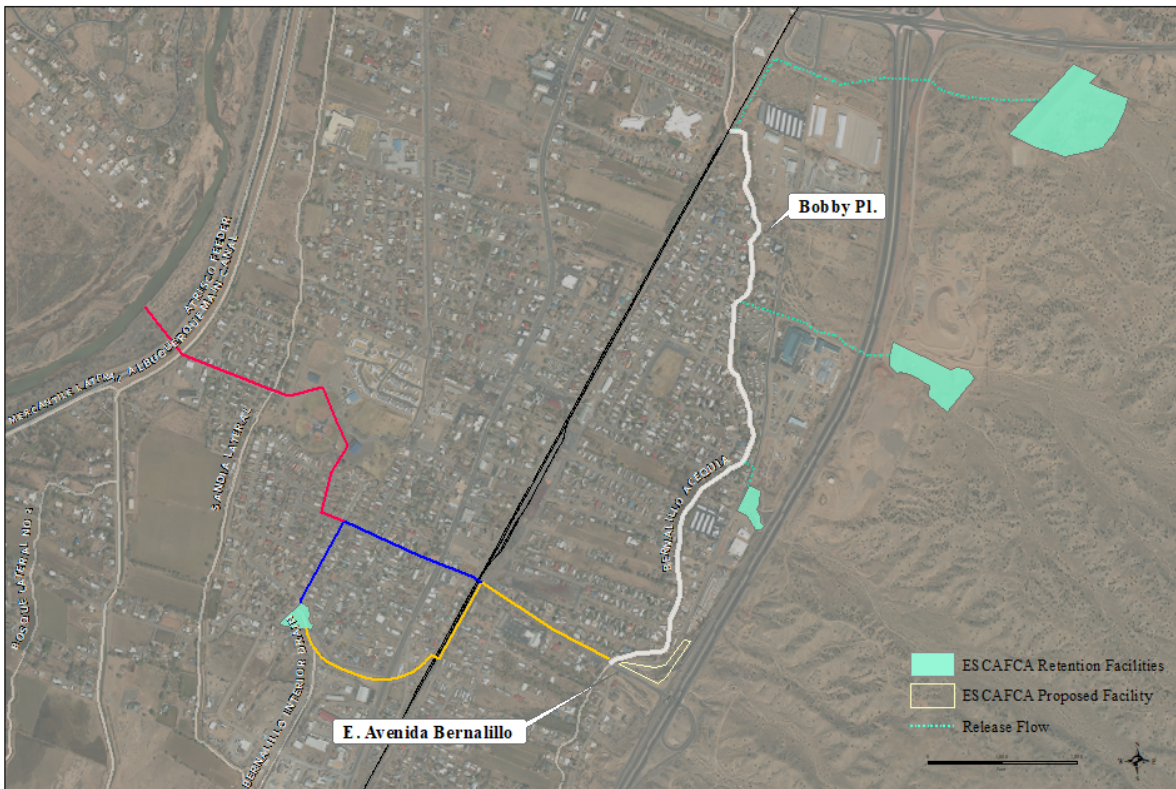
Everything is holding constant with roughly between 1,500 to 2,000 CFS at Otowi currently, which is much more than what we need to meet the daily demand. Dr. DuMars made a note, Lobatos Gauge currently is at 1,300 CFS, and three years ago, Lobatos was at 25 CFS.

d. Approval of Memorandum of Understanding with ESCAFCA on Phase 1 of the Bernalillo Acequia Flood Control Project - Mike Hamman, CE/CEO, and Larry Blair, Executive Director, ESCAFCA

Larry Blair reported that Bernalillo has been plagued with flooding for a long time, which is the impetus for the creation of ESCAFCA by the legislature in 2007. Mr. Blair gave a brief history with Placitas successfully removed from ESCAFCA, leaving them to cover the communities of Algodones and Bernalillo. ESCAFCA has built five projects in Bernalillo and one in Algodones. All of those projects except one directly impact or protect Conservancy facilities, as well as the residents below those dams and ponds.

This project calls for improving the Bernalillo acequia from where it crosses under the railroad tracks in Bernalillo, down to Avenida Bernalillo, by opening it up, tripling its capacity, raising the west bank by two feet, and shotcreting, or armoring the entire west bank to reduce the possibility of rodent problems cutting through the bank. Mr. Blair and Mike Hamman discussed that this could be turned into a multiple use project whereby we can separate the irrigation flows from the stormwater flows by burying a pipe which could be used to convey the irrigation flows from the pump station up north in the Albuquerque Main Canal, down through this same acequia, thereby leaving the improved (or widened and deepened) acequia available for just stormwater.

Mr. Blair presented all three options below to the Board.



MID BERNALILLO STORMWATER CONVEYANCE

Mr. Blair and Mr. Hamman testified before the Water Trust Board, and the result was the project would be funded with a \$612,000 grant to build the first phase of the improvements to the Bernalillo acequia (only from the railroad tracks down to Bobby Place). This place was chosen because there are no irrigators in that section, so turnouts would not need to be provided.

All paperwork and agreements must be signed, all easements in place, and all cash pledges in place before September 10th to submit to the Water Trust Board. The agreement calls for a local match for the Water Trust Board funding of about \$458,000. ESCAFCA has asked for \$250,000 from MRGCD, and ESCAFCA's portion would be \$208,000, which will actually wipe out ESCAFCA's funds and take them to operation and maintenance mode until they can later ask for another bond issue.

Mike Hamman added that the component that MRGCD is putting in essentially covers the construction of the 30" irrigation pipe that will be buried underneath this flood control structure. In the interim, the flood control structure itself will be conveying water, as it always has, until such time as we can connect other features. The long-term plan for MRGCD was to put the entire Bernalillo acequia in pipe all the way through to Avenida Bernalillo. Sandia Pueblo has raised concerns associated with this project regarding taking on stormwater into their system. They are pleased, however, with the project itself, just concerned with water quality. This project will also lend itself to MRGCD obtaining future grant projects.

Madam Chair Dunning noted that the MOU referred to MRGCD as a quasi-governmental organization. She asked Lorna if this term, along with political subdivision (used to describe MRGCD in other documents) is interchangeable. Lorna Wiggins responded that MRGCD has been described as a state agency, also known as a quasi-governmental, and subdivision of the state, which are all probably one in the same.

Director Kelly noted that he felt that ESCAFCA, as a flood control authority, has stepped up and done the master planning and has coordinated with the District in the past. He believes this is the type of partner that we would need down in Valencia County. He supports this project.

Director Sandoval asked if Sandia Pueblo had been at the table for the discussions on this project. Mr. Blair responded he has briefed them on the plans and the acequia program in detail. They will also get a copy of what was handed out at today's meeting. Sandia's concerns are mostly regarding water quality. The facilities that they will build will drop out sediment, just like AMAFCA dams. They are also designed to catch floatables using AMAFCA's designs. Mr. Blair believes this will improve the water quality for Sandia Pueblo even if it's storm water.

Director Sandoval made the **MOTION TO APPROVE THE MEMORANDUM OF UNDERSTANDING WITH ESCAFCA ON PHASE 1 OF THE BERNALILLO ACEQUIA FLOOD CONTROL PROJECT**. Director Moore seconded the motion. The **MOTION CARRIED unanimously**.

- e. **Update on the Grant Application to the Natural Resources Conservation Service Under PL83-566 for Funding to Complete Planning and Design of Southwestern Valencia County Storm Water Control and Water Use Project - Mike Haman, CE/CEO**

Letters went out in Board Member packets that speak to the transmittal of the grant program to the NRCS. Mike Hamman reported that he had a tour with staff that would be making the decision relative to this grant, and he answered numerous questions in regards to the application. Their concerns have been either resolved or have been made clearer.

Mr. Hamman reported that the reason the grant application has a high probability of success is that there have not been too many of these done in New Mexico. Our two senators worked very hard to modify the terms and conditions of the farm bill in order to allow for irrigation districts to

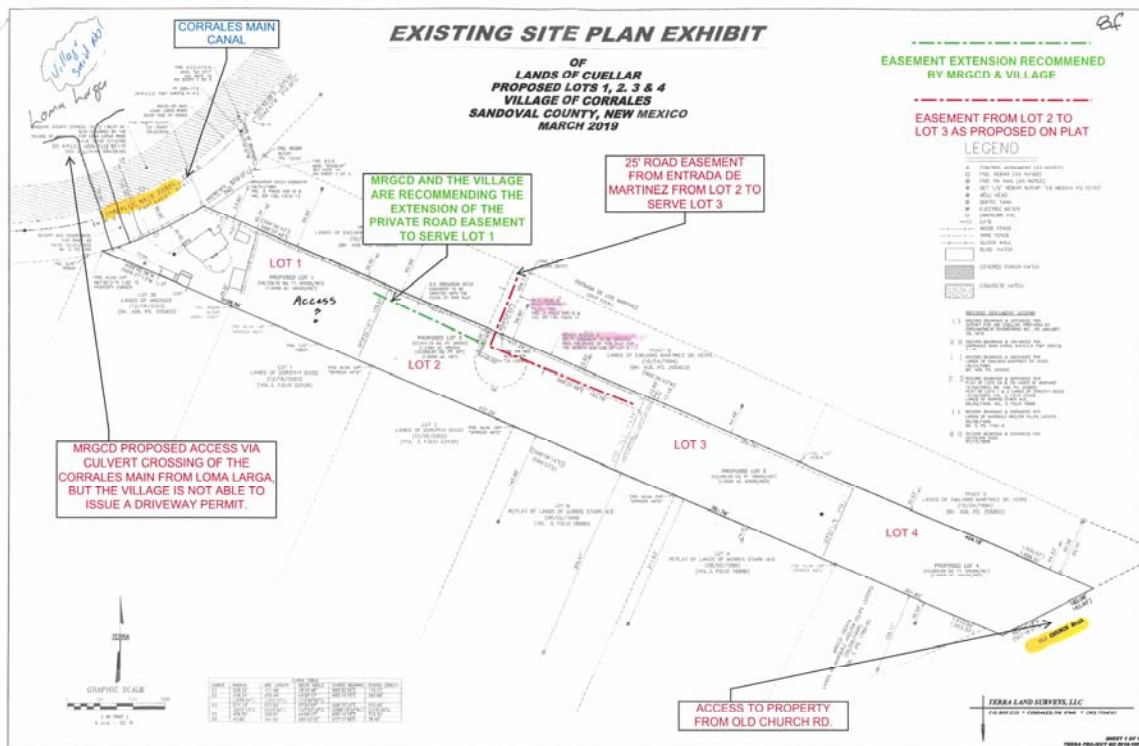
qualify and develop processes, not only for this type of program for stormwater prevention and water salvage.

Mr. Hamman believes this grant looks very promising. Madam Chair Dunning suggested we send thank you notes to the legislators.

f. Notification on the MRGCD Administrative Procedures Regarding Access Along the District's Maintenance Roads - Jason Casuga, Engineering Division Manager, and Mike Hamman, CE/CEO

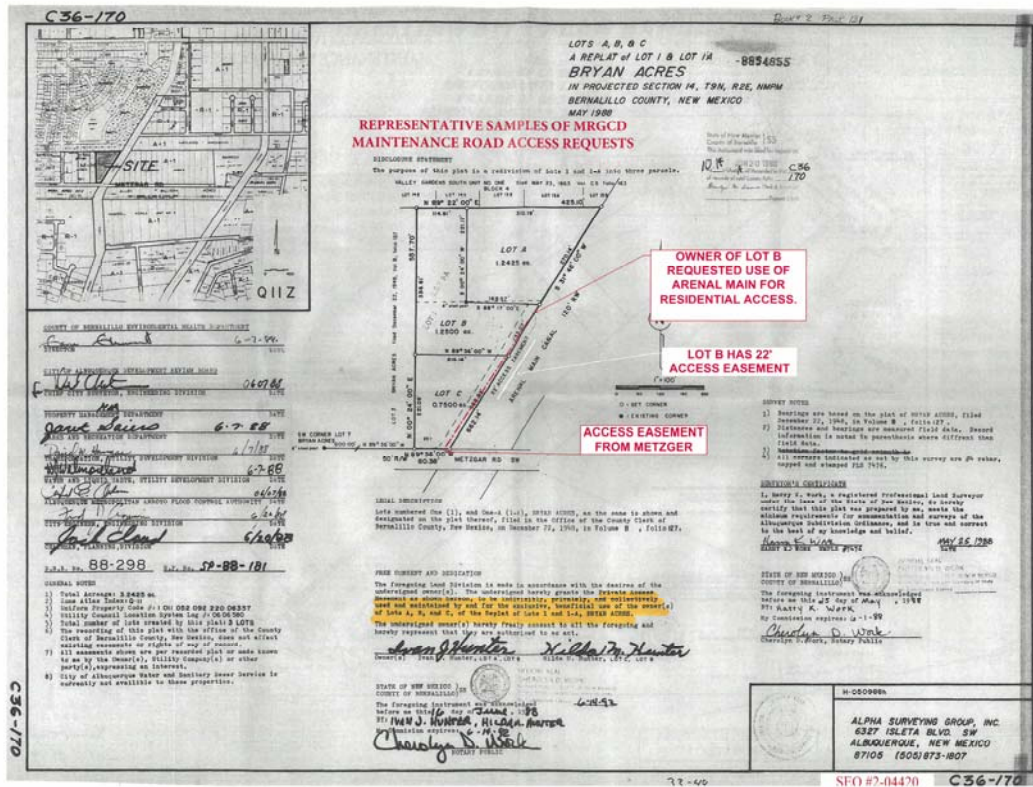
Jason Casuga started out by saying that the District does not specifically go out looking for issues of legal access. Mr. Casuga reviewed with the Board general processes that are followed by the municipalities to approve or disapprove licenses.

Mr. Casuga has chosen three specific items to review for the Board today. One is the issue for Mr. Joseph Cuellar (discussed in Items from the Floor by Mr. Cuellar). In looking at the issue, there is nothing on record that staff can find that the District ever licensed the access. A 25-foot roadway easement was granted to Mr. Cuellar to access Entrada de Los Martinez. Because of that easement, this item does not meet the definition that the District has established as landlocked. Landlocked means that you have no other means to get to your property, besides the District's right of way. The District is under no requirement in policy that it must work with folks that are landlocked. The District historically has worked with private landowners to find a way to work around the issues. One of those ways is by granting a license. Mr. Cuellar has taken this issue to the Village of Corrales, and the Village said no, he was too close to the public road. If MRGCD does, in fact, grant the license, there is still no guarantee that the Village would grant the access.

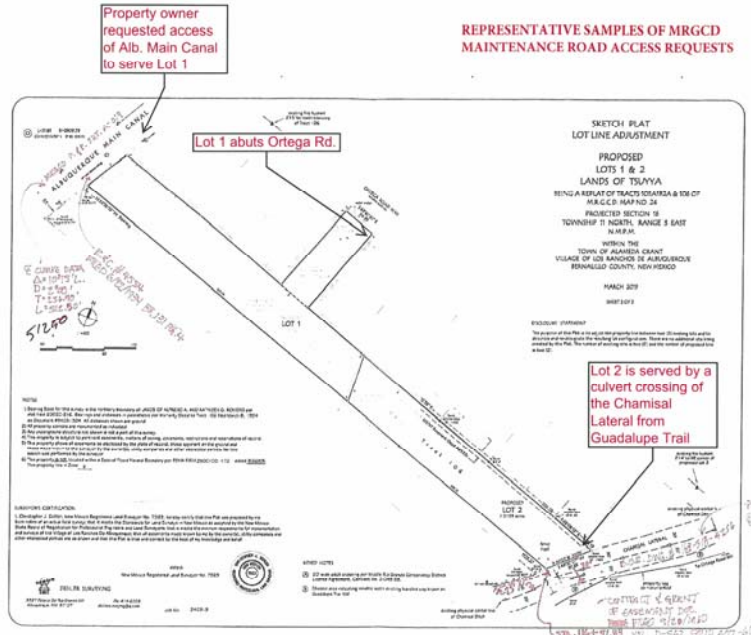


Another issue is a landowner came in seeking a building permit for Lot A, which would not be granted without establishing access. The landowners of two other adjacent lots built fences,

even though an easement existed. The landowner seeking the permit prefers not to have his neighbors remove fencing, sheds, etc. within that easement. This request was denied by the District because it was clear that the access easement is there and available.



The last example is a landowner that came in and asked for access along the Albuquerque Main Canal for Lot 1. They would eliminate the lot line, which would then have the one lot touching Ortega Road. This item was also denied due to an access point.



Licenses evaluated in past three months, 90% of folks find existing licenses/easements. The District has challenges as we urbanize, i.e., paved roads, stops signs, access to accommodate first responders. MRGCD has set up a fair policy in the past that must be applied to all situations. The policies being applied to these situations are not new; the policy is simply being applied. Director Baca asks if each issue is looked at on a case-by-case basis. Mr. Casuga was asked to come up with a way to evaluate everybody equally.

Mr. Cuellar addressed the Board again about his particular issue. Discussion ensued with Director Kelly asking questions and offering suggestions to some of the issues; however, those items are not on today's agenda for decision. This is simply an informational portion of today's agenda. Lorna Wiggins was asked to weigh in today regarding prescriptive easement, but declined to comment at this time. Dr. DuMars suggested that this be evaluated further with the Village of Corrales.

Director Kelly stated that this has come to them as an item from the floor. If a decision has been rendered from staff, and a landowner does not agree with it, they would have to then ask to be put on the next meeting agenda for a board decision to support or reject the item. At that point, the item would be discussed in detail.

g. Report on the National Watershed Coalition Listening Session for Watershed Projects Sponsors, August 7, 2019 - Mike Hamman, CE/CEO

Mr. Hamman reported the National Watershed Coalition is going around the country, soliciting comments from the public regarding their program and providing clarity for those who would like to apply. The regional meeting attendees came from Colorado, Arizona, Texas, Oklahoma, and New Mexico. It was well attended by agricultural and flood control agencies, EBID, AMAFCA, SSCAFCA, and MRGCD.

Roughly \$750,000 of the million is federal dollars for the first two phases. It was made very clear at the meeting that NRCS is willing to provide funding to do the planning, NEPA and design work.

Director Kelly made a MOTION TO CONTINUE THE MEETING PAST 6:00, UNTIL ALL ITEMS ARE HEARD. Director Russo Baca seconded the motion. The **MOTION CARRIED unanimously.** (Vice Chair Baca and Director Sandoval were absent).

h. Report on Water and Natural Resources Committee in Truth or Consequences on July 30-31, 2019 - Mike Hamman, CE/CEO, Vice-Chair Baca, and Directors Baca and Russo Baca.

Mike Hamman, Vice-Chair Baca, Director Baca, and Director Russo Baca attended the meeting in T or C. The first evening they met with Derrick Lente, who is the Co-Vice-Chair, as well as Rep. McQueen, Chairman Cervantes, as well as, Rep. Gail Armstrong. They discussed the District's issues as a whole and specific projects that are being worked on.

The next day, MRGCD gave a presentation (a copy provided in the Board packets), tag-teaming with Rolf Schmidt-Peterson. The presentation was well received by the majority of the membership. There were a lot of questions. There seemed to be confusion about the upper and lower Rio Grande projects. The one takeaway that Mr. Hamman wanted everyone to walk

away with was that MRGCD is meeting its Compact obligations; however, there were some confusing closing comments made by the Chairman of the committee without MRGCD rebuttal.

All in all, Mr. Hamman felt the meeting was successful. Other Senators and Representatives were interested in specific matters, particularly the northern Rio Arriba County folks, and Mr. Hamman will reach out to them in the future.

Chuck DuMars noted once the Rio Grande Compact provides a delivery point at Elephant Butte Dam or at Caballo (at the outflow), no one in the lower Rio Grande can try to enforce a priority date above the Compact delivery point. There is no legal right to do that, whether they are a ground water user or a surface water user, whether they are priority date, they cannot go above the accounting point. When we meet our delivery point, the District is done.

John Thompson reported that fairness was a term they heard a lot. He noted the show of solidarity between the MRGCD and the Interstate Stream Commission and how they work together, along with Rolf's compliments of the MRGCD during the difficult water year last year, made a very good impression on the committee. He met with the Senate Majority Leader a couple of times, and he has reiterated that he has our back on some things. Mr. Thompson thought we did a great job.

Director Russo Baca thanked Mr. Thompson for setting up dinner and reported that she felt everyone had great discussions. She felt the presentation went well.

Director Baca reported that the solidarity between the ISC and MRGCD was palpable and that Mr. Hamman's presentation was excellent explaining MRGCD priorities to improve and expand inter-governmental partnerships to develop joint projects and leverage funding.

i. Report on Kickoff for the Constituent Outreach Divisional Meetings Starting in September - Mike Hamman, CE/CEO

Mike Hamman listed the new process that will complement our other outreach work and constituent support. Starting in September, divisional meetings will occur the fourth week of the month, except December. The first one will be an open house setting that will be well advertised (both locally and through our network of irrigation system operators, etc.) on Mondays for Albuquerque Division. Since people are used to Board meetings being on Monday in Albuquerque, we will have an Albuquerque division meeting. We can either hold it here in the Board room or we can have it across the street, where people can go and look at the yard. Tuesday will be up at Pena Blanca for the Cochiti Division. Wednesday will be the Belen Division at the Belen Division Office. Socorro will be the last Thursday. All meetings will be held from 5 p.m. to 6 p.m. or whenever it ends.

j. Notification of the 2019 MRGCD Water Service Charge Reclassification Hearing per NMSA 73-18-8.1; hearing scheduled for September 9, 2019 - Mike Hamman, CE/CEO

Mike Hamman noted the 2019 MRGCD Water Service Charge Reclassification Hearing is scheduled for September 9, 2019.

k. Discussion of Board of Directors Chama Facilities Tour in September - Mike Hamman, CE/CEO

Mike Hamman is working on this tour. Preliminary plans are to have it either the second or third week of September. We visit the Chama area on a Thursday traveling through Abiquiu, bounce

through El Vado and Heron, on the way up. We could have our evening meeting in Chama. We could then do the San Juan-Chama project the following day. We would also set up on the way back down for those that can (and are willing) to float the lower half of the Chama with river guide, Steve Harris of Far Flung Adventures.

I. Isleta Diversion Dam Settlement - Mike Hamman, CE/CEO

MRGCD engaged in a settlement back in the 1980s with Isleta Pueblo. MRGCD, Bureau of Reclamation, and BIA are partners to address longstanding sedimentation operations, as well as fish passage. MRGCD has contributed \$2.5M for dam improvements; however, MRGCD has been holding back contributions until things become clearer on the construction project. The three principals have kicked in extra funds to collect sediment data when the flow is up and the flow goes down. Jason Casuga gave the reason this is coming before the Board today is because this is the first time we have exceeded the CEO's authority of \$60,000. They will probably come back one more time for more funds. Madam Chair questioned if this needs an approval as it's an added agenda item. Mr. Hamman stated that funds have already been approved and will just be transferred, so no Board approval is needed.

AGENDA ITEM NO. 9 – REPORT(S) FROM THE MRGCD ATTORNEY(S) (Chief Water Counsel and/or General Counsel)

a. Report Regarding Current Protest on a Water Rights Transfer Application to City of Santa Fe - Charles DuMars, Chief Water Counsel

The Middle Rio Grande Conservancy District protested a transfer of a water right to Santa Fe. After that protest was filed, Mike and Dr. DuMars reached out to try to see whether there was an opportunity to come up with some kind of an agreement in advance to withdraw that protest in exchange for a commitment for a process that would work. They are still awaiting a response on a written letter.

b. Report on Action in the State Court of Appeals on WEG v. State Engineer; Report on Action in 10th Circuit Court of Appeals on WEG v. Corps of Engineers; Report on State Administrative Process re: Extensions of Time to Place Water to Beneficial Use; Other Trending Water Issues in Other States Relevant to MRGCD - Charles DuMars, Chief Water Counsel

The Wild Earth Guardians filed a Mandamus Action against Tom Blane, MRGCD, and the United States. The United States took the position they were immune from suits. Judge Frank Matthews heard the case, and he dismissed it on the theory that the State Engineer has the discretion to either allow proofs of beneficial use or not, but it's not a Mandamus able thing. The Wild Earth Guardians appealed.

The Wild Earth Guardians filed an appeal from the decision for the State Engineer to grant us our extensions of time. Pre-hearing conference will be held on August 29, 2019.

U.S. Court of Appeals 10th Circuit has scheduled an oral argument on the Wild Earth Guardians' appeal (the one where we intervene to defend the Corps of Engineers). We feel we have a very good chance of winning. This will be heard on September 25, 2019. Dr. DuMars plans on attending.

c. Proposal of Legal Services to Advance Title Transfer and Other Projects - Michael Connor

Chuck DuMars discussed Mike Connor, who was legal counsel to Natural Resources Committee when Bingaman was in office. He was Bingaman's Chief of Staff. He then became the Deputy Director of the Department of Interior. He is very well connected in Washington, DC. Dr. DuMars believes that Mr. Connor could help the MRGCD push through its items quicker, which would save the District quite a bit of money.

Mike Hamman concurs with this and is asking for the Board's opinion on whether they think this is a good idea. The Board believes this is a good idea.

AGENDA ITEM NO. 10 – REPORT(S) FROM THE MRGCD BOARD OF DIRECTORS

a. Report on the Irrigation Committee Meeting, 7/30/2019 - Directors Moore, Sandoval, and Russo Baca

Since this report was given in written form, no discussion ensued.

Irrigation Committee Meeting Notes
July 30, 2019

Attendees: Committee Members Valerie Moore, Michael T. Sandoval and Stephanie Russo Baca and staff members Mike Hamman, David Gensler and Danial Clouser

The meeting began at 11 am to discuss the following agenda

- 1) Base charge for water service for properties less than 1 acre - staff explained that this is ready to be presented to the full Board as Chuck DuMars has already drafted Rule 19 changes for Committee and Board consideration. The Committee discussed implementation issues but was in agreement that a minimum charge for any property drawing water from District facilities is appropriate.
- 2) Creating a system for licensing pumping from District facilities if not other viable means exists to divert and flood irrigate from the distribution system – this was discussed from the standpoint of optimizing options for keeping land under irrigation and providing another option for diversions if a property cannot be served by gravity flow. Staff will draft policy rules for Committee consideration.
- 3) Dealing with members of community ditches that the District does not own and only controls the heading that are in violation of the District's water distribution policy (Rule 19) or cannot get along with their neighbors to properly use and manage water their own use and/or proper maintenance of the ditch.
- 4) Flooding of adjacent properties due to mis-management of irrigation water from community ditches not under direct District control (violation of Rule 19 but without teeth to enforce on private lands).

A constituent property owner addressed the Committee about a recent flooding event that was caused by poor water management by an irrigator and this was at least the third time this has occurred to their property by the same irrigator.

Irrigation Committee Meeting July 30, 2019

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After they pled their case, the Committee discussed this issue and item 3 at length and several ideas emerged. Staff will take these ideas and suggestions and draft some carrot and stick related policy recommendations to bolster Rule 19 in order to deal with bad actors that irrigate off community ditches that the District does not directly control.

The goal will be to develop recommendations by September for Committee review and then present draft policy changes for full Board consideration and possible public hearing in order to be in place prior to the start of the 2020 irrigation season. The meeting was adjourned at 12:45.

Director Moore made the **MOTION TO APPROVE THE REPORT ON THE IRRIGATION COMMITTEE MEETING, 7/30/19**. Director Russo Baca seconded the motion and the **MOTION CARRIED unanimously**.

b. Report on the Water Protection Committee Meeting, 7/30/2019 - Vice-Chair Baca, Directors Sandoval and Russo Baca.

Since this report was given in written form, no discussion ensued.

Water Protection Committee Agenda for July 30, 2019

- 1) Intro and Update on ES Collaborative Program
- 2) Progress on 2016 Biological Opinion
- 3) Intro and Update on Upper Rio Grande Basin Study
- 4) Discussion on Proof of Beneficial Use Application Process
- 5) Water Banking Program – NFWF Grant
- 6) Water Rights Protests – Rio Rancho Settlement and Current Protest in Santa Fe area

Meeting Notes:

The Water Protection Committee was convened at 9:15 am on July 30, 2019 with members Vice-Chair Baca, Directors Sandoval and Russo Baca and staff Mike Hamman, David Gensler and Anne Marken in attendance.

The above agenda items were discussed at length as a briefing for the Committee on the on-going issues and related programs/projects the District is engaged on related to water protection issues. The only policy matter needing attention at this time was formalization of District procedures for protesting particular water rights transfer applications within the benefitted area. Staff mentioned that Dr. DuMars continues to work on an overarching policy recommendation but he was not available to update the Committee on the status.

This will be presented at the next Committee meeting to be scheduled and a process to address water rights protest policy will be developed for recommendation to the full Board.

The meeting was adjourned at 11 am.

Director Moore made the **MOTION TO APPROVE THE REPORT ON THE WATER PROTECTION COMMITTEE MEETING, 7/30/19**. Director Russo Baca seconded the motion and the **MOTION CARRIED unanimously**.

c. Report from the Personnel Committee, 8/12/2019 - Madam Chair Dunning, Directors Kelly and Russo Baca

Madam Chair explained that the Personnel committee met before today's Board Meeting. Because our CFO is going to retire sometime this year, there has been an advertisement placed for a new CFO. Under the Conservancy Act, that person must be hired by the Board.

The Committee discussed recommendations for the process of the staff to winnow down the applications. Interviews will be set up with the personnel committee sitting in on the interviews. The staff and committee will then make a recommendation, and that person will come to a closed session with all the Board members.

d. Possible Appointment to the City of Albuquerque Open Space Advisory Board - Director Baca

Director Baca was asked to serve on the City of Albuquerque Open Space Advisory Board, which is appointed by the Mayor and City Council of Albuquerque. She is interested and wants to be sure that there are no conflicts.

Mike Hamman had looked into this and believes this would be a great benefit for MRGCD for Director Baca to sit on that Board. MRGCD met with Dave Simon and is working with the City of Albuquerque on the Joint Powers Agreement, relative to management of the Rio Grande State Park; Director Baca might have to recuse herself from some of those discussions and decisions.

The meeting was adjourned at 6:47 p.m.

Approved to be the correct Minutes of the Board of Directors of August 12, 2019.

ATTESTED:

David M. Fergeson
Secretary/Treasurer

Karen Dunning, Madam Chair
MRGCD Board of Directors