

**MINUTES OF THE
2,164th REGULAR MEETING
OF THE
BOARD OF DIRECTORS OF THE
MIDDLE RIO GRANDE CONSERVANCY DISTRICT
JUNE 8, 2020**

COVID-19 Response: This Meeting will be Held Telephonically Only - The Office is Closed to the Public

Directors having been duly notified; Madam Chair Dunning called the regular meeting to order at 3:02 pm at the MRGCD General Office. The following Directors and Staff were present:

DIRECTORS		STAFF	
Karen Dunning, Madam Chair	Present	Mike Hamman	Chief Engineer/CEO
Joaquin Baca, Vice Chair	Present	Jason Casuga	Chief Operations Officer
John Kelly, Director	Present	Dr. Chuck DuMars	Chief Water Counsel
Valerie Moore, Director	Present	Lorna Wiggins	General Counsel
Michael T. Sandoval, Director	Present	Pamela Fanelli	Secretary-Treasurer
Barbara Baca, Director	Present	David Gensler	Water Operations Manager
Stephanie Russo Baca, Director	Present	DeAnna Philips	GIS Tech/Board Liaison
		Christine Nardi	HR Director
		Casey Ish	Water Resources Specialist

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

Adrienne Martinez, MRGCD	John Thompson, MRGCD Lobbyist
Casey Cordova	Margaret Lucero
Deb Williams	Michele Severo
Darrel Kundargi	Peter Burck, US Fish & Wildlife Service
Dan Arquero, MRGCD	Santos Griego
Dan Sanchez	Sarah McClain
Jeff Falance, OSE	Sue Small
Jenifer Faler, BOR	Viola Sanchez, BIA

AGENDA ITEM NO. 1 – PLEDGE OF ALLEGIANCE

Madam Chair Dunning led the Pledge of Allegiance at today's meeting.

Madam Chair Dunning declared a quorum and noted that the meeting was publicly noticed. Due to COVID-19, the meeting was held telephonically. All Board Members and staff identified themselves on the call and also gave the phone number they were calling in from. Members of the public that called in were asked to identify themselves, identify their phone numbers, as well as note if they intended to address the Board under "Items from the Floor."

Since today's meeting is being held telephonically, all votes taken by the Board for today's meeting will occur via rollcall vote.

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

Madam Chair Dunning asked that the following changes occur:

- Swap Items 11.a. and 11.b. in order, and add item 11.c., Vehicles in the Bosque and on the River, by Director Russo Baca, and add item 11.d., Conservation Meeting on May 21st by Director Moore.

Director Moore made the **MOTION TO APPROVE THE MEETING AGENDA WITH THE ABOVE-NOTED CHANGES**. Vice Chair Baca seconded the motion.

Rollcall vote was administered:

Director Baca	Yes	Vice Chair Baca	Yes
Director Sandoval	Absent	Director Moore	Yes
Director Kelly	Yes	Director Russo Baca	Yes
Madam Chair	Yes		

The **MOTION CARRIED unanimously**.

AGENDA ITEM NO. 3 – REORGANIZATION OF THE BOARD - Lorna M. Wiggins, MRGCD General Counsel

Lorna Wiggins called for nominations for the office of Chair of the Board. Director Kelly nominated Madam Chair Dunning to remain as Chair. Director Baca seconded the nomination. No other nominations were presented.

Director Moore made the **MOTION TO CLOSE NOMINATIONS FOR THE POSITION OF CHAIR OF THE BOARD**. Director Kelly seconded the motion.

Rollcall vote was administered with all members voting yes.

Director Baca	Yes	Vice Chair Baca	Yes
Director Sandoval	Absent	Director Moore	Yes
Director Kelly	Yes	Director Russo Baca	Yes
Madam Chairwoman	Yes		

The **MOTION CARRIED unanimously**.

Lorna Wiggins called for a rollcall vote, due to the phone-in nature of the Board Meeting, for the nomination for Madan Chair Dunning to remain as Chair of the Board.

Rollcall vote was administered.

Director Baca	Yes	Vice Chair Baca	Yes
Director Sandoval	Absent	Director Moore	Yes
Director Kelly	Yes	Director Russo Baca	Yes
Madam Chairwoman	Yes		

The **MOTION CARRIED unanimously**.

Lorna Wiggins called for nominations for the position of Vice Chair of the Board. Director Kelly nominated Vice Chair Joaquin Baca to remain as Vice Chair. Director Moore seconded the nomination. No other nominations were presented.

Director Moore made the **MOTION TO CLOSE NOMINATIONS FOR THE POSITION OF VICE CHAIR OF THE BOARD.** Director Kelly seconded the motion.

Rollcall vote was administered.

Director Baca	Yes	Vice Chair Baca	Yes
Director Sandoval	Absent	Director Moore	Yes
Director Kelly	Yes	Director Russo Baca	Yes
Madam Chairwoman	Yes		

The **MOTION CARRIED unanimously.**

Lorna Wiggins called for a rollcall vote, due to the phone-in nature of the Board Meeting, for the nomination for Vice Chair Baca to remain as Vice Chair of the Board.

Rollcall vote was administered.

Director Baca	Yes	Vice Chair Baca	Yes
Director Sandoval	Absent	Director Moore	Yes
Director Kelly	Yes	Director Russo Baca	Yes
Madam Chairwoman	Yes		

The **MOTION CARRIED unanimously.**

Lorna Wiggins concluded the reorganization portion of the meeting with Madam Chair Dunning and Vice Chair Baca remaining in their respective Board positions of Chair and Vice Chair.

AGENDA ITEM NO. 4 – CONSENT AGENDA

- a. Consideration/Approval of Payment Ratification - June 8, 2020
- b. Consideration/Approval of May 2020 Invoice for Wiggins Williams & Wiggins
- c. Consideration/Approval of May 2020 Invoice for Law & Resource Planning Associates, PC
- d. Consideration/Approval of Minutes for Regular Board Meeting - May 11, 2020
- e. Review and Approval of Procurement of Equipment with FY20 Budget Surplus - Jason Casuga, COO
- f. Memo on MRGCD Approved Licenses for May 2020 (For Informational Purposes Only)
- g. Notification of Reclassification of Land (Informational Purposes Only)

No discussion or questions were raised with the Consent Agenda.

Director Kelly made the **MOTION TO APPROVE THE CONSENT AGENDA.** Director Baca seconded the motion.

Rollcall vote was administered.

Director Baca	Yes	Vice Chair Baca	Yes
Director Sandoval	Absent	Director Moore	Yes
Director Kelly	Yes	Director Russo Baca	Yes
Madam Chairwoman	Yes		

The **MOTION CARRIED unanimously.**

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

Vice Chair Baca on Behalf of Michael Tachias

Vice Chair Baca, Chair Dunning, Mike Hamman, and David Gensler were all called by Mr. Tachias for an incident that occurred between an ISO and Mr. Tachias' father. Mr. Hamman and Mr. Gensler reported that there is an ongoing investigation of the incident, and it will be handled accordingly after they have a conclusion from the investigation. Lorna Wiggins reminded Mr. Hamman and Mr. Gensler that MRGCD must consistently adhere to the approach of the District, which is to deal with disciplinary matters consistent with the HR policies and procedures in place. She urged all drafts of letters for this type of incident should be reviewed by either Christine Nardi or herself, so the District is not stepping out of its consistent approaches.

Peter Burke

Mr. Burke is a hydrologist with the U.S. Fish and Wildlife Service in Albuquerque. U.S. Fish and Wildlife understands the difficulty with shortages with this year's irrigation water supply and is concerned about the deliveries of water to Bosque del Apache National Wildlife Refuge, necessary to meet the obligations under the Biological Opinion. He asked if the District can keep refuge staff apprised of its operations and give advance notice when water supply in the Riverside canal will fall below 25 CFS. Mr. Hamman responded that he will meet at the regional director level to discuss the situation with appropriate parties. Dr. DuMars concurred with Mr. Hamman.

AGENDA ITEM NO. 6 – REPORT(S) FROM THE DEPARTMENT OF THE INTERIOR

a. Bureau of Reclamation - Jennifer Faler, Area Manager

Ms. Faler started off by clarifying the 25 CFS (Mr. Burke's portion of Items from the Floor). The 25 CFS is not a conservation measure in Reclamation's, MRGCD's, and Interstate Stream Commission's Biological Opinion. It was not part of the consultation and was never discussed in consultation. It was sent to BOR in a cover letter attached to the BO. She made it clear that BOR supports the Bosque del Apache receiving their water per their water rights and all the work that has gone on down there. BOR sees them as a partner in BOR's operations. She noted that BOR would like to be part of a meeting to find solutions moving forward with respect to that.

Everybody knows what a challenging year this is going to be. The weather may be trying to help us out, and that will be much appreciated. BOR has tagged the P&P water. They have so far released 11,000-acre feet for the minnow. They have 8,500-acre feet left in storage. They have already released more than half of the supply this year, and they are hoping that they will be able to purchase another 6,000 this year for this year's use. That would up it to a total of 14,000. If we were to use all that, we would have very little starting for next year's water season. We are hoping, again, to get some help from the rains.

By way of COVID updates, all the federal government, including Reclamation, is preparing plans to move through phases one, two, three. BOR is following the governor's guidance for New Mexico. BOR is currently in phase one and expect to go to phase two in July, but they do have the ability, facility by facility, to look at local data and make decisions or our different field offices from Colorado down to Texas. Those plans are in development.

She is anticipating entering Article 7 on or around June 20th.

They are making good progress on title transfers, and they are looking to completing phase one title transfer by the end of the calendar year. BOR is shooting for the end of the fiscal year. They need to complete the NEPA's categorical exclusion.

Regarding El Vado, they have awarded the design build contract to Carpei, who is the only company in the world that manufactures the solution for El Vado – the coating over the steel plate. They are on track for completion by approximately spring in 2021.

BOR is starting a process with the Corps of Engineers. They are sending them a letter to request that they work with BOR on going through their process of deviating from their water control manual in Abiquiu, whereby they could store native water in Abiquiu during the construction project. Their position right now is that BOR will require legislation from Congress. It will also require a permit from the Albuquerque Bernalillo Water Authority to store water in their space, as well as a temporary storage permit from the New Mexico State Engineer.

Madam Chair Dunning commented about how quickly the title transfers were moving at the speed of lightning, to which Ms. Faler responded that title transfers are very popular with this administration.

Madam Chair Dunning asked which department will bring the storage of native water for Abiquiu (BOR or Corps). Ms. Faler responded that Reclamation and BOR are aligned at senior levels, and there has been a subcommittee set up between the Corps and Reclamation to deal with water issues around the country.

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

BIA has stored 20,095-acre feet of Prior and Paramount. They will release possibly towards the end of this month. They are right now taking a few losses on evaporation. She stated Mike Hamman is still interested in doing an agreement similar to that in 2018, whereby BIA trades some of the native P&P storage to the District for a like amount of San Juan-Chama storage. The operations would remain the same. It's just that some of the water being the Prior and Paramount would be San Juan-Chama instead of native.

As far as the COVID operations, BIA is still on full telework, except for folks like law enforcement and firefighters. They also are pretty much following the Governor of the State of New Mexico. Some of the different pueblos, and especially the Navajo Nation, have had hot spots. There are several employees who commute to the BIA from these areas. They may be a little more conservative than, say, Reclamation in reopening.

AGENDA ITEM NO. 7 – REPORT FROM THE HR DIRECTOR - Christine L. Nardi, MBA, SHRM-CP

a. Discussion of MRGCD Families First Coronavirus Response Act Policy

Christine Nardi first thanked the board members and Mike Hamman on the manner to protect the District employees, constituents and the public; facilitating the teleworking and generously allowing our employees to remain in a paid status. Ms. Nardi sent a handout in the Board packet in advance of the meeting. The federal government enacted the Families First Coronavirus Response Act on March 18, 2020, to become effective April 1, 2020.

Generally, the Act requires certain employers to provide their employees with paid sick leave or expanded family and medical leave for specified reasons as related to COVID. It is regulated by the Department of Labor's Wage and Hour Division. As the State of New Mexico starts to open, and businesses and the District start to bring employees back to work, where leave is foreseeable, it would be beneficial for our employees to provide notice of leave as much as practicable through a reasonable notice process in order to continue receiving paid sick leave during that time. To facilitate that process it would be appropriate for the District to apply the Families First Coronavirus Response Act in a methodical, systematic way, via policy, to accomplish a number of things: 1) Ensure employees are notified of their Rights under the Act; 2) Provide notice to employees that they will need to start requesting leave under the provisions of the Act; and 3) to Ensure that the policy is applied consistently so that our employees are treated equitably.

Ms. Nardi is requesting the Board's approval to implement it as a temporary policy because the Act is effective April 1 through (and expiring on) December 31, 2020. If the Board approves the policy, it will become effective June 15.

Director Baca made the **MOTION TO APPROVE the Temporary Policy of the MRGCD Families First Coronavirus Response Act.** Director Kelly seconded the motion.

Rollcall vote was administered.

Director Baca	Yes	Vice Chair Baca	Yes
Director Sandoval	Absent	Director Moore	Yes
Director Kelly	Yes	Director Russo Baca	Yes
Madam Chairwoman	Yes		

The **MOTION CARRIED unanimously.**

AGENDA ITEM NO. 8 – REPORT(S) FROM THE CFO/SECRETARY/TREASURER - Pamela Fanelli, CMA, CGFM

a. FY2021 Budget Submittal to DFA

The FY21 budget has been submitted to DFA. MRGCD has received a conditional approval based on the submission of the fourth quarter financial report. There are no issues with getting the fourth quarter completed.

b. Status on Insurance Application Process

Ms. Fanelli has been working on the insurance (general insurance, workman's comp, pollution insurance, and dam insurance) applications and will be receiving insurance quotes fairly soon. Before the next meeting, she will have an update on the new on-line payment system, the revamping of charted accounts, the search of an assessment software, and a work order system.

c. FY2019 Annual Report

The FY19 annual report has been posted to the MRGCD website under the "About" tab and then under the "Finance Audit" tab.

d. FY2020 Audit Timeline

Ms. Fanelli is working on FY20 and sees that the preliminary estimates of revenues are coming in on target. Next month, she will prepare a full report on actual revenues. Expenditures are coming as expected. They have encumbered expenditures for capital and operational needs with the surplus, and those expenditures will occur prior to fiscal year-end.

Director Kelly reminded Ms. Fanelli that a member from the Finance Committee should sit in on the entrance conference prior to the beginning of the audit. Director Moore volunteered to sit in on behalf of the Finance Committee.

AGENDA ITEM NO. 9 – REPORT(S) FROM THE CHIEF ENGINEER - Mike A. Hamman, PE**a. Consideration/Approval of Using Year-End Funds for Customer Support Systems in the FY20 Surplus Spending Plan - Jason Casuga, COO**

The proposal before the Board is one of the end-of-year spending items that was approved (at least the funding). This is up for approval of the scope of work and then the final price for the development of MRGCD's on-line licensing application system. The goal of this system is to remove MRGCD from substantially using paper as a means at which our customers communicate with us their licensing needs and the desire to use District lands.

Director Russo Baca made the **MOTION TO APPROVE USING YEAR-END FUNDS FOR CUSTOMER SUPPORT SYSTEMS IN THE FY20 SURPLUS SPENDING PLAN.** Vice Chair Baca seconded the motion.

Rollcall vote was administered.

Director Baca	Yes	Vice Chair Baca	Yes
Director Sandoval	Absent	Director Moore	Yes
Director Kelly	Yes	Director Russo Baca	Yes
Madam Chairwoman	Yes		

The **MOTION CARRIED unanimously.**

b. Consideration/Approval of Using Year-End Funds to Develop and Implement a Systematic Approach to Catalog and Assess the MRGCD's Infrastructure - Jason Casuga, COO

This topic is also part of the end-of--year spending plan. This is up for approval to issue the task order to our on-call engineer, Bohannon Huston. This is MRGCD's foray into a much longer process, and the purpose of this initial task order is to help us to define and to create this systematic process that will be GIS-based to catalog all of the District infrastructure turnouts, checks, weirs, crossings, and to come up with a qualitative way of assessing that for better planning. Once this is done, there will be additional task orders to continue collecting the infrastructure throughout the District. This is the beginning of that process.

Director Baca made the **MOTION TO APPROVE USING YEAR-END FUNDS TO DEVELOP AND IMPLEMENT A SYSTEMATIC APPROACH TO CATALOG AND ASSESS THE MRGCD'S INFRASTRUCTURE, WORK TO BE DONE ON A TIME AND MATERIALS BASIS, NOT TO EXCEED \$90,000.** Director Kelly seconded the amended motion.

Rollcall vote was administered.

Director Baca	Yes	Vice Chair Baca	Yes
Director Sandoval	Absent	Director Moore	Yes
Director Kelly	Yes	Director Russo Baca	Yes
Madam Chairwoman	Yes		

The **MOTION CARRIED unanimously.**

c. Consideration/Approval of 60-Day Contract Extensions for Legal Counsel - Mike Hamman CE/CEO

1. Law and Resource Planning Associates, PC, Chief Water Counsel
2. Wiggins, Williams and Wiggins, PC, General Counsel

Due to the COVID response and other things going on, procurement staff was directed to hold off in issuing the RFPs until the State Procurement Office issued guidance. The guidance suggested moving forward with obtaining RFPs; however, it would be acceptable to offer extensions in time to review RFPs received and to allow continuance of expert coverages from current attorneys of record. Mr. Hamman is asking for approval of those extensions for 60 days. It may not take the full 60-day extension; however, deadline for response to the RFPs is June 24th.

Madam Chair Dunning stated that Director Russo Baca has volunteered to be a part of the process.

Director Kelly made the **MOTION TO APPROVE A 60-DAY CONTRACT EXTENSION FOR GENERAL COUNSEL AND CHIEF WATER COUNSEL.** Vice Chair Baca seconded the motion.

Rollcall vote was administered.

Director Baca	Yes	Vice Chair Baca	Yes
Director Sandoval	Absent	Director Moore	Yes
Director Kelly	Yes	Director Russo Baca	Yes
Madam Chairwoman	Yes		

The **MOTION CARRIED unanimously.**

d. Report on Water Supply Conditions and General Water Operations - David Gensler, Water Operations Division Manager

Flows overall are really low for this time of year. We are seeing water in the river today that would be good for August, but it is not good for early June. We have roughly 500 CFS entering the Valley naturally today (this time last year, we had over 5,200 CFS entering the Valley).

We have been releasing water from storage at a rate generally between 500 and 800-acre feet a day for the past few weeks. That small amount of the Rio Grande water that we were able to get into storage was approximately 9,000-acre feet after the Compact reserve and the P&P reserve. The last of it was used Friday. We are now down to running on our remaining San Juan-Chama water. We did get a little shot of rain last week, but we made use of it. It helped

us catch up quickly in the Belen area and really helped us turn Socorro around. It probably stopped us from having to release maybe 1,000 to 1,500-acre feet of water from storage.

At the moment, about 22,000-acre feet of San Juan-Chama remaining in the pools at Heron, Abiquiu, and El Vado. Mr. Gensler believes there is going to be some additional water, probably borrowing back that water that we pay to the Water Utility Authority over the winter, of 10,000-acre feet. He has heard that the OSE's calculations on depletion offsets from last year showed that we are going to get a pretty good bump from later water this year, probably another 10,000-acre feet or so. Once we pass July 1, the P&P reserve gets reduced a little bit, another 2,000-acre feet. Adding it all up, we have got about 45,000-acre feet to work with right now going forward. How far that will take us through the season depends on the rain. Storage releases will probably increase. We should certainly get into July with no problem. Hopefully, the monsoon pattern will be good for us at that point. If things don't go well though, Mr. Gensler believes we will struggle to make it to the end of July right now, under our normal operations. With luck and well-placed rains, we could get into maybe August. He wishes he had better news.

The last several drought years, it has been our goal to make it to Labor Day before entering a P&P-only operation. That's our goal again this year, but right now, it's mostly hope carrying us there. Mr. Gensler is confident that we are going to make it, but he cannot see how right now. And September seems a long way off at the moment.

Biggest change to report since the last meeting is the curtailment of water bank deliveries. The water bank operated as long as natural flows stayed above the curtailment threshold triggers. We dropped below that trigger on May 19th, and, per the water bank rules, deliveries were completely terminated five days later, on the morning of May 24th. This has created a lot of stress in the Valley for water bank users in particular. We have had earlier curtailments in the past (as early as April in some years); however, most of those tended to be very short-lived (maybe two weeks), and you could always see there was an end on the horizon. In 2018, we had a pretty long curtailment, but it was driven by the storage trigger, so it did not happen until August. This one is different. It's early in the season with no apparent relief on the horizon.

Late last week, we allowed water bank deliveries to be resumed opportunistically at the south end of our Socorro Division. This was based on there being some excess outflow past our very last irrigators down south. The water bank language allows for delivery to water bank properties during curtailment when transient local conditions exist to make it possible. The purpose of that resumption is just to make sure that no water goes to waste. We have taken care of everybody who is scheduled, and we still have a little bit left over. We would like to go ahead and try and do some good with it.

As far as daily operations, we have an official demand of 900 CFS right now. San Juan-Chama water is being released as needed to augment the natural flow. That is coming out of Cochiti Reservoir into the Middle Valley for that. The Water Utility Authority is adding about 65 CFS for their purposes, and Reclamation is releasing about 75 for theirs. So, in total, there is about 1,030 CFS coming into the Valley. Diversions are generally normal right now. Cochiti is diverting 145 CFS. Angostura is 90 CFS. Isleta is diverting about 450 CFS. Their diversions are variable throughout the day, as return flows come and go, but, on average, they're pretty good (right around 450).

We've begun diverting at San Acacia Dam. San Acacia Dam was checked up on May 26th and began diverting May 27th. Currently, we are diverting 60 CFS for Socorro area, plus about 150 CFS return flow from the Isleta diversions, for a bit over 200 CFS in the Socorro Main.

The operations at San Acacia coincided with the beginning of controlled Minnow flows. Reclamation has been releasing Minnow water for weeks now. A planned jiggle occurred over Memorial Day weekend, apparently with great success for Minnow egg production and collection. Following that jiggle, which is just a sudden increase in flow past the dams, a controlled recession was planned to allow Reclamation to begin to conserve as much of their remaining Minnow water as possible and set the stage to operate in sort of a bare bones survival strategy for the Rio Grande Silvery Minnow population, if the rains don't materialize later this summer. We need to start kind of identifying the areas in the river that we will be able to keep wet with small amounts of water and hopefully allowing the fish time to move to those areas.

The current flow past San Acacia Dam is 55 CFS. We will be stepping that down very slowly over the next few days. The river has now receded to around Brown Arroyo (maybe a little bit upstream from there). The Neil Cupp Pump Station was used for a time to augment flows in this area while we were managing for the fish down there, but now that we have dried through that area, all flow from the pumps is being directed to the Socorro Main Canal south. The flow past Isleta Dam is reduced today to 70 CFS, and Mr. Gensler expects drying in the Isleta Reach to probably begin tomorrow or Wednesday. We will begin a progressive shrinkage back upstream to the Isleta Reach at that point, and Reclamation will start stepping down their Minnow releases.

Director Sandoval called in at this point and joined the telephonic meeting.

e. Discussion and Notice of Certain Water Rights/Use Transactions to Assist in Managing Water Shortages and Water Bank Curtailment - Mike Hamman, CE/CEO, David Gensler, Water Operations Division Manager, and Dr. Charles DuMars, Chief Water Counsel

Mike Hamman reported that we are in water bank curtailment, and, of course, that spins off a lot of concern and angst to various people that are impacted by it. MRGCD has set up some procedures within the water banking system that allows for people to establish what they call alternative curtailment location that they must sign up at the beginning of their contract period in order for us to fully be aware of their switches of curtailment lands at the time of curtailment.

Many of those activities invite some criticism because not everybody knows about it, understands it, or even has the opportunity to do it themselves. Concerns are regarding water users, as well as some other transactions that occur from folks switching around pre-1907 Rights to meet their irrigation demands. The more sophisticated water users that understand the system and have the capability of doing these things work closely with the State Engineer's Office, who attempts to keep MRGCD the loop (not always). That communication process between the State Engineer and MRGCD must be refined.

David Gensler, some ISOs and supervisors, Director Russo Baca, and Mike Hamman attended a meeting in the Belen area. Discussion ensued at that meeting regarding people's concerns about the water bank, and we answered as many questions as we possibly could (mostly cleared up some misconceptions). There tended to be some misguided ideas that somehow or another, there are some relationships with the District with some of the bigger water users, that lead to the possibility that MRGCD is not fully transparent. Mr. Hamman believes they were able to clear that up for the most part. The bottom line is people don't like it when they are curtailed, and they become frustrated when they see other people have figured out a way to keep irrigating, based on the policies and procedures that are in place that we work with.

This agenda item is really to talk about some goals that we have set for ourselves and also to try to address some interesting proposals that we hear from people: how they can use their pre-1907 water rights if the State Engineer approves them through some sort of emergency drought transfer provision that allows for a particular parcel of land to stay in production for some period of time and receive water, even though they've been formally curtailed.

Something that we have been working on for some time, that works primarily on our water conservation program, has included something that speaks to a partial season forbearance and leasing program that we are doing on a pilot basis under our NFWF grant (the handout was contained in the Board Member packets prior to the meeting). These are all little pieces of things that we are looking at to try to assist folks with additional tools to possibly get ourselves through a dry period and also to educate people in an outreach context to know all the possibilities that might be available to them and to learn a little bit more about all the complexities of transferring water rights and understanding how that may be able to help them if they are in that position to do so.

David Gensler added that when the water bank was originated, there were a couple of really important things that went into its formation. First and foremost, it was a strategy aimed at valley green, encouraging a healthy agricultural commerce for all users and exercising water rights to the greatest possible extent within the District boundaries. The other very large area of concern was protection of existing water rights, which were designed to be curtailed also. Fortunately, we have not had very many periods of curtailment outside of just very brief ones.

Now, that we are facing a potentially worse, more substantial, curtailment situation, this is kind of bubbling to the surface. There are really kind of two different things at work here in terms of how MRGCD and the water bank users deal with curtailments

The District has a couple of practical things that it does. From the District's perspective, we are really only interested in seeing that a water use stops on a water bank property as a junior right during a period of curtailment. A lot of times a single field may have a five-acre field and four acres have rights and one acre is on the water bank. Our real interest is making sure that one acre on that particular field is not irrigating. It doesn't really matter whether it is the northwest corner of the southeast corner, in the middle of it, as long as one acre does not get irrigated. We are fairly flexible with irrigators on an informal basis. As long as they can promise us that an acre is not going to get irrigated out there, we don't really require them to do it any specific way. A physical barrier or border is nice. A lot of times they can do this just by stopping the water from getting all the way across the field by opening selected farm slides. A lot of times they have effective ways to do this, and they work with this.

The other is the alternate curtailment location. This was developed several years ago. It is kind of like taking the little field example (above). Let's say you've got five fields, and four of them are in Valencia County and one is in Albuquerque. You really want to keep those four fields down in Valencia County viable and operating, but one of those fields happens to be on the water bank. We set up a process to allow the property owner to do that. It's not a formal transfer of water rights or anything, but it accomplishes our objective by getting the correct acreage no longer irrigated during curtailment. There is a little process where you can designate where that's at. You can only designate it once a year so that you can't move it around.

The other thing that we have going on is Office of the State Engineer issues, where people transfer water rights or try to transfer, either temporarily or permanently, some kind of a right onto a water bank property to allow it to irrigate. Those include outright pre-1907 water right

purchases. MRGCD really has no issue with those. Then there are leases of pre-'07 rights, which are a different thing. Moving a pre-'07 from one location to another and then leasing the water from that one field onto the other field that's on the water bank curtailment, and it's complicated, but it does seem like it's legal through the OSE, everything done correctly and accomplishes our objective of not creating any new use of water. A property somewhere that has a pre-'07 right is not receiving that water in favor of that water being applied to the water bank land.

We then have leasebacks, which are confusing. You have water that has been severed from the land, sold to somebody else. They say they're not using it right now, so they can allow the originator of that lease (the originator of that right from the transfer), to lease it back to the original property. This actually happened during the season.

Policing and enforcing is a nightmare for our field staff. The GIS guys provide very good information on where these properties are, what is supposed to be retired, what is supposed to be dried up. We have spent many hours the last few weeks trying to trace some of these transfers. In the field, it is very difficult sometimes to find the spots where they are supposed to be dried up, unless you just happened to be out there with the map and the irrigator. Our staff is trying to stay on top of everything and apply these rules to everybody equally.

Chuck DuMars gave his opinion that within the District, we need to figure out how we can keep the farmers who can farm efficiently going but then not take the water permanently away from somebody else, who is not as efficient or has a smaller tract. The one thing that has happened with the Water Use Leasing Act is that it does, through the preliminary approvals, they can get quick movement of the water from one tract to another. As long as they keep us up to date and Mr. Gensler has full contact, there's a way to track that. That's one solution. It's not the best, but it allows some equity value for pre-1907s on the leases.

The second is, given the broad authority we have within the District, we have to treat everybody the same and treat everybody fairly, but maybe we can come up with a market mechanism just for even generic price as a District and figure out how to make that work. That is a long step, and it is not going to be something that we can do this year. If the global climate change models are correct (you can't deny the trends that are out there), we need to figure out how to make sure that those who really want to farm for their lifetime and for their kids' lifetimes get the opportunity to do so.

Mike Hamman added that we certainly see opportunities for the District to create an expanded water bank. We may need to work more closely with the State Engineer and get that sanctioned so that people that decide to park their pre-1907s in the District water bank would be run a little differently than the way we are currently doing it. The idea would be that we create that opportunity. The State Engineer has sanctioned it as a mechanism to use this temporary transfer process to allow farm-to-farm type transfers, maybe with a small administrative fee on our part, as well as maybe farm-to-environment, depending on what the circumstances are that we're seeking. The farm-to-an-environment side of it, we have this document in 9.e., that is the NFWF program is opening up to us as a pilot. Maybe this is not the perfect year to do it under the circumstances. It may not work because we may be in Prior and Paramount come August 1st, which would significantly complicate matters from a leasing perspective.

Casey Ish discussed the document. It is the latest evolution of what was originally planned to be a three-stage leasing program with three different opportunities to enroll. Each enrollment period had a price associated with that, which considered the estimated loss due to yield on those fields, as well as the risk factor associated with taking a payment for lease water versus

having to go through the process of growing and harvesting and selling a crop. With the water outlook for the year and the way that the program has proceeded, we have kind of downsized it a little bit to just be offering one enrollment period. We have been working really hard with our environmental economist, Ray Hartwell. He has been helping us a lot to kind of pull together the proper numbers that we think are attractive, provide a good incentive for irrigators, but also don't set the price so high as to kind of permanently price ourselves out of any future market growth.

Per the cooperative agreement, the water that would be generated out of this program would be delivered to outfall sites for District species obligation. The size and scope of the leasing program has also been reduced just due to available funding, and we are also monitoring kind of the amount of acreage that we are going to be enrolling just based on the water ops for the year and the outlook.

The Conservation Program will have three informational meetings via telephone. The first one will be Monday, June 15th, at 1:00 p.m., and it is being advertised on our website. We would invite anyone listening in on this phone call to join us for information regarding program and how to enroll.

Madam Chair Dunning questioned who will pay. Dr. DuMars agreed that is a really good point. He said that you find in many places, in California and other states, in the state of Oregon, Washington, there are private foundations and entities that are wanting to contribute but without getting embroiled in it, contribute in a way to make sure that water is available for species in the river that are in the water system. He thinks that if all that happens is you sell it and you get the leaseback until you want to stop farming, that's not a good thing, but if you come up with a buffer or transition mechanism would be a step in the right direction. He's sympathetic to a point but they are on the water bank because they sold their water rights and they now want to press to get the advantage.

Director Russo Baca discussed a meeting at a Belen property owner, Mr. Cordova's home regarding MRGCD policies. Over 25 local farmers attended that have an existing water bank contract and some that do not. She added that specifically MRGCD must work on its education and outreach, as well as enforcement of the water bank. She has offered to gladly meet with farmers to help educate them on the difference of leasing, leasebacks, how the State Engineer's Office works, etc.

Mike Hamman will coordinate an Irrigation Committee meeting soon to review all of this information.

f. Consideration/Approval of Phase 1 Title Transfer Contributed Funds Agreement for Compliance - Mike Hamman, CE/CEO, and Sharon Wirth, Bureau of Reclamation

Mike discussed three documents provided to Board Members in their packets prior to today's meeting. One of them is a simple contract between MRGCD and the United States to acquire their technical services to perform the adequate NEPA compliance for title transfer procedures. The original proposal that was floating around with Reclamation during the title transfer (implementation procedures) was it would be a 50/50 cost share arrangement with Reclamation. Reclamation has since altered that policy to make it 100%, reimbursable type of agreement. There really is no recourse, other than to move forward.

Mr. Hamman is putting these contracts before the Board with the pertinent costs that would be spread across two fiscal years, to which Reclamation has agreed. First is the contract for the technical services itself. The second is a task order that we would need to sign to implement the specifics under the technical services agreement. There is also another document that talks about the phase one title transfer (NEPA compliance costs), which is estimated at \$56,000.

Director Kelly made the **MOTION TO APPROVE PHASE 1 TITLE TRANSFER CONTRIBUTED FUNDS AGREEMENT FOR COMPLIANCE.** Vice Chair Baca seconded the motion.

Rollcall vote was administered.

Director Baca	Yes	Vice Chair Baca	Yes
Director Sandoval	Yes	Director Moore	Yes
Director Kelly	Yes	Director Russo Baca	Yes
Madam Chairwoman	Yes		

The **MOTION CARRIED unanimously.**

g. NM Tech Fellowship Contract Approval and Funding Plan, FY2020 and FY2021 - Jason Casuga, COO

The items before the Board (sent out in the Board packet prior to the meeting) is a definition of the fellowship program, along with two proposals provided by New Mexico Tech. The memo documents how this fellowship program or the process was initiated. This was through our MOU agreement that was signed on November 6, 2018, which was an agreement that allowed for the District to acquire Riprap, which is a rock source for use on our projects. The MOU identified an establishment of a fellowship program. This is really the culmination of that work. It would have been ideal to have this at hand when we were going through the end of the year fiscal process, but due to the COVID emergency, getting this finished up and working with the university was delayed.

This was a budget conversation between Jason Casuga, Mr. Hamman, and Ms. Fanelli related to where we were with fiscal year end. It was felt that we could break this up and do the first half of this fellowship this fiscal year and do the second half as part of our budget within next fiscal year.

Director Kelly made the **MOTION TO APPROVE THE NM TECH FELLOWSHIP CONTRACT AND FUNDING PLAN, FY2020 AND FY2021, PER THE BOARD PACKET ENCLOSURE AND STAFF RECOMMENDATION.** Director Sandoval seconded the motion.

Rollcall vote was administered.

Director Baca	Yes	Vice Chair Baca	Yes
Director Sandoval	Yes	Director Moore	Yes
Director Kelly	Yes	Director Russo Baca	Yes
Madam Chairwoman	Yes		

The **MOTION CARRIED unanimously.**

h. Review and Discussion of Draft Multi-Agency Agreement Regarding the Atrisco Acequia Project - Mike Hamman, CE/CEO, and Director Baca

Mike Hamman and Director Baca are asking for a general approval with possible non-substantive changes in order to allow the Board to sign it if, indeed, we get to that point before our next board meeting.

Director Baca reported that they have gone through this with our resolutions, supporting the importance of educating our communities about acequia culture and the importance of irrigation. What this does is put it into a formal document that commits that the Bernalillo County would take the lead on the planning project. The results will be basically a conceptual site plan, taking a look at it, involving the public, involving all the agencies, and the technical expertise to move forward using their on-call planning firm, Site Southwest, a long-time planning firm and landscape architecture.

Lorna Wiggins added that this is not on the agenda for action. Mr. Hamman was asking for conceptual approval to move forward with the draft and work it with other agencies. It would then be properly noticed for formal approval later.

Director Kelly asked about the concurrence of the other agencies. Director Baca responded that there is a verbal agreement with the Water Utility Authority Executive Director and the COO of the City of Albuquerque. In the preamble states that it could be either a 25,000 monetary match or in-kind services so that it does not preclude them from signing on to participate, if they can't find the funding.

There was consensus from the Board for Director Baca to move forward with reaching out to the other three agencies and letting them look at this draft. She will then bring it back to the Board at the next meeting.

AGENDA ITEM NO. 10 – REPORT(S) FROM THE MRGCD ATTORNEY(S) - Chief Water Counsel and/or General Counsel

a. Acequia Issue and Water Wheeling Options to Cope with Drought - Dr. Charles DuMars, Chief Water Counsel

Water Wheeling Options to Cope with Drought was covered under Item 9.e.

Regarding acequia issues, Dr. DuMars reported that Mike Hamman received a letter from a lawyer for the Northern New Mexico Legal services, indicating that they would like to start a dialogue about the possibility of the acequias independently protesting or challenging a transfer from any water user within their acequia itself. Dr. DuMars called the person and, after discussion, he sent her the description of the functions and powers of the Middle Rio Grande Conservancy District, as well as the document that Tanya and he prepared. He has not heard from her since. Mr. Hamman has also not heard from her.

AGENDA ITEM NO. 11 – REPORT(S) FROM THE MRGCD BOARD OF DIRECTORS

a. Report on Traffic Gate Policy and Procedure Field Meeting, May 26 & 28, 2020 - Directors Russo Baca and Baca

Director Baca suggested that the Board review the itinerary under the purpose of each of the stops, each Board member can get an idea of what they were trying to accomplish. She thanked Matt (Martinez), Jason (Casuga), and Yasmeeen (Najmi) for putting this together. By no

means are we complete in reviewing the problems in the field, but, moving forward, she thinks with this ad hoc committee, it will be very helpful in coming up with MRGCD's final policies and recommendations to the Board.

Director Russo Baca thanked the staff as well for their help. She believes it was a good tour. This is not something they are taking lightly, and they are really looking at these issues to ensure the safety of individuals and MRGCD property.

Vice Chair Baca asked why some of the field trip items were put on hold, after a discussion with Vice Chair Baca, Matt (Martinez), and Jason (Casuga). Mr. Casuga responded that on Kit Carson, he had done some research that showed there may have been an illegal action that required the establishment of the fencing that went up that was done by MRGCD and City of Albuquerque. Mr. Casuga is in the process of researching it, so he felt it was necessary to put this item on hold. Mr. Casuga will set up a phone call with Vice Chair Baca to review this topic.

He continued to discuss a meeting occurred on the day of this meeting, prior to the Board Meeting regarding the gate policy. Some new information came to light. During the insurance application process, questions came up regarding our facilities, their usage, and MRGCD's mission. More questions came up as to access on ditches, the perception of whether or not we invite access versus allow access, and what that may or may not do to our immunity, given to us by the State (knowing that our insurance company really relies on that immunity). This is the basis for coverage and for costs.

Another topic that came up was related to ADA access. Lorna Wiggins gave them the update on research they are doing related to ADA access.

Lorna Wiggins added that Mr. Casuga summarized it from a sort of high-level perspective very well. MRGCD is really trying to strike a balance in many situations between ensuring that people can enjoy facilities, being mindful of our ditch and water safety programs, and ensuring that if there is access, we understand the risks, and we as a Board and organization can properly mitigate those risks, both under tort claims and the analysis under the ADA.

Discussion ensued over which committee this would fall under. It was decided that Urban Issues Committee would come up with policy and should have something to present to the Board at the next meeting. Director Baca felt strongly that Director Russo Baca should be on the committee working on the policy. Director Russo Baca volunteered to add herself to the Urban Issues Committee, with Madam Chair Dunning moving off.

For approval of Report, please see below motion and approval under Item 11.b.

b. Report on the District Urban Issues Committee, May 27, 2020 - Madam Chair Dunning, Vice Chair Baca, and Director Baca

Vice Chair Baca reported that one topic was creating better signage or even putting the signage itself out on the Bosque, especially with the increased traffic due to COVID. This was a great opportunity to start throwing out some ideas on what we could or could not do and how to improve the situation. Mr. Hamman already had some signs on hand that had been created. We discussed ways to make those signs better, as those were prototypes, so to speak.

The second topic was discussing 60 and 30-second videos created by Arcie Chapa, who is also doing the longer document that we're a part of (the acequia documentary), which would be used

as PSAs and informational videos for our websites. We talked about ideas of what we were trying to convey and the parts of the Bosque which would be included.

Madam Chair Dunning added that people are coming out now in droves to use the trails, ditches, and the Bosque because of the COVID-19 and being cooped up. The idea was to get a message out, because a lot of them are new users that may not even live in the District, the benefited area. The whole public relations effort and the PSA is probably going to change because now we want to make sure that whatever messages we are giving do not set MRGCD up for tort liability claims or losing insurance.

Mike Hamman added that he and Yasmeen (Najmi) went out to obtain footage with Arcie Chapa. The work will be done so that MRGCD can have it and use it when necessary. The cost is \$10,000 for high-quality video production that can be used.

Discussion ensued regarding the various signage options.

Director Kelly added that he feels strongly that part of the fabric of the MRGCD is the formal and informal use of both public-owned and privately-owned ditches that we have deferred easements on. He posed a question to Lorna Wiggins and Mike Hamman of: has the board of the MRGCD ever, by Resolution, endorsed these kinds of uses or have they ever prohibited those kinds of uses? For him, as a Board Member and a resident of the North Valley of Albuquerque, he will not stand for any restrictions on current uses. He thinks trying to guide uses with positive reinforcing messages and maps and signage is incumbent on us as a property owner. Should there be some insurance risk, I think John Thompson needs to work on this in Santa Fe. The insurance agent does not run the MRGCD; seven board members do. Director Baca agreed with Director Kelly, that we need to figure out a way of protecting MRGCD without disallowing use. Madam Chair Dunning agreed that some solution has to be created that strikes a fair balance.

Director Moore voiced her concern about people swimming in the ditches, especially now that the public pools are closed. Discussion ensued regarding signage and the new program, "Ditch the ditches."

Director Kelly made the **MOTION TO APPROVE REPORTS ON TRAFFIC GATE POLICY AND PROCEDURE FIELD MEETING, MAY 26 & 28, 2020, and THE DISTRICT URBAN ISSUE COMMITTEE, MAY 27, 2020.** Director Moore seconded the motion.

Rollcall vote was administered.

Director Baca	Yes	Vice Chair Baca	Yes
Director Sandoval	Yes	Director Moore	Yes
Director Kelly	Yes	Director Russo Baca	Yes
Madam Chairwoman	Yes		

The **MOTION CARRIED unanimously.**

c. Vehicles in the Bosque and on the River - Director Russo Baca

At 7:30 p.m. on Saturday, June 6th, at the Riverboat Bridge in Belen Director Russo Baca witnessed individuals parked along the river road and driving their ATVs and SUVs onto the riverbed. This was in the Bosque and along the ditch banks and levee system.

Director Russo Baca is proposing to the Board to draft a letter to the county-elected officials, asking them what MRGCD can do to prevent this situation. She would like to draft the letter and have the Board, counsel, and staff review it. Mike Hamman added that this is a very difficult area to control (as the past has shown). He reported it is a growing problem but one that requires a solution.

d. Conservation Meeting, May 21, 2020 - Director Moore and Vice Chair Baca

Topic from May's and June's meeting was deferred to the next Board Meeting in July.

With no further comments, questions or concerns, the meeting was adjourned.

The meeting was adjourned at 5:58 p.m.

Approved to be the correct Minutes of the Board of Directors of June 8, 2020.

ATTESTED:

Pamela Fanelli, CMA, CGFM
Secretary/Treasurer

Karen Dunning, Chair
MRGCD Board of Directors